

## General Terms and Conditions of

### LANconcept Moll GmbH (referred to as "lan" below)

- Version as of September 2016 -



#### 1. Scope

1.1. All supplies and services of lan are made exclusively under the General Terms and Conditions set out below. Any licensing and/or general terms and conditions of other manufacturers supplied with outsourced products are included in the delivery terms of lan. The terms and conditions apply also to any future business relationships and do not need to be expressly agreed again.

1.2. Any terms and conditions of the customer deviating from these General Terms and Conditions or from the product- and service-specific supplier conditions or manufacturers' licensing conditions do not apply.

1.3. The types and designations of the subject-matters of supplies and services as well as their quantities are reflected in the purchase order sheet or order confirmation.

1.4. The selection of delivery items for a specific intended use, e.g. regarding compatibility with devices and/or programs or networking options at the customer's is not a subject of the delivery contract but may be the subject of a separate contract. The customer is solely responsible for the selection of the delivery items – including but not limited to software – and their suitability for the purpose and applications intended unless otherwise specifically agreed.

1.5. The software will run on the devices identified specifically by lan.

The scope of performance and functions of the software delivered is governed by the

product description valid at the time of signing the contract.

#### 2. Formation of Contract

2.1. The customer's purchase order is a binding offer to buy. lan shall be entitled to accept this offer at its discretion within 4 weeks by sending an order confirmation or delivering to the customer the delivery items ordered or performing the services ordered within this period.

2.2. Offers submitted by lan are without obligation.

2.3. The technical data and descriptions contained in product information or advertising materials do not constitute any warranty of a specific quality or service life unless lan confirms such properties expressly in writing. The figures, drawings, weights and dimensions appearing in the descriptions are only approximate information unless they are expressly designated as warranted information. lan reserves the property right and copyright to all drawings and documentations. They must not be transferred to any third party.

2.4. The terms (including licensing and warranty provisions) delivered with the products (including software) of the respective manufacturers shall apply, including those of lan and – with secondary priority – the present General Terms and Conditions.

### 3. Cancellation

In addition to statutory rights of cancellation, IAN shall be entitled to contractual cancellation under the following conditions: IAN shall be entitled to cancel the contract if

- the customer should have submitted false information about its credit-worthiness and the information relates to a fact that is significant for assessing credit-worthiness or if credit-worthiness is forfeited and the customer should not be prepared to make payments matching deliveries or provide a security in spite of being requested to do so

or:

- if IAN should be unable to deliver as a result of its own suppliers' failure to supply or render a service without IAN's fault even if IAN has made all reasonable efforts to procure the outsourced items.

### 4. Supplies and Services

4.1. Any changes in design or shape of the delivery items, differences in color shades or changes in the scope of delivery are reserved during the period of delivery provided that the delivery items are not modified substantially and the customer may be reasonably expected to accept the changes.

4.2. An excess or short delivery of print products of up to 10 % shall be deemed contractually acceptable and shall not give rise to any claims for damages or warranty and complaints. In the case of special production items or low volume productions, deviations of up to 20 % shall be acceptable.

4.3. IAN explicitly reserves the right to make partial deliveries and partial performance.

4.4. All delivery deadlines and delivery periods are without obligation unless IAN has confirmed them expressly as binding. Delivery periods begin on sending the order confirmation. Delivery periods shall be

deemed as complied with if the delivery item is shipped within the period.

Events of force majeure or operational disruptions occurring at IAN or its own suppliers as a result of riot, strike or lock-out and which temporarily impede IAN or its own suppliers without their own fault from delivering the delivery items or providing the service on the agreed date or within the agreed period shall extend the deadlines and periods by the duration of the disruptions in supplies and/or services caused by such circumstances.

If such a disruption should result in a delay of performance of more than 3 months, the customer shall be entitled to cancel the contract in respect of the relevant delivery item or service. In such a case, IAN shall not be obliged to pay damages for breach of duty pursuant to § 275 para. 4 of the German Civil Code (BGB).

4.5. Fulfillment of the supply and/or performance obligations is contingent upon the customer fulfilling its obligations properly and in due time.

4.6. The customer may request IAN in writing four weeks after the latter's missing a non-binding deadline or non-binding delivery period at its own fault to deliver within a reasonable time-limit, indicating that it will refuse acceptance of the delivery item subject to the delay after expiration of the time-limit. On receipt of such request, IAN gets into default in delivery.

4.7. In case of a default in delivery on the part of IAN, the customer's entitlement to damages in case of minor negligence shall be limited to a maximum of 5 % of the price and/or remuneration for the relevant part of the supplies and services.

