

## 1. CONTRACT TERMS

### 1.1 SCOPE OF APPLICATION

- (a) All contracts shall be concluded with S&T AG (hereinafter "S&T") solely on the basis of these General Terms and Conditions (hereinafter "GTC") and the attached Supplementary Terms and Conditions ("STC") applicable to the respective supplies and services; these shall collectively form an integral part of any contract concluded by S&T.
- (b) The GTC shall also apply to any future transactions between the parties, even if not incorporated again by reference into a future contract. The parties' mutual rights and obligations are determined exclusively by the substance of an order accepted by S&T, by the present GTC, STC and any other S&T bid terms.
- (c) This shall apply regardless of the customer referring to its own general terms and conditions, of any kind whatsoever, especially general terms and conditions of purchase, that are in conflict with the present GTC or STC. Said terms and conditions of the customer shall have no legal effect whatsoever, regardless of whether, when and how S&T was made aware of them. Agreements in derogation from individual sections of the present Terms and Conditions shall only be applicable to the specific order agreed upon and shall require S&T's prior express consent in writing.
- (d) If S&T accepts the customer's order through actual service provision, this shall not be deemed equivalent to acceptance of any general terms and conditions or terms and conditions of purchase of the customer.

### 1.2 ORDER OF PRECEDENCE

Provisions contained in the GTC shall prevail over any special provisions included in the STC. In those instances where S&T simultaneously provides various different supplies and services within the scope of one order and accordingly several STC are attached to the present GTC, those STC provisions shall apply to the respective delivery item that most closely approximate the respective delivery item in subject-matter and functional terms.

### 1.3 QUOTATIONS, PURCHASE ORDERS, CONTRACT CONCLUSION

- (a) All quotations and cost estimates submitted by S&T shall be without engagement, non-binding and shall not require S&T to provide any supplies or services.
- (b) Similarly, information about the services offered by S&T that is contained in (advertising) media, catalogues, brochures, ads, price lists, websites and other online services shall be non-binding; mistakes, amendments and misprints shall be reserved. Ancillary agreements (e.g. trial purchase) shall only be valid upon being confirmed in writing. Technical specifications shall also be deemed binding only if explicitly confirmed in writing for the respective transaction. Minor deviations from the product specifications shall be deemed approved if they may reasonably be expected to be accepted by the contracting party. Any documentation supplementing the quotation such as illustrations, drawings, weight specifications and dimensions or any other technical specifications shall only serve to identify the object of the contract, without representing warranted characteristics. Only the information explicitly confirmed by S&T in the order confirmation or in the contractual specifications shall be decisive.
- (c) By placing a purchase order, the customer bindingly declares its offer to enter into a contract.
- (d) S&T shall be entitled to accept the offer to enter into a contract as incorporated in the purchase order within two weeks or to refuse acceptance of the purchase order on technical, economic or operational grounds. The ground for refusal shall be notified to the customer by S&T.
- (e) The contract shall effectively be concluded as soon as the purchase order placed by the customer has been accepted by S&T in writing or by fax, or as soon as the purchase order was actually performed by delivery on the part of S&T. The day of contract conclusion shall be the day of dispatch of the notice of acceptance or, in case of actual delivery, the day of dispatch of the contractual supplies or services. The information contained in the order confirmation or in the contract (not the information contained in the purchase order) shall govern the contractual content exclusively. Even in case of a permanent business relationship, silence on the part of S&T shall never be construed as consent or declaration of acceptance. All contracts and agreements concluded between customers and employees of S&T shall only be concluded on the condition precedent that they are confirmed by senior management in writing within fourteen days.

