

## General Terms and Conditions

The text that follows is a translation of the General Terms and Conditions from German into English. To clarify, we would like to explicitly point out that if there is any dispute, the German version of the General Terms and Conditions and German law will be binding.

### 1. Area of application

- (1) The following General Terms and Conditions (hereinafter known as the "Terms") apply to all transactions between LEiTEK Informations- und Automatisierungstechnik GmbH (hereinafter known as "LEiTEK") and the respective party to the contract (hereinafter known as "Customer"). These Terms of Sale also apply to all future transactions with the Customer, if they are legal transactions of a similar kind. This means that all the Services provided by LEiTEK will be provided subject to these Terms, in particular the supply of hardware and components, the production and delivery of software and applications and the programming of programmable logic controllers (hereinafter known as "Services").
- (2) The Terms are available for inspection at the headquarters of LEiTEK. At the same time, the Terms can be viewed and retrieved on LEiTEK's website ([www.leitek.de](http://www.leitek.de)), especially so that they can be downloaded. The Customer can ask to get the Terms of LEiTEK in writing. When signing a contract with LEiTEK, the Customer confirms that he has had a reasonable chance to take note of the contents of the TERMS. With his signature, but at the latest when he receives the goods or services, the Customer acknowledges that the Terms form a valid basis for the contract.

### 2. Offer and offer documents

- (1) All contracts will become valid only after LEiTEK has confirmed them. Until then, LEiTEK's offers will remain non-binding. The details and information contained in the offer and the associated documents – in particular, for example, technical specifications, drawings, sketches, pictures, data and specifications – are not binding and can be specified in writing by both parties in a legally binding form after they have consulted each other.
- (2) With all offers made by LEiTEK and, in particular, with regard to cost estimates, drawings and other documents, LEiTEK reserves the property and copyright exploitation rights and other rights of use without limitation. After the project has been completed, they may be made available to third parties and/or used by the Customer only after LEiTEK has given written approval to do so.
- (3) LEiTEK's offers (including annexes) will, if the contract is not concluded or if it is terminated early, be returned immediately upon LEiTEK's request.

### 3. Customer's duty to cooperate

- (1) All the Customer-specific information and data contained in the offer that later become the subject of the contract must be checked by the Customer before the order is placed. If there are any discrepancies, LEiTEK must be informed in writing before the Customer places the order.
- (2) The Customer is required, to check the accuracy of measurements given and the construction drawings,

(technological) descriptions, information and documents supplied by him which affect the order and delivery of the Services. The Customer is also responsible for making sure that the use of drawings and documents supplied by him does not violate any patent rights or other property rights of third parties.

- (3) The Customer is obliged to safeguard LEiTEK's Services, especially the software, from being accessed by unauthorised third parties by taking appropriate measures (virus protection, firewall, etc.), and especially to keep the backup copy in a safe place according to Section 10.4.
- (4) If a third party asserts claims against the Customer due to a violation of Section 10.7, the Customer must immediately inform LEiTEK of this in full and in writing. Furthermore, without the approval of LEiTEK, the Customer is obliged to not recognize any alleged infringement and to leave any dispute, including any out-of-court settlements, to LEiTEK or to deal with this only in agreement with LEiTEK. LEiTEK will pay the necessary Customer's lawyers' fees and court costs caused by the legal defence. If the Customer stops using the Services to reduce damages or for some other good reason, he is obliged to inform the third party that the fact that he has stopped the use does not mean that he acknowledges the alleged infringement.
- (5) In order to eliminate defects, if LEiTEK asks for it, the Customer will make available to LEiTEK – to the extent possible and reasonable – the notes and information that are needed to assess and eliminate the defect.
- (6) If the export of LEiTEK's Services is subject to national or international export regulations, the Customer must obtain the permission of the competent authorities for such export. The Customer has to bear the costs of exporting the Services.
- (7) Other duties of the Customer are a result of the individual contract and the general duties of care and due diligence. If the duty to cooperate is violated, the Customer bears the resulting risk of damage. LEiTEK is not obliged to check whether the Customer is complying with his duty to cooperate. Nevertheless, LEiTEK is authorised to do so and the Customer is obliged to demonstrate compliance with the duty to cooperate upon request.
- (8) The full assistance of the Customer is free of charge.

### 4. Conclusion of contract

- (1) All declarations of intent regarding the contract conclusion that are made by LEiTEK or the Customer will only be valid if they are in writing. Oral statements will become valid only when LEiTEK confirms them in writing.
- (2) Even after the order has been confirmed and so long as it is not unreasonable for the Customer, LEiTEK reserves the right to make changes to the drawings and descriptions etc. that accompanied its offers and order confirmations if they become necessary because of production or because of improvements, experiences or progress made in technology.