4.8. If IAN should only have an order to support the customer, IAN shall not be liable for the overall result.

4.10. IAN is entitled to have its services provided by third parties.

## 5. Customer's Cooperation

5.1. All preparatory steps for the installation of a computer system such as, for example, cable placement, outlet installation, shall be carried out by the customer at its own cost and under its own responsibility unless lan is commissioned with performing such work by the customer. Any additional expenses incurred by lan as a result of deficient or inappropriate preparatory work shall be at the customer's charge. If this work is not completed in time, the delivery period for supplies and services shall be extended according to a new agreement to be made between the customer and lan.

5.2. The customer shall prepare the operating environment for the delivery item in accordance with the specifications from lan or the manufacturer, as applicable.

5.3. The customer shall take appropriate steps as necessary to comply with the duty to avert, minimize or mitigate loss if the delivery item should not work as contractually agreed or services should not be provided as contractually agreed, including but not limited to fallback procedures, data backup, continuous supervision of results, fault diagnosis and detailed description of the fault pattern.

5.5. In particular, the customer shall cooperate in defining specifications for performance and tests. The customer shall provide access to the delivery item to lan by remote data transmission as far as acceptable to the customer.

## 6. Commissioning

6.1. The customer shall proceed with acceptance of the delivery items and/or services within 14 days after receipt of notice of completion from lan. Thereafter, the customer is in default. In this case, lan shall be entitled to set an additional period of 14 days for acceptance of the delivery item and/or services.

6.2. If the additional period should elapse without success, lan shall be entitled to cancel the contract in writing or claim damages for non-performance.

6.3. Setting an additional time-limit shall not be necessary if the customer should refuse acceptance seriously and definitely or is obviously unable to comply with its contractual payment obligations within this period.

6.4. In the event of damage due to default, lan shall be entitled to claim damages in the amount of 30 % of the price of the delivery items and/or services. The right to prove higher or lower loss shall remain unaffected.

## 7. Passage of Risk

7.1. The risk shall pass to the customer when the delivery items are handed over to the carrier, also if partial deliveries are made or lan is commissioned with other services such as, for example, shipping and installation, and in case of return shipment after rectification of defects.

7.2. The delivery items to be shipped are insured by lan on request and at the expense of the customer against theft, breakage, transport damage, damage caused by fire or water and other risks that can be covered by insurance.

Any claims for transport damage shall be asserted by the customer directly with the carrier.

7.3. If shipment should be delayed for reasons attributable to the customer, the risk shall pass to the customer from the date of readiness for shipment.

7.4. lan makes a contractual service rendered (software and/or hardware developed, or software installation) available for acceptance by the customer/purchaser by means of immediate notification or by delivery.

The customer may refuse acceptance of the service/work immediately for a justified complaint. Otherwise the work shall be

deemed as accepted after 1 week of readiness for acceptance; the same shall apply if the customer should make use of the service.

## 8. Prices, Terms of Payment

8.1. Prices are as agreed in the purchase order or order confirmation. If a price is not specified in the purchase order or order confirmation, the prices from the price list of lan valid at the time of conclusion of the contract shall apply. Unless otherwise agreed, prices shall apply ex domicile of lan. The prices do neither include the statutory value added tax nor any other national duties in the case of delivery abroad nor packaging and shipping costs nor transport insurance. Prices of devices and software do not include compensation for data media, utilities, accessories, installation, instruction, training, travel expenses and hourly rates for travel; such costs are charged separately.

8.2. Invoices from lan shall be settled in accordance with the contractually agreed terms of payment. Invoices shall be paid within 10 days from the invoice date without deduction unless special terms of payment are agreed. Partial deliveries will be invoiced on delivery.

8.3. All claims of lan shall be due and payable immediately if the dates and periods for payment should be disregarded without good reason or if lan learns about a substantial deterioration of the financial standing of the customer.

8.4. If the customer should get into default of payment, interest on arrears will be charged at a rate of 8% p.a. in excess of the base lending rate of the European Central Bank.

8.5. If the customer should be in default for more than 30 calendar days or causes a bill of exchange or cheque to be protested or if insolvency proceedings are filed, lan shall be entitled to declare all of its claims against the customer due and payable immediately until payment of the open invoices in full, keep back any and all supplies and services and

assert any and all claims resulting from retention of title.

8.6. The customer shall only be allowed to set off any price or compensation claims from lan against undisputed or unappealable claims of its own. Customers with merchant status shall only be allowed to assert a lien in cases of undisputed or unappealable claims.

8.7. The customer is obliged to pay a one-time license fee for being allowed to use the software for an indefinite period. The amount of the license fee is governed by the current price list or any separately agreed arrangements reflected in the order or invoice.

## 9. Retention of Title

9.1. lan reserves the property to the delivery item until any and all of its claims existing against the customer from the business relationship are satisfied.

9.2. The customer is not allowed to pledge or transfer the item by way of security as long as the retention of title applies and any resale is only permitted within the scope of its ordinary business activities until canceled and only under the condition that the customer receives payment from the purchaser or reserves title until the customer has fulfilled its payment obligations.

