

General Terms and Conditions

of SIEVERS-SNC Computer & Software GmbH & Co. KG

The SIEVERS logo consists of a solid red square with the word "SIEVERS" in white, uppercase, sans-serif font positioned in the lower right corner of the square.

1. Scope of application of our General Terms and Conditions and the general terms and conditions of our customers

1.1 All offers submitted, goods delivered and services rendered to entrepreneurs – including those in the future – shall be based exclusively on these General Terms and Conditions.

1.2 We hereby expressly object to any reference to other terms and conditions. Any conflicting terms and conditions of our contractual partners (hereinafter “Customer”) shall only apply if we agree to their validity in writing. If Customer does not agree with that, he shall inform us thereof in writing without delay.

1.3 It may occur that we offer specific goods and services on special terms only. In such individual cases, the special terms and conditions shall apply in addition to these Terms and Conditions.

2. Initiation and conclusion of contract

2.1 Our offers are non-binding and subject to confirmation. The presentation of our products in our online shop shall not constitute a legally binding offer on our part, but only a non-binding online catalogue.

2.2 A contract is not concluded until we have confirmed Customer’s order in writing or have commenced execution.

2.3 The contract is concluded subject to correct and timely supply by our suppliers. This shall only apply in the event that the failure of supply is not attributable to us. Customer will be informed without delay, should the performance not be available. Any remuneration paid will be refunded without delay.

2.4 Any advance services we render at Customer’s request within the scope of an offer may be charged to Customer’s account, even if no contract is subsequently concluded.

3. Services and scope of services

3.1 As a rule, the scope of services is stated in our order confirmation. We are entitled to render part performances, unless Customer has no interest therein.

3.2 The services we render are subject to a fee. Our fees do not contain any third-party costs.

3.3 As a rule, hardware and software contracts do not include an obligation on our part to provide installation

and configuration services, advice or induction training to Customer or any material for this purpose. Unless expressly agreed upon in the contract with Customer, we are not obliged to provide training and prepare a functional specification.

3.4 Where the provision of programme documentation or an operating manual has been agreed upon, this will be provided merely in machine-readable form as part of the software, unless expressly agreed upon otherwise.

3.5 We shall be entitled to use the services of subcontractors to meet our performance obligations

4. Changes in the services

4.1 Where Customer requests a change concerning the type or scope of the agreed services, we will check, against payment of a fee charged according to time required based on our standard rates, whether the requested change is feasible and what expenditure it is associated with. We will inform Customer at short notice of any costs and deviations from the agreed performance/delivery date arising from the requested changes.

4.2 Against compensation of downtimes based on our standard rates, Customer may request interruption of our performance in whole or in part until an agreement is reached on the requested changes. Any performance deadlines and schedules shall be extended accordingly by the downtime as well as the time we need to organise the resumption of work following the interruption and to make available the necessary resources again.

5. Prices

5.1 Our prices are quoted exclusive of value-added tax, ex works and without packaging. Unless stated otherwise, our prices are quoted in euros.

5.2 In the absence of a written agreement to the contrary, all fees shall be based on our list of prices and conditions, as amended from time to time, or our standard rates plus packaging and shipping costs as well as value-added tax at the statutory rate applicable as of the date of delivery. Travel times must also be compensated. Unless agreed upon otherwise, travel costs, out-of-pocket expenses, ancillary costs, etc. shall be compensated separately based on our standard rates.

6. Rights of use

6.1 Where software manufactured by third parties is delivered, the rights of use shall be governed by the provisions of the respective software manufacturer.

6.2 Where software manufactured by us is delivered, Customer is granted, in the absence of a written agreement to the contrary, a non-exclusive right of use, unlimited in respect of time. This right is limited to the installation of the software on a workstation computer or a server with the agreed maximum number of workstations.

6.3 The rights of use to the software are transferred to Customer subject to the suspensive condition of full payment of the agreed remuneration. Where we have consented to the software being used before full payment, we may revoke this consent in the event of default of payment. Upon expiry of the right of use, Customer is obliged to return the software provided, including all documentation materials and copies, delete it and provide evidence of the deletion.

6.4 We shall be entitled to all rights to our work results in relation to Customer, in particular the copyrights, the rights to inventions as well as patents and utility models. This shall also apply where the work results have been created based on the specifications or by the staff members of Customer. Customer is granted a non-exclusive right to use these work results for his own purposes.