## 5. Price and payment

- (1) All of LEiTEK's prices do not include the necessary VAT or any duties, taxes and forwarding expenses.
- (2) All payments must be made in Euros to the bank account specified by LEiTEK.
- (3) Unless anything contrary is specified in the offer, the invoice will be sent with each individual Service. Payments are due within 30 days from the date of the invoice. An early payment discount is only allowed if there is a separate written agreement that agrees to this. If 30 days have passed since the due date for payment, LEiTEK is permitted to charge interest at the rate of 8 percentage points above the interest rate of the European Central Bank.
- (4) If the two parties later agree to make changes to the contract, LEiTEK is allowed to claim the additional costs this causes. If these changes to the contract reduce the value of the contract, the excess money will be refunded after any additional costs incurred because of the changes have been deducted from this amount.
- (5) The material prices that the contract is based on when the contract is signed, are based on the general price list of the manufacturer that is valid at the time. If the agreed delivery or performance date is more than 12 weeks after the contract has been signed, LEiTEK can take into account the interests of the parties to the contract and pass those material price changes on to the Customer.
- (6) The Customer may offset only undisputed, contested but ready for a decision or legally established counterclaims against amounts due to LEiTEK. The right of retention or the defence of unfulfilled contract are available to the Customer only within the respective contractual relationship.
- (7) LEiTEK has the right to demand full advance payment of its Services if performance is to take place abroad or if the Customer is resident abroad.

## 6. Delivery

- (1) Deadlines and dates of performance are not fixed, unless they are expressly fixed by LEiTEK in writing. If LEiTEK's Services are delayed, the Customer is obliged to demand the Services and set an appropriate deadline. If the Customer sets deadlines or grace periods for compliance or rectification or the removal of a circumstance, these deadlines must be set appropriately; these deadlines must allow at least two attempts and generally be at least five business days. The above-mentioned declarations need to be in writing.
- (2) After the reasonable period set has come to an end or the subsequent performance has failed, the Customer is entitled to cancel the contract or reduce the payment.
- (3) The commencement of the performance period specified LEiTEK requires the timely and proper fulfilment of the obligations of the Customer. In particular, the order must be completely clear with regard to technical documents and descriptions, hardware, material, etc., and all the necessary on-site conditions for the Services must be fulfilled.
- (4) In addition, compliance with the agreed deadlines for the Services presupposes the timely receipt of all the documents to be delivered, the necessary permits and approvals, especially of plans, as well as compliance with the agreed terms of payment and other obligations of the Customer. Unless these conditions are fulfilled in time, the deadlines set

shall be extended appropriately. This does not apply if LEiTEK is responsible for the delay.

- (5) A contractual penalty for delayed Services rendered is ineffective if it has not been expressly agreed.
- (6) If the Services are delayed by circumstances which are caused by the Customer, then the Customer has to bear the reasonable cost of this, especially for waiting times and any additional travelling expenses of LEiTEK's staff etc.
- (7) LEiTEK is entitled to make partial deliveries, as far as this is not unreasonable for the Customer.
- (8) The Customer bears the risk of shipping and transport. As soon as LEiTEK has surrendered the Services to be delivered to the person responsible for the transport, the risk is transferred to the Customer, regardless of whether LEiTEK has ordered the dispatch or even carries it out itself.

## 7. Force majeure

Force majeure includes such circumstances and events that could not be prevented with the due care and diligence of prudent management. Force majeure and unpredictable events, such as operational, traffic or shipping disturbances, fire, floods, unforeseeable shortages of labour, energy, raw materials or auxiliary materials, orders by the authorities, or other obstacles for which LEiTEK is not liable and which delay, prevent or make the performance unreasonable shall release LEiTEK from the obligation to fulfil the Services for the duration and scope of this event. If because of such an event, the Services are delayed by more than 12 weeks, then both sides are entitled to withdraw from the contract.