9.3. If the customer should sell or transfer the delivery item, it assigns already now its future claims against the customer from the resale or transfer including any and all secondary rights – including any balance claims – to lan by way of security. If the delivery item should be sold or transferred together with other objects, the customer assigns to lan that part of the claim corresponding to the price of the delivery item with priority over the remaining claim.

9.4. In case of further processing or joining with other items, lan shall be entitled to co-ownership in the amount of the share resulting from the proportion of the price of the processed or joined delivery item in

relation to the price of the other item. If the customer should acquire sole ownership of the new item, lan and the customer agree as of now that the customer grants co-ownership to lan in the new item created by processing or joining in proportion of the price of the delivery item in relation to the price of the other item. If the customer should sell the new item, provision 9.3 shall apply accordingly. However, the assignment shall only apply to the amount of the price of the processed or joined delivery item.

9.6. If lan should have a justified interest, the customer is obliged to provide the information required for asserting lan's rights against third parties and submit any necessary documents to lan. The customer is obliged to notify lan immediately about any execution or order of attachment or other seizure by any third party. The customer shall bear the costs required for the defense against such seizure by a third party.

9.7. If the customer should get into default of payment after a reminder, lan shall be entitled to take the item back after sending another reminder. The customer is obliged to surrender the item. Taking back an item or asserting retention of title or attachment of the delivery item by lan shall not be deemed as a cancellation of the contract unless lan should have expressly declared this or unless the consumer credit legislation should apply. Subject to prior warning, lan shall be entitled to freely dispose of the delivery item taken back and satisfy its claims from the proceeds.

9.8. The customer shall insure the delivery items that are the property of lan against loss and destruction.

9.9. For any shipments abroad, the customer shall make sure that lan obtains a lien corresponding to the prolonged period of retention of title.

## **10. Claims for Defects and Statutory Limitation**

10.1. Any claims and rights of the purchaser for defect of title and/or quality in sales of

consumer goods are subject to a statutory limitation of two years for new products and for services rendered and one year for used goods in accordance with the following provisions.

No additional warranties are provided. If hardware, operating systems and other software are purchased at the same time, they shall not be deemed as sold as an integral package.

10.2. In those cases that are not sales of consumer goods, the provisions governing sale of consumer goods, particularly §§ 474-479 of the German Civil Code, do not apply. Any claims and rights of the purchaser for defects of title and/or quality are subject to a statutory limitation of one year. Warranty is excluded for used products.

10.3. The period of statutory limitation begins on the date of delivery. The purchaser is obliged to notify lan in writing about any defect, however, within one week after receipt of the delivery item at the latest. Any defects that cannot be discovered within this period even by thorough inspection shall be notified to lan without delay after their discovery. The applicability of § 377 of the German Commercial Code (HGB) shall remain unaffected.

10.4. lan shall be entitled at its own discretion to remedy defects of services provided, to repair or replace defective products (supplementary performance) or offer the customer the right to cancel the contract without charge (cancellation) or reduce the purchase price or compensation (abatement). If lan should exercise its right to provide supplementary performance, cancellation or abatement can only be demanded if supplementary performance fails or lan gets into default with supplementary performance promised. Any parts replaced shall become the property of lan without any compensation. Any replacement of parts, assemblies or complete devices shall neither extend nor initiate any new statutory period of limitation.



10.5. The customer acknowledges that standard software cannot be delivered without any defects at the present state of technology. Ian does not warrant that the program functions of the software selected by the customer will satisfy the customer's requirements or interact successfully in the configuration selected (software and/or hardware). Any software errors affecting the intended use more than insignificantly will be corrected at the discretion of Ian and according to the significance of the error either by delivering an improved software version or patches or, in the case of minor errors, by information on how to eliminate or handle the effects of the error.

10.6. Any liability for defects shall be void in case of modification, inappropriate use / installation / operation or repair by the customer or any third party.

10.7. The liability for defects does not cover those defects that are due to other components of the customer's system environment being unable to process data without errors and exchange these correctly with Ian products.

10.8. If a complaint for defects submitted should not be justified, Ian shall be entitled to request reimbursement of the expenses incurred from the customer.

## **11. Industrial Property Rights and Copyrights of Third Parties**

11.1. If the use of the delivery item – particularly software – should cause a violation of industrial property rights or copyrights of a third party, Ian shall procure at its own expense the general right for the customer to continue using it or modify the delivery item in a manner that is acceptable to the purchaser in such a way that the violation of the property right is avoided. If this should not be possible at economically reasonable conditions or within an acceptable period, the customer shall be entitled to cancel the contract.

Under such circumstances, Ian shall also be entitled to cancel the contract. Furthermore, the customer shall be indemnified by Ian against undisputed or unappealable claims of the respective holders of property rights.

