

General Terms and Conditions

As per 13th November 2007

§1 General

For all deliveries and services of the planlauf GmbH, the following terms and conditions shall apply exclusively. Contrary or deviating conditions of the party ordering are not recognized by the planlauf GmbH, unless the planlauf GmbH has expressly consented to it in writing.

§2 Offer, conclusion of contract

- 2.1 The offers of the planlauf GmbH are not binding, unless a binding offer has been expressly made.
- 2.2 The contract comes in any case into existence as early as with the receipt of the written confirmation of order by the planlauf GmbH.
- 2.3 The party ordering has to draw the attention of the planlauf GmbH to ancillary conditions that relate to the performance of the services, at the latest at the receipt of the offer.

§3 Prices, conditions of payment

- 3.1 The prices shall apply in EURO from Aachen, including packaging, without statutory value-added tax.
- 3.2 Unless any other conditions of payment are expressly agreed upon in the written confirmation of the order, the invoices shall be due for payment without deduction within 10 days upon the date of the invoice. Partial deliveries entitle to establish an invoice on the corresponding part. The handing over of cheques and bills of exchange require the prior written consent of the planlauf GmbH and are only valid upon after cashing.
- 3.3 Payments have to be made exclusively to one of the payment offices indicated by the planlauf GmbH. Fees, expenses or other costs, incurring to the planlauf GmbH, for example through an expressly agreed acceptance as trade-in of bills of exchange and cheques, shall be at the charge of the party ordering.
- 3.4 In case of non-observance of the agreed dates of payment, the planlauf GmbH calculates default interest to the amount of eight percent points above the corresponding basic interest rate of the European Central Bank. The interest have to be fixed higher or lower, if the planlauf GmbH proves a charge with a higher interest rate or the party ordering proves a lower charge.
- 3.5 The party ordering can only off-set with those claims that are uncontested or recognised by declaratory judgment.

§4 Duties of cooperation

- 4.1 The party ordering shall be obliged to put all information and materials at his expenses to the disposal of the planlauf GmbH, that are required for the duly rendering of performance.
- 4.2 The ordering party grants the planlauf GmbH sufficient access to the production plants as well as qualified personnel to its operation, if this is required for the duly rendering of the performance.
- 4.3 The party ordering has to inform the planlauf GmbH immediately on all events, circumstances and changes, which are possibly appropriate to influence the performance of the contractually agreed services. The planlauf GmbH is entitled to claim adequate compensation if changes of the, at the time of the order, given circumstances occur which are possibly appropriate to complicate the performance of the agreed services.
- 4.4 For the carrying out of works at the party ordering, he has to take over on his own costs:

- all contractually not agreed accessory works, including the workers, construction materials and tools,
 - the objects of need required for the assembly, commissioning and the operation, as for example tools, work pieces, etc.,
 - energy (one-phase alternating current of 230 V and three-phase alternating current of 400 V), water and lighting at the place of work.
- 4.5 The planlauf GmbH and the party ordering each nominate one staff member principally responsible, who will be always at disposal as contact and discussion partner. If necessary, contacts to further experienced staff members will be procured.
- 4.6 The planlauf GmbH obliges itself to observe the recognized rules of technology, particularly the regulations and rules with regard to execution, work security, fire and environment protection enacted by the legislator, the supervisory authorities and the profession associations.

§5 Delivery time

- 5.1 The beginning of the delivery time is the day, at which all commercial and technical prerequisites have been clarified with the party ordering, documents to be procured by the party ordering have been received by the planlauf GmbH, all carrying out of works at the party ordering have been finished, required authorizations and releases have been granted and agreed payment on account have been credited to a bank account of the planlauf GmbH.
- 5.2 The observance of the term for delivery requires that the party ordering delivers all necessary documents, necessary authorizations and releases in due time, and other obligations will be observed through the party ordering. If these requirements are not observed, then the terms will be extended reasonably. When the planlauf GmbH deems the information put at the disposal as not sufficient, it will notify this immediately to the party ordering.
- 5.3 If the non-observance of the term of delivery can be attributed to force majeure, for example mobilization, war, riot, natural disasters, fire or to similar, not foreseeable events, the term will be reasonably extended.
- 5.4 The planlauf GmbH is liable in case of delay of the performance in cases of intent or of gross negligence or because of injury of the life, of the body or of the health according to the legal provisions. In other case of the delay of the performance, the liability of the planlauf GmbH for the damages in addition to the performance shall be limited to 5 % of the price for the part of the deliveries, that could not be commissioned appropriately due to the delay, and for the damages instead of the performance to the typically foreseeable damage (compare § 7 of these provisions). Further going claims of the party ordering are – also after the expiration of a period of time for performance possibly fixed towards the seller – excluded. The party ordering can only withdraw from the contract within the framework of the legal provisions insofar as the planlauf GmbH is responsible for the delay of the delivery. A change of the burden of proof to the disadvantage of the person ordering is not related to the above stated regulations.