## 2. DELIVERY AND SERVICE PROVISION

### 2.1 GENERAL

- (a) Unless otherwise agreed, S&T will provide the contractual services in a manner as S&T may deem fit and in accordance with customary industry standards and the state of the art within S&T's normal working hours.
- (b) The facilities and technologies employed by S&T in connection with the provision of its services shall be based on the qualitative and quantitative requirements of the customer as determined on the basis of the information provided by the customer.
- (c) Unless otherwise agreed, S&T shall neither be obliged to deliver any user manual, project manual or other documentation, or to provide any training. However, in case of the delivery of standard products (software and hardware), the manufacturer's documentation in the language used by the latter shall be included in the delivery.
- (d) S&T's supplies and services not covered by the scope of deliverables as set out in the contract shall be charged separately according to S&T's generally applicable rates and tariffs. Unless expressly provided for otherwise, this shall apply in particular to
  - services provided outside contractual service hours or regular working hours;
  - services provided for equipment and/or accessories not covered by the contract as well as any alterations, add-ons or other facilities of the customer's computer system;
  - troubleshooting due to operation errors, improper handling, technical interventions by the customer or by any third parties or due to external influences beyond S&T's control, as well as servicing due to false reports by the customer;
  - data backup and data recovery;
  - elimination of computer viruses and any extra services required;
  - cost of wear parts and consumables (such as paper, ink ribbons, toners, detergents and data carriers).
- (e) S&T shall be entitled to perform orders by making partial deliveries/shipments or by providing partial services.
- (f) S&T shall not be liable for quality defects of delivered products with respect to the place of use chosen by the customer or to the technical requirements that the customer has created for their use. The customer shall exclusively be responsible for providing the spatial and technical requirements for the use of the services provided by S&T.
- (g) Instructions may be issued to S&T staff only by S&T itself. The same shall apply if services are provided at the customer's premises. S&T staff will not be integrated into the customer's business operations.
- (h) S&T shall decide which staff to use for the provision of services and shall always be entitled to replace exchange staff members by others with at least the same qualifications at any time, provided that objective reasons exist and that the customer is notified accordingly.
- (i) The type of dispatch and the means of transport may be selected at the discretion of S&T. The customer shall be obliged to accept partial deliveries and the pertaining partial invoices at any time; all deliveries shall take place for the account and at the risk of the customer. Transport damage and deficiencies shall be reported to S&T by the ordering party in writing immediately, but in any case no later than on the following working day upon receipt of the goods, otherwise any claims shall be excluded. Any discernible transport damage (e.g. a broken cardboard box) shall be indicated on the delivery slip of the forwarding agent in detail, otherwise all claims shall be forfeited; just noting "Accepted with reservation" shall not be sufficient.

### 2.2 TARGET DATES AND DEFAULT

- (a) Except in case of fixed transactions, advised delivery dates shall be deemed best estimates and shall not entitle the customer to assert any claims for damages. The contracting partner shall have no right to claim damages for non-performance even after expiry of an adequate period of grace, unless the default was caused intentionally or by gross negligence. In that case it shall be assumed that the default was caused without S&T's fault, and the customer shall have the burden of proof. Instances of force majeure shall release S&T from the obligation to deliver. The same shall apply to all unforeseen disruptions and obstacles to the ability to deliver that are beyond S&T's control, of any type whatsoever (lack of raw materials, regulatory action etc.). This shall include in particular the total or partial failure of deliveries for any reason whatsoever on the part of any existing supply source or any such source promised to S&T. In that case, S&T shall not be obliged to purchase the contractual goods from another source. As long as the

customer is in default of payment, the delivery obligation of S&T shall be in abeyance.

- (b) In case of consumer transactions it shall be agreed that S&T shall also be entitled to deliver 30 days after the day following transmission of the order by the consumer.

### 2.3 DEFAULT OF ACCEPTANCE

If the customer does not accept the goods, S&T shall be entitled, upon granting a reasonable period, either to withdraw from the contract or to demand repayment of the purchase price and damages for non-performance. S&T shall reserve the right to charge customary fees for storing any goods or for the reverse transaction in case of non-acceptance.

### 2.4. CLIENT COOPERATION AND CLIENT DELIVERABLES

- (a) In the context of our cooperation, the customer will provide the required cooperation and deliverables within its sphere of influence free of charge and at its own risk, in order to enable S&T to perform the services it is obliged to perform.
- (b) This shall include in particular:
- The customer shall grant the employees and subcontractors designated by S&T access to the premises and to the systems and programmes (including the necessary access rights) and information required for the work. S&T shall ensure that employees and subcontractors disposing of any access rights observe the security policies applicable at the customer's business.
  - The customer shall designate and notify to S&T a competent, responsible contact with decision-making power for all decisions of an inter-divisional and cross-application type (contract, building infrastructure, software licenses and updates etc.).
  - The customer shall ensure that the agreed number of staff with the qualifications required for the project work is available.
  - The customer undertakes to make sure that any changes of user data occurring in the course of business processes (e.g. change of telephone numbers, employees joining/leaving the company / transfer of personnel etc.) are notified to S&T in writing immediately, if this affects the services of S&T (e.g. granting of user rights, availability of users, security etc.).
  - The customer shall immediately notify S&T of any measures on the part of the customer that may affect the performance of this contract, e.g. support changes, power cuts, modifications to IT and telecommunication systems etc.
- (c) In cooperating with S&T, the customer shall observe the execution policies and target dates agreed with S&T as applicable from time to time. Inquiries by S&T in the course of service provision shall generally be answered within two working days. Should the customer need more time to process an inquiry in exceptional cases, it shall notify S&T accordingly in time. S&T's deadline for order execution shall be extended accordingly.
- (d) If the customer does not cooperate as required, or not in a timely manner or not as agreed, the customer shall bear the resulting consequences (e.g. delays, extra costs etc.).