11.2. The obligations set out in clause 11.1 shall be exhaustive for cases of violation of industrial property rights or copyrights. Any further claims on the part of the customer for violation of industrial property rights of any third party are excluded unless intent or gross negligence should be attributable to Ian.

11.3. The customer's rights pursuant to clause 11.1 shall only apply if

- Ian is informed immediately by the customer about any claims raised for violation of industrial property rights or copyrights,
- the customer supports Ian to a reasonable extent in the defense against the claims raised and/or enables Ian to carry out the modification steps pursuant to clause 11.1,
- Ian remains in a position to take any and all defense measures including extrajudicial arrangements,
- the violation of an industrial property right or copyright is not due to an instruction from the customer,
- the violation was not caused by the customer having modified the delivery item or used it in a non-contractual way.

## **12. Export Clause**

12.1. The supplies and services of Ian are generally intended to remain in the destination country agreed with the customer. Ian reserves the right to check for any export regulations and delivers subject to any government approval that may be required (e.g. export license). The customer commits to providing all information and documents that are required for export/delivery. Any delays caused by export checks or licensing procedures will suspend deadlines and delivery periods. If any necessary licenses are not granted, the contract shall be deemed as

not concluded with regard to the scope affected; any claims for damages against lan based on this and the above mentioned failure to observe time-limits shall be excluded.

12.2. The purchaser is responsible for obtaining any import license that may be required. Re-exporting of contractual products may be subject to a license to be obtained by the customer. They are subject in particular to German, European and American export control and embargo regulations. The customer is obliged to obtain relevant information about such regulations from the competent authorities. lan does not accept any liability for legitimacy and suitability for exporting if its products are delivered by the customer to any third parties.

### 13. Third Parties' Warranties

If lan is not the manufacturer of a delivery item and the manufacturer offers a separate warranty to the customer, lan will inform the customer about this and deliver the warranty documentation on the latter's request. lan shall not be responsible for performing the warranty services of the manufacturer.

### 14. Liability

14.1 The liability of lan is not limited for damage caused by lan, its legal representatives or persons employed in performing its obligations by intent or gross negligence or in those cases where the product liability legislation stipulates mandatory liability for injuries or damage to privately used products. The liability of lan for loss of data applies only in case of gross negligence and only if the customer has made sure that such data can be restored with reasonable effort from data material kept available in a machine-readable format.

14.2. In case of minor negligence, lan shall only be liable if essential contractual obligations should be violated by lan, its legal representatives or persons employed in performing its obligations, jeopardizing the purpose of the contract. In this case, the indemnification is limited with respect to

cause and amount to those damages lan was reasonably able to foresee at the conclusion of the contract in view of the circumstances known to lan at the time. Payment of damages for pecuniary losses such as, for example, loss of production, loss of profits, is limited by the general principles of equity and good faith, for example, if there is a disproportionate difference between the amount of the payment and the extent of the damage.

14.3. The liability is limited in any case – except intent – to an amount of 500,000 €.

### 15. Side Agreements, Contract Amendments

Any side agreements, modifications or amendments to this contract must be made in writing. This in-writing requirement can only be waived by a written agreement.

### 16. Legal Venue, Jurisdiction

16.1. The legal venue for any and all disputes arising from this contract is the court competent for lan's registered office if the customer has full merchant status or if the customer changes its domicile or usual residence away from the domestic territory after conclusion of the contract or if its domicile or usual residence is unknown at the time of filing the complaint.

16.2. The contractual relationships between the contractual parties are governed exclusively by the law of the Federal Republic of Germany. This applies also to international business transactions.

16.3. Application of the Vienna UNCITRAL Convention on Contracts for the International Sale of Goods adopted on 11 April 1980 is excluded. Application of UN regulations on sales is excluded.

### 17. Conflicting Terms

17.1 Any general terms and conditions of the customer conflicting with or supplementing these General Terms and Conditions shall only

become part of the contract to the extent lan has expressly consented to.

17.2 If any conflicting business terms should result in the application of statutory provisions, the retention of title pursuant to article 9 shall remain unaffected.

17.3 If these General Terms and Conditions are also translated to a foreign language, the German version shall have priority over the foreign-language version in case of any conflict or doubt.

### **18. Severability Clause**

If any provision of these General Terms and Conditions should be or become void, the validity of the remaining provisions of both the contract and the General Terms and Conditions shall remain unaffected. The customer and lan commit to replacing such a provision by another one which meets the economic intent of the contract.

### **19. Data Privacy**

The customer agrees that lan may store and process data that become known to it within the scope of the contractual and business relationship under the terms of lan's data privacy policy to the extent necessary for execution of the contract, including but not limited to order handling and customer service, taking the customer's interests into account.