

1. Scope of application
  - 1.1 (Scope of application)

These GTC apply for all - including future – contracts and other performance between vemm tec and the customer.
  - 1.2 (Defence against other GTCs)

GTCs of the customer which deviate from, contradict or supplement these GTCs, even in case of awareness do not constitute part of the contract. An exception to this exists if vemm tec expressly agrees to this in writing. These GTCs apply even if vemm tec in awareness of the deviating, contradictory or supplementary GTC of the customer performs the service implicitly and tacitly.
2. Offer, conclusion of contract, documentation
  - 2.1 (Offer and acceptance)

Our offers are without obligation. When ordering, the customer declares binding acceptance of the performance ordered. We have the right to accept the contractual agreement in the order within four weeks after receipt. Acceptance may be expressed either by confirmation of order in writing or by delivery of the goods to the customer.
  - 2.2 (Technical changes)

Technical changes to offers, samples, trial shipment and advance delivery according to the relevant DIN/EN standards or other pertinent technical standards are permissible within reasonable limits.
  - 2.3 (Contract documentation)

We assert property rights and copyrights for diagrams, drawings, calculations and other documents. This applies also for written documents which are marked „confidential“. The customer may not forward such written documents to a third party without our expressed written authority.
3. Prices and conditions of payment
  - 3.1 (Prices)

Where not otherwise stated in the confirmation of order, our prices are in euro ex works. The prices are exclusive of packaging costs as well as the legally applicable added value tax and official fees.
  - 3.2 (Payment)

Payment shall be made into our business account in accordance with the conditions stated in the order confirmation. Settlement is considered to be on time only when the money is booked on our business account within the agreed time and is freely available for us.
  - 3.3 (Letter of credit)

If a letter of credit has been agreed, the customer must open a confirmed, irrevocable letter of credit with a bank as soon as he receives confirmation of order, however, at least 20 days before the date of delivery. Where payment is made by letter of credit, this shall be based on the applicable „Unified Directives and Practices for Letter of Credit Documentation“, issued by the International Chamber of Commerce in Paris.
  - 3.4 (Cheques)

Cheques shall be accepted only when written agreement exists and only for payment. The customer is liable for all processing and discount charges.
  - 3.5 (Discount)

Discount applies only when agreed in writing. Discount deductions are only permissible when all previous, due invoices have been settled and the customer has paid the outstanding invoice in full. Discounts refer to the pure net value of the goods. Calibration fees, test charges and services of all kinds (e.g. repairs, wage labour, damage inspections etc.) are not subject to discount.
  - 3.6 (Offsetting, right of retention)

The customer may only offset those claims which are not disputed or legally

defined. The customer has the right of retention only when his counterclaim originates from the same contractual relationship and is not established as in dispute or legally binding.

### 3.7 (Late payment)

In case of late payment, default interest is payable at the rate of 8% above the base rate of the European Central Bank at the time. We reserve the right to enforce a higher rate of interest for late payment. The customer has the right to prove to us that no or considerably less in damages has occurred due to delayed payment. Similarly we have the right to defer fulfilment of the contract. If the customer does not make payment of the agreed amount within two months of date due, we have the right to cancel the contract by written notice and require compensation.

## 4. Time for performance and delay in performance

### 4.1 (Delay on the part of the customer)

Keeping the agreed deadlines for performance is conditional to the timely receipt of all documents to be submitted by the customer, the necessary licenses and permits, particularly the plans as well as observing the agreed payment conditions and other obligations of the customer. If these conditions are not met in time, the delivery times will be extended for the time of delay. This does not apply when we are the party responsible for the delay.

### 4.2 (Delay due to force majeure)

Insofar as a contractual party is hindered or delayed in fulfilling any obligation contained in the contract, this party is not in breach of contract and has no obligation to render compensation, whether payable as stated in the contract or according to law, if this incident lies outside his reasonable control and thus can be considered as force majeure.

Acts of force majeure include among others, war, civil unrest, riots, sabotage or similar incidents, terrorist attack or the

founded assumption of possible terrorist attack, strikes or other industrial action, fire, explosions or other unpreventable events, flood, storm, earthquake or other natural disasters.

The affected party is obliged to inform the other party of the incident of force majeure immediately. Insofar as the act of force majeure prevents or delays the fulfilment of a contract for longer than six months, each party has the right to give reasonable notice of termination of the contract.

### 4.3 (Delay of performance)

Insofar as we do not succeed in supplying the goods or parts of them within the contractually agreed delivery time through our fault the customer can require an inclusive compensation of damages for every completed week of delay in the total amount of 0.5%, however at the most 5% of the price of the part of our performance which due to the delay could not be productively operational.