7. Payment, offsetting, retention and assignment

7.1 Unless agreed upon otherwise, the contractually agreed remuneration shall be due immediately after handover of the purchased goods, acceptance of the work or provision of the services. Where defined part performances have been agreed upon, part payments on the total remuneration in proportion of the part performance to the overall performance shall be payable upon provision of each part performance. The fees for our ongoing or recurrent services will be invoiced on an annual basis in advance and shall be due immediately, unless agreed upon otherwise. Customer agrees to invoices being sent electronically.

7.2 Customer may only exercise rights of setoff and retention if his claims are uncontested, legally established or ready for a decision. Any warranty claims shall not entitle Customer to reject the performance, unless the notices of defects have been acknowledged by us in writing.

7.3 We shall be entitled to exercise a right of retention in respect of our obligations under the contractual relationship with Customer once Customer defaults on his payment obligations.

7.4 Customer is not entitled to assign any claims or transfer any rights or duties under a contractual

relationship with us to third parties, either in whole or in part, without our prior written consent.

8. Termination

If Customer terminates a contract with us pursuant to Sec. 649 BGB [German Civil Code] for reasons not attributable to us, we shall have the rights set forth in Sec. 649 BGB. We shall be entitled, instead of exercising the rights set forth in Sec. 649 BGB, to claim payment of a lump sum amounting to 10% of the total remuneration to cover our expenses and lost profit. This lump sum shall not be payable if Customer provides evidence that the amount we are entitled to pursuant to Sec. 649 BGB is significantly lower than the lump sum.

9. Delivery and delivery dates

9.1 Any (delivery) dates indicated shall be non-binding, unless they have been agreed upon as binding. Dates of handover to the forwarding agent or carrier will be confirmed by us separately in writing and shall only be binding in these cases. To the extent that we have the ordered product in stock at the time the order is placed in our online shop, we will dispatch the product within 7 working days of receipt of the order. Goods from our online shop will only be shipped within Germany.

9.2 The risk of accidental loss or accidental deterioration of the goods shall pass on to Customer upon handover or, in the case of shipment, upon delivery of the goods to the forwarding agent or carrier.

10. Obligation to examine the goods and give notice of defects / Liability for defects

10.1 Customer is obliged to examine the goods delivered for apparent defects. Cases of incorrect or short delivery shall also be deemed apparent defects. Apparent defects shall be reported to us in writing immediately after delivery. Defects that become apparent at a later point shall be reported to us immediately after detection by Customer. If the obligation to examine the goods and give notice of defects is breached, the goods shall be deemed accepted with regard to the defect in question.

10.2 For products not manufactured by us (including software and documentation), we assign to Customer all claims based on defects that exist against the manufacturer or our seller. We only accept responsibility if the manufacturer or seller refuses, delays or demands consideration for the liability for defects. Claims against us may only be asserted after filing a legal action against the manufacturer or seller, unless the legal action would be unreasonable or offer no prospects of success.

10.3 Where a defect is present, we shall be entitled to effect cure, at our option, by either remedying the defector delivering substitute free from defects.

10.4 If the defect cannot be remedied within a reasonable period or the delivery of substitute free from defects is deemed to have failed, Customer shall be entitled, at his option, to either demand reduction of the remuneration or withdraw from the contract. However, the cure is deemed to have failed only

→ if we have been given sufficient opportunity to remedy the defect or deliver substitute free from defects, without the contractually agreed success having been achieved,

→ if remediation of the defect or delivery of substitute free from defects is impossible,

→ if the cure is refused or unreasonably delayed by us,

→ if there is reasonable doubt regarding the prospects of success or

→ if the cure is unreasonable for other reasons.

Customer shall only be entitled to withdraw from the contract if he has set us a grace period of at least four weeks in writing and this period has expired without effect. Notice of termination of further exchange of performance (e.g. in the event of withdrawal and claim for compensation) must be given in writing within two weeks of the end of the grace period.

10.5 We do not assume the costs of repair incurred because the purchased goods have been relocated to a place other than the registered office of the recipient after delivery, unless this relocation is part of the intended use of the goods.

10.6 If Customer receives an incorrect assembly or installation manual, we are merely obliged to deliver a correct manual and only if the incorrect manual prevents proper assembly or installation.

10.7 In the event of unjustified notices of defects, where Customer has acted at least negligently in failing to recognise the absence of a defect, he must reimburse us for the costs we incurred as a result.

10.8 Any claims of Customer based on defects of the goods, including handbooks, manuals or other documents, shall expire within one year of delivery in respect of goods manufactured by us. Where the statutory regulations governing contracts for work and labour are applicable to our services, Customer's claims based on defects shall expire within one year of acceptance.