## 8. Liability

- (1) LEiTEK is liable for intent and gross negligence – also of their legal representatives or agents – only to the legal requirements for compensation, unless Sections 8.2, 8.3 or 8.4 of the Terms state otherwise.
- (2) With regard to slight or simple negligence, LEiTEK is liable only if there is a violation of a duty whose fulfilment makes the proper performance of the contract possible in the first place and on the compliance of which the Customer can regularly rely (cardinal obligation). In the event of a minor breach of a cardinal obligation, liability is restricted to the typical, foreseeable damage.
- (3) The liability for the loss of data is limited to the typical cost of restoration, which would have occurred with the Customer's regular, risk-appropriate data protection.
- (4) Liability in line with the product liability law and liability for damages resulting from injury to life, body or health shall remain unaffected by the above-mentioned provisions, as well as the liability due to fraudulent concealment of a deficiency or absence of a quality for which LEiTEK has assumed a guarantee.
- (5) The above-mentioned provisions shall also apply to LEiTEK's employees and agents.
- (6) Any liability for damages other than that provided above is excluded, regardless of the legal nature of the claim asserted.

## 9. Retention of title

- (1) Subject to the provisions of Section 10, LEiTEK reserves the title to the delivered goods until full payment of all claims arising from the contract has been made. This also applies to all future Services, even if LEiTEK does not always expressly refer to this. LEiTEK is entitled to reclaim the goods supplied if the Customer is grossly in breach of contract or, in particular, in default of payment.
- (2) As long as the property has not been transferred to him, the Customer must treat the delivered goods carefully and not to resell them. He is also obliged to insure them at his own expense. If maintenance and/or inspection work is performed, the Customer has to perform this at his own expense. As long as ownership has not been transferred, the Customer must inform LEiTEK immediately in writing if the delivered goods are seized or are subject to other interference by third parties. If this is the case, the Customer must specify which property belongs to LEiTEK. If the third party cannot exempt LEiTEK from the legal and other costs of a claim in accordance with Section 771 of the German Code of Civil Procedure, the Customer is liable for the loss incurred.
- (3) As long as the property has not been transferred to the Customer, the handling and processing or the transformation of the goods supplied by the Customer is always for and on behalf of LEiTEK. In this case, the Customer's expectant right to the delivered goods continues with respect to the transformed object. If the delivered item is processed with other items that do not belong to LEiTEK, LEiTEK acquires joint ownership of the new item in proportion to the objective value of the delivered goods to the other processed items when they were processed. The same applies if the goods are mixed. If the mixing is done in such a way that the item of the Customer is to be regarded as the main item, it is agreed that the Customer will transfer proportional co-ownership to LEiTEK and shall hold it in safe custody for LEiTEK free of charge. To secure the claims of LEiTEK against the Customer, the Customer shall also assign to LEiTEK such claims against a third party that arise to him from the fact that the goods subject to retention have been combined with real property; LEiTEK accepts this assignment with immediate effect.
- (4) LEiTEK undertakes to release the securities due to it at the Customer's request, insofar as the realisable value of its securities exceeds the secured claims by more than 10% not just temporarily. LEiTEK can choose which of the securities should be released.

## 10. Software use

- (1) After payment, the Customer will receive a simple, non-transferable but not time-limited right to use the software of LEiTEK as well as related organisational documents, documentation components and training materials, in accordance with the scope specified by the contract. LEiTEK is not obliged to give the source code to the Customer.
- (2) The Customer acknowledges the copyright ability of the software. In addition, the Customer recognizes that the software is a trade secret of LEiTEK.
- (3) The Customer can use the software only within the framework specified in the contract. In particular, any transfer, surrender or simultaneous multiple use of the software, for example, within a network or other multi-station computer system, by the Customer without prior written permission from LEiTEK is prohibited. If the Customer

violates this rule, his right of use shall expire and LEiTEK is entitled to an extraordinary right of cancellation. In addition, for each violation the Customer is required to pay five times the value of the contract to LEiTEK as a penalty. Further claims made by LEiTEK, especially claims for damages, remain unaffected by this.

- (4) The Customer can make a simple reproduction of the software ("backup copy") for purposes of security. In doing so, only one backup copy of the software can be made and stored for each licence. The backup copy must be labelled to show that it is a copy of the software provided and may be used only for archiving purposes.
- (5) When the software is transferred for the purpose of resale, the Customer must ensure that the third party accepts these conditions.
- (6) Details will be provided under a separate licence agreement.
- (7) LEiTEK affirms that the software is free of the rights of third parties and that the contractual use does not, therefore, interfere with the rights of third parties. LEiTEK releases the Customer from claims asserted by third parties as specified in the requirements in Section 3.4 insofar as the alleged claim of these third parties is not based on changes made by the Customer to the software or to third party software.