The customer can verify a higher damages amount. In this case damages for delay are limited to the typical contractual, expected damages. This does not apply to cases whereby we and our assistants are liable due to intention and culpable negligence. Change of burden of proof to the disadvantage of the customer does not thereby apply.

### 4.4 (Damages, cancellation of contract)

Insofar as the greatest amount of damages according to Item 4.3 has been reached, the customer can first set an appropriate, new delivery date with the threat of refusing acceptance of the goods and declare cancellation of the contract relative to the delayed part if we do not fulfil our part beforehand. This does not apply where the customer's acceptance of partial fulfilment is reasonable. No further claims can be made against us with relation to late delivery.

Payment of inclusive damages completely settles all claims of the customer against us due to late delivery.

- Any other compensation, whether arising from this contract or legally defined is expressly excluded.
5. Delivery and delay in acceptance
- 5.1 (Delivery and partial delivery)  
Insofar as not otherwise stated in the order confirmation, ex-works delivery conditions are agreed (EXW INCOTERMS). Partial delivery is permitted.
- 5.2 (Insurance)  
If the customer so wishes, the consignment can be insured at our cost in accordance with the facts supplied by the customer.
- 5.3 (Delay in acceptance)  
Should dispatch be delayed for reasons attributable to the customer or should the customer cause delay in acceptance for any other reason, the risk is transferred to the customer at the time of provision of the goods.
- 5.4 (Storage costs in case of delay in acceptance)  
If after notification of readiness for collection or notification from the dispatch department that the goods are ready to dispatch has been given, the goods are not collected and this is due to the customer's fault, the customer can be charged storage fees for each commenced month to the amount of 0.5% of the price of the goods, however up to a maximum of 5%. Verification of higher or lower storage costs remain notwithstanding the contractual parties.
- 5.5 (Withdrawal and damages for delay in acceptance)  
In case of delay in acceptance, vemm tec may set the customer a reasonable time limit for acceptance in case the customer has not accepted the goods at time of delivery. The right of vemm tec to require the purchase price remains unaffected. After expiry of this period, vemm tec may cancel the contract completely or partially by written notification and require inclusive damages at least in the amount of the value of that part of the consignment not collected.
6. Reservation of ownership
- 6.1 (Reservation of ownership)  
We reserve the right of ownership of every part of the goods supplied to the customer until the full selling price has been paid. Our performance is deemed to be subject to retention of title.
- 6.2 (Protection of goods abroad)  
The customer shall support us in every legal measure which is necessary to protect our property in the country concerned. If the legal effectivity of reservation of ownership is subject to special registration or dependent on other conditions, the customer is obliged to fulfil these conditions or to inform us accordingly and support us. If reservation of ownership in the importing country is not legally permitted or not intended, the customer is obliged to provide equivalent security. Costs arising thereby are to be borne by the customer.
- 6.3 (Reporting obligation)  
The customer is obliged to inform us immediately in case a third party enforces a right to goods under reservation of property and to support us in all measures with regard to the protection of our property. This applies also in case of impairment of any kind (e.g. damage, destruction etc.). The customer must inform the third party beforehand about the rights which apply to the existing goods. Any costs we incur due to our intervention shall be borne by the customer insofar as the third party is not in a position to refund these.
- 6.4 (Cancellation of contract)  
We have the right in case of delayed payment or contravention of an obligation according to Items 6.1 – 6.3 of these GTCs after unsuccessfully setting a time limit to cancel the contract and demand return of the goods subject to retention of title. Further claims for damages remain unaffected by this.

## 7 Warranty

For defects we give a warranty according to the following proviso:

### 7.1 (Notice of defects)

The customer must inform us in writing of any evident defects within 7 working days after delivery of the goods. Defects which are not evident must be reported within 12 months after delivery of the goods. For the deadline, timely sending of the complaint suffices. The complaint must define the exact type of contract infringement. Otherwise the claim under warranty will not be accepted. The customer should coordinate with us for the surety of providing all evidence.

### 7.2 (Retroactive performance)

Insofar as in the performance at the time of risk transfer a defect already existed, we have the optional right for reparation in the form of correction of the defect or supply of a new item free of defects. We shall bear the costs for the retroactive performance insofar as they are not increased due to the location of the item which is not located at a place other than the place of fulfilment. For all parts delivered with warranty under this clause a further full warranty period shall be defined. The entire warranty period may not, however, in any case exceed three years.

### 7.3 (Markdown, cancellation of contract)

Firstly a reasonable time limit for retroactive performance must be set. If the retroactive performance fails, the customer has the right to markdown the selling price or cancellation of the contract. Only when the defects are minimal has the customer no right of cancellation.