11. Customer's duty to cooperate

11.1 Customer shall provide us with all information and documents in writing that are expedient for the provision of services in a timely manner without being requested.

11.2 Customer shall provide us with skilled personnel as appropriate who are qualified to explain and expand the information and documents provided.

11.3 Where this is necessary for the provision of services at Customer's location, Customer shall provide

us with access, rooms and computing time as well as telecommunications links as appropriate.

11.4 If Customer fails to provide the cooperation services in a timely and complete manner and we incur additional expenditure as a result, that additional expenditure will be charged to Customer's account based on our standard rates.

12. Acceptance

Where acceptance is required by law or under a contract, the work shall be accepted within two weeks after formal acceptance is requested by either Party. This shall also apply to completed parts of the performance. If no acceptance is requested, the performance shall be deemed to have been accepted on expiry of four weeks following transfer of risk. In this case, any defects notified before that date shall be deemed a reservation of Customer's rights in the event of defects. Insignificant defects shall not entitle Customer to refuse acceptance.

13. Reservation of title

13.1 All goods delivered by us shall be subject to reservation of title. We reserve the title to the goods delivered until full payment of all claims we are entitled to under the business relationship with Customer. In particular, our title to the goods delivered shall not cease to exist as a result of payments that correspond to the purchase price of one or more items or particular shipments. Any processing of the goods delivered by Customer shall always be performed in our name and on our behalf and shall not constitute an acquisition of ownership pursuant to Sec. 950 BGB. If the goods delivered are processed together with other items not belonging to us, we shall acquire the co-ownership of the new product in proportion of the goods delivered by us to the other processed items at the time of processing. The same applies if the goods are mixed with other items not belonging to us.

13.2 Customer hereby assigns to us the claims against his purchasers arising from the resale of the reserved goods, regardless of whether they are sold to one or more purchasers. Until revocation, Customer shall be entitled to collect the claims assigned to us in his own name. Customer is obliged to notify us of any seizures of the reserved goods or the claims assigned to us by third parties and inform the third parties of our rights.

13.3 Customer is not entitled to pledge or transfer as security the goods delivered by us until all claims against him have been satisfied. Until all our claims against Customer are satisfied, resale is only permitted in the normal course of business, subject to the condition that Customer receives payments from his customers. Any costs of interventions shall borne by Customer.

13.4 The enforcement of the reservation of title as well as the attachment of the goods on our part shall not constitute a withdrawal from the contract.

14. Liability

14.1 We shall be liable for wilful intent and gross negligence. Furthermore, we shall be liable for the negligent breach of obligations the discharge of which is an essential prerequisite for the proper performance of the contract and the discharge of which Customer may rely upon as a matter of course. In the latter case, however, we shall only be liable for the foreseeable damage typical of this kind of contract. We shall not be liable for the slightly negligent breach of obligations other than those stated in the foregoing sentences. The limitation of liability shall also apply to breaches of obligations on the part of our agents. The exclusions of liability shall not apply in the event of injury to life, limb and health. The liability under the Product Liability Act shall remain unaffected.

14.2 We shall only be liable for loss of data, including individual configuration data and settings, to the aforementioned extent if Customer properly backs up his data and individual settings at intervals appropriate to the specific application, at least on a daily basis, so that they can be recovered with reasonable effort.

14.3 In the absence of an agreement to the contrary, Customer shall always be responsible for protecting his communication systems, including Voice-over-IP systems (VoIP) against unauthorised access. Customer shall be responsible for assessing the adequacy of any protective measures.

15. Written form requirement, severability, place of performance, place of jurisdiction and choice of law

15.1 All contractual agreements must be laid down in writing. The written form requirement shall also apply to the modification of the written form requirement.

15.2 The invalidity of one or more provisions of these General Terms and Conditions shall not affect the validity of the respective contract. The Parties undertake to replace the invalid provision by a valid regulation that embodies as closely as possible the economic purpose pursued with the invalid provision. The same applies if these General Terms and Conditions turn out to contain a gap or omission that requires the addition of a provision.

15.3 Unless agreed upon otherwise, our obligations shall be fulfilled at our business premises.

15.4 If Customer is a merchant, a legal person under public law or a special fund under public law or if Customer has no general jurisdiction within Germany or his place of residence or usual abode is not known at the time the action is filed, the place of jurisdiction shall be Osnabrück.

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