## 11. Warranty

- (1) After delivery, the Customer shall examine LEiTEK's Services, especially for completeness and basic functionality.
- (2) If the Services are installed by LEiTEK, the completion of the installation will be regarded as delivery.
- (3) LEiTEK must be immediately notified in writing of any defects that are found during the inspection or which are identifiable. If LEiTEK's defect forms are not used to report these defects, the complaints must include a detailed description of the defects.
- (4) LEiTEK must be informed of any defects that cannot be detected during the inspection carried out according to the rules as soon as they have been discovered. If LEiTEK's defect forms are not used for these defects, the complaints must include a detailed description of the defects.
- (5) If the duty to examine and give notice of defects is violated, LEiTEK's Services with regard to the relevant defect are considered approved.
- (6) In case of defective performance, LEiTEK shall carry out rectification or subsequent delivery according to its own choice. LEiTEK is entitled to fulfil its obligation to eliminate defects by correcting the defects, in particular by eliminating errors, providing a fall-back solution, providing a new software version or by demonstrating how the consequences of the error can be avoided. LEiTEK is not obliged to convert the Services to operating, hardware systems or programming languages other than those that formed the basis of the contract.
- (7) If the contract includes the delivery of several Services and only some of these are defective, the Customer's claims for defects are limited to the defective Services. In this case, the Customer is entitled to withdraw from the contract or have a price reduction only if it is expressly agreed by contract, or if the Customer has no objective interest in the defect-free part(s) of the Service without the defective part(s) of the Service.

- (8) The material defect warranty and liability does not cover defects or damage caused because the Services are used in a hardware or software environment, which does not satisfy the specification requirements, the Customer has not complied with the installation requirements, the Services have been incorrectly used, installed, operated, maintained or repaired by the Customer or third parties, or the Customer or a third party has made changes to the Services. This does not apply if the Customer proves that the improper use, installation, operation, maintenance, alteration or repair does not make it significantly harder for LEiTEK to analyse or process the defect, and the defect of the Services was present at delivery or acceptance.
- (9) For the purpose of subsequent performance, the necessary expenses, such as transport, travel, labour and material costs, shall not be borne by LEiTEK, if the expenses arise because the Services have been sent to a place other than the seat or commercial business of the Customer after delivery, unless the transfer is in accordance with its intended use.
- (10) The statutory period for warranty claims made by the Customer is one year starting from delivery. This does not apply to defects that have been fraudulently hidden.
- (11) If the contractual use is compromised by the rights of a third party in accordance with Section 10.7 of the Terms, LEiTEK is entitled – to an extent that is reasonable for the Customer – at its discretion and at its expense, also cumulatively if it wishes, to obtain licenses to change the software or to replace it completely or in part.
- (12) The right to have the error eliminated is debarred if the defect is not reproducible or cannot be demonstrated by mechanically generated copies.
- (13) If there is an unjustified notification of defects, LEiTEK can invoice the cost of trouble-shooting on a time basis, especially if a defect that has been complained about is not detectable, cannot be reproduced or cannot be attributed to LEiTEK.
- (14) Any guarantee agreement must be in writing.

## 12. Miscellaneous

- (1) Business and/or licence terms of the Customer that deviate from these Terms shall not apply. This applies even if LEiTEK does not expressly object to them. If the Customer also uses General Terms and Conditions, the contract becomes valid even without any express agreement regarding the inclusion of these General Terms and Conditions. Insofar as the various General Terms and Conditions correspond with regard to their contents, they shall be deemed as agreed. The conflicting sets of rules shall be replaced by the dispositive law provisions of the law of the Federal Republic of Germany by the parties. The same applies if the Customer's Terms and Conditions contain provisions that are not contained in these Terms. If these Terms contain regulations that are not included in the Customer's Terms and Conditions, they shall apply.
- (2) After LEiTEK has successfully completed the Services, LEiTEK is entitled to publicly use the Customer's name as a reference.
- (3) The Customer's data will be stored in compliance with the statutory provisions.
- (4) The law of the Federal Republic of Germany, excluding the UN Sales Law and the provisions of International Private

Law, shall apply to the entire business relationship between the Customer and LEiTEK.

- (5) The place of performance and jurisdiction for all disputes arising from or in connection with the contract is the registered office of LEiTEK. In the event of litigation, LEiTEK can also choose the general jurisdiction of the Customer if it wishes to do so.
- (6) Any amendments to the contract, additions or terminations between LEiTEK and the Customer must be in writing. The same applies to any waiver of the requirement for matters to be in written form.

## 13. Severability clause

If any provision of these Terms become invalid in whole or partially, this shall not affect the validity of the remaining clauses or remaining parts of such clauses. The parties must replace an ineffective regulation with a valid provision which most closely reflects the economic purpose of the invalid provision.

Dated: April 2015 ©