### 7.4 (Guarantee)

Apart from the warranty claims mentioned in Items 7.1 – 7.3, we give no guarantees in the legal sense to the customer.

### 7.5 (No warranty for software)

The software supplied with the goods is provided without warranty and without any kind of service. WE EXCLUDE ANY

KIND OF WARRANTY APPLYING TO ALL LICENSED SOFTWARE UNDER THIS CONTRACT INCLUDING THE LEGAL WARRANTY RIGHTS AND APPLICATION POSSIBILITIES IN CASE OF SPECIAL APPLICATIONS. WE ARE UNDER NO CIRCUMSTANCES RESPONSIBLE FOR EXCEPTIONAL, INDIRECT OR CONSEQUENTIAL DAMAGE DUE TO LOSS OF USE, INFORMATION OR PROFIT, INDEPENDENT OF WHETHER THESE CLAIMS ARISE FROM THE CONTRACT, CARELESSNESS OR OTHER PROHIBITED ACTIONS AND WHETHER THESE RESULT FROM APPLICATION OF THE LICENSED SOFTWARE IN THIS CONTRACT.

### 7.6 (Exclusion of warranty)

In particular the warranty and liability are excluded for the consequences of incorrect use (in particular for installation which is not state of the art, installation contrary to the installation instructions) by the customer or a third party, in case of natural wear and tear of the goods, in case of overuse, use of unsuitable materials as well as in case of physical, chemical or electrical influences or influences not to be expected in normal use. In case the customer or a third party performs incorrect alterations or repairs, similarly no warranty is valid for the consequences. The warranty becomes invalid when devices supplied with our seal no longer possess the original, undisturbed seal.

## 8. Compensation

### 8.1 (Limitation of responsibility)

Apart from cases of fraud, punishable offences, culpable negligence or deliberate abuse – insofar as not otherwise expressly regulated elsewhere in these GTCs – neither we nor our performing agents or employees are responsible to the customer contractually or for other reasons with respect to all indirect damage, damage resulting from defects or special damage, including loss of profit, loss of use, loss of raw materials, loss of contract, loss of orders

- or any other financial or commercial loss resulting therefrom.
- 8.2 (Liability due to legal offence and product liability)  
Liability due to culpable fatal injury, bodily injury or damage to health remains unaffected.  
This applies also for liability according to the Product Liability Act. Insofar we are liable for every degree of culpability. The customer is obliged to inform us of special risks arising from the goods delivered to him and of which he is aware.  
In case claims arising from the goods delivered are made against us according to foreign product liability law, the justified damages claim will be paid from our insurers up to the amount covered in our product liability policy. The customer bears the excess amount and is obliged to take out a corresponding insurance at his own cost and present verification of this on request.
- 8.3 (Liability for ancillary helpers)  
Insofar as damage liability towards us is excluded or limited, this also applies to personal liability of our employees, other co-workers, legal representatives and vicarious agents.
9. Expiry
- 9.1 (Expiry dates for warranty claims)  
Warranty claims expire one year after delivery of the item.
- 9.2 (Expiry dates for damages claims)  
Claims by the customer for damages due to defects expire one year after delivery of the item. This does not apply in cases of culpable injury to life, body or health as well as intended or culpably negligent contravention of contract by us, our legal representatives or our vicarious agents.
10. Form of Declarations
- 10.1 (Requirement for the written form)  
Changes, agreements deviating from these GTCs and established practice – insofar as they are not expressly regulated in these GTCs – must be stated in writing.
- 10.2 (Assignment of rights and obligations)  
The parties are not permitted to assign rights or obligations arising from this contract without written agreement of the other party.
11. Place of jurisdiction, INCOTERMS, choice of law
- 11.1 (Place of jurisdiction)  
The exclusive place of jurisdiction is the court responsible in the location of our company headquarters. We are also entitled to litigation at the state court responsible for the customer's headquarters.
- 11.2 (INCOTERMS)  
In cross-border trade the INCOTERMS of the International Chamber of Commerce in Paris apply additionally in the version applicable at the time.
- 11.3 (Choice of law)  
The law of the Federal Republic of Germany is binding. Insofar as the customer has his headquarters outside of Germany, for contracts between the customer and us the law of the Convention of the United Nations with regard to purchase of goods contracts (CISG) of 11.04.1980 applies. The law of the Federal Republic of Germany applies in this case to a subsidiary degree.
12. Translation, business discussions
- 12.1 (Translation)  
These GTCs are prepared in German and English. In case of contradiction the German version has prevalence.
- 12.2 (Business discussions)  
The language for business discussions is English.

Status: February 2012