§6 Guarantee

- 6.1 The planlauf GmbH shall be liable for the due execution of the tasks assumed. Errors and defects have to be removed without charge by the planlauf GmbH. The guarantee period amounts to 12 months as from the acceptance.
- 6.2 When the services rendered are not accepted within eight weeks after the handing over to the party ordering, they shall be deemed as accepted.
- 6.3 If the demand of the party ordering concerning a subsequent improvement within a reasonable period of grace is not fulfilled, the party ordering shall be entitled to withdraw from the contract or to demand a reduction of the remuneration.

- 6.4 Should defects of the services rendered be due to circumstances, for which the party ordering is reasonable, then the planlauf GmbH will remove them on the request of the party ordering to reasonable prices and conditions respectively to be agreed.
- 6.5 The guarantee period amounts to six months for subsequent improvement and replacement deliveries, but it runs at least until the expiration of the original guarantee period for the services rendered.

§7 Liability

- 7.1 A liability exceeding the guilty violation of essential contractual duties, for whatever legal ground this may be, especially because of the violation of (other) duties resulting from the obligations and from tortious act, is excluded. This applies also for insufficient economic success, missed profit, indirect damages, damages resulting from defects and claims of third parties. This liability exclusion applies also then, when the planlauf GmbH or a third party mandated by it is pointed out to the possibility of such damages.
- 7.2 This does not apply insofar there is a compulsory legal liability, for example in cases of intent, of gross negligence and because of injury of the life, body or of the health.
- 7.3 If the planlauf GmbH is liable due to the guilty violation of a contractual essential duty, without being the case of intent, gross negligence or a liability due to the injury of the life, body or of the health, then the liability shall be limited to the amount of the order.
- 7.4 The preceding restrictions of liability shall also apply in the case of the default of an agent or a person employed by planlauf GmbH in the performance of its obligations.
- 7.5 Insofar damages claims are due to the party ordering according to this §7, they become statute-barred according to §6 of these conditions after the expiration of the limitation period applicable for material defect claims.

§8 Secrecy

- 8.1 The planlauf GmbH obliges itself, to keep secret all information made available by the party ordering towards third parties and to make it not accessible in any way to third parties, unless with prior written consent of the party ordering.
- 8.2 Staff members of the planlauf GmbH will be, insofar as they are not already demanded due to their employment contract to do so, obliged for secrecy. Upon the request of the party ordering, these declarations have to be presented in copy.
- 8.3 The secrecy duty shall end five years after the end of the order.
- 8.4 The planlauf GmbH will return or destroy, on request, the documents, that it has received from the party ordering.

§9 Inventions

- 9.1 Services and results that have been achieved by the planlauf GmbH or its personnel as a result of the works carried out, are exclusively due to the party ordering unrestrictedly in terms of time and place.
- 9.2 Insofar it is the case of results capable of being covered by a property right, the party ordering shall be entitled to acquire in his own name for these results in his home country and abroad. Insofar the party ordering makes use of this right, the inventor shall be paid an inventor's remuneration directly from the party ordering within the law for inventions of employees, whose amount and maturity depends on the regulations of the law on inventions of employees (ArbNErfG). The planlauf GmbH shall be obliged to take all organisational and legal measures, as for example the utilization of inventions of his personnel, as well as to make declarations, which are necessary, in order that the party ordering is able to safeguard the previously mentioned rights.
- 9.3 Insofar as the results transmitted by the planlauf GmbH to the party ordering are not capable of being a property right, the rights of use due to the party ordering shall be deemed as paid for through the remuneration of the order.

§10 Jurisdiction and applicable law

- 10.1 The business relations between the planlauf GmbH and the party ordering are subject to the law of the Federal Republic of Germany. The place of performance is Aachen. Referral of the law of the Federal Republic of Germany to foreign law is excluded.
- 10.2 The jurisdiction for legal disputes between the ordering party and the planlauf GmbH is Aachen.

§11 Partial nullity

If individual provisions of this contract are or become ineffective, the validity of the remaining provisions shall thereby not be affected. In this case, the invalid provision shall be replaced through another that comes in an admissible manner closest to the purpose of the repealed regulation.