### 3. INTELLECTUAL PROPERTY RIGHTS

- (a) Unless otherwise agreed, all rights to the services agreed that arise from patent and trademark law, utility model law, mask-work rights and/or copyright law or otherwise from the creation of the services provided to the customer shall vest in S&T and/or its licensors.
- (b) The customer shall merely be granted the non-exclusive, non-transferable right to use these services after full payment of the agreed compensation and, in case of work performance (Werkleistung), after acceptance of the work results to be provided in compliance with the contractual specifications at the agreed location for the contractual purpose and for the number of licenses the customer has acquired.
- (c) All other rights shall be reserved by S&T and/or its licensors; without the prior written consent of the latter, the customer shall accordingly not be entitled, in particular, to reproduce, modify, make accessible to third parties or use the software, databases, graphic designs or other items to which rights exist on the part of S&T or any third parties in any other way than for the contractual purpose for the acquired number of licenses at the agreed location, unless otherwise agreed or unless conclusively resulting from the nature of the order.
- (d) The above-mentioned granting of rights shall neither apply to standard products by S&T or by any third parties that are used within the scope of contract performance, nor to the use of open source products. If rights of use to such products are granted, such granting of rights shall be governed by separate license contracts.
- (e) Property notices, trademarks, network identifications or similar notices attached to the services provided by S&T or any third

parties must neither be removed nor modified nor made illegible by the customer.

- (f) Even in case the customer is granted exclusive rights of use to the work results on the basis of a separate agreement, S&T shall in any case reserve the right to make unrestricted use of, to modify, disseminate and to exploit all general knowledge, applied procedures, know-how etc. which the work results are based on to the extent it does not include any customer-specific information.

### 4. COMPENSATION

#### 4.1 GENERAL

- (a) All fees stated shall be net prices in euros excluding the respective VAT applicable under the law. Any prices shall be indicated without engagement, unless otherwise agreed. The respective valid daily rates shall be charged, ex works excluding freight, packaging, insurance and assembly. Any change of exchange rates occurring between contract conclusion and delivery at the expense of S&T shall entitle S&T to adjust the prices accordingly. S&T shall be entitled to demand prepayment and down payments.
- (b) Ancillary costs for ancillary services, such as disassembly and removal of equipment after its use, also the cost of obligations arising under the Elektroaltgeräteverordnung 2005 as amended, and the cost of issuing maintenance certificates, transport costs (e.g. freight charges, customs duties, insurance, commission fee), expenses of S&T staff and any subcontractors (e.g. travel, accommodation expenses) or any other taxes and charges shall depend on the expense actually incurred; they shall not be included in the compensation for the main service and shall be paid separately by the customer, unless otherwise agreed.

#### 4.2 TERMS OF PAYMENT, DEFAULT

- (a) Unless otherwise agreed, invoices shall be due upon receipt and payable within 14 days after the invoice date.
- (b) All payments shall be made free and clear of expenses and deductions. Remittances shall be effected at the customer's risk. Debiting and discount charges shall be for the account of the customer.
- (c) In case of a default in payment, S&T shall be entitled to charge default interest at a rate of 8% above the respective applicable prime rate of the Austrian National Bank. Additionally, in case of a default in payment, the customer shall be obliged to reimburse S&T for all costs incurred through collection agencies or lawyer's offices.
- (d) If the net asset position or the creditworthiness of any customer deteriorates, or if the customer is in default of payment, S&T shall also be entitled to suspend the performance of all contractual obligations until fulfilment of all payment obligations on the part of the customer, to accelerate all unpaid claims, even drafts or debts with any later maturity, immediately and/or to rescind any contracts or continuing obligations not performed yet or only partially performed with immediate effect. Moreover, S&T shall in this case be entitled to demand that all goods not paid in full be returned, with any retention rights on the part of the customer being excluded. In case of a rescinded transaction, lump sum damages of at least 25% of the purchase price may be claimed without providing any separate evidence. S&T shall be entitled to offset net liabilities vis-à-vis (affiliated) companies.

#### 4.3 ADJUSTMENT OF COMPENSATION

As regards prices not defined as fixed prices in the contract and/or all prices upon expiry of the minimum contract term defined in the respective contract, the following indexation provision shall apply:

- S&T shall be entitled to adjust the compensation at the beginning of each calendar year.
- S&T shall notify any change of compensation to the customer in writing two (2) months in advance. Any increase of compensation shall only be admissible if it is demonstrably based exclusively on external factors such as inflation adjustment along the lines of the CPI or – if the latter does not exist any longer – any equivalent index or on binding real wage increases under collective bargaining agreements.

#### 4.4 SET-OFF

The customer may only set off claims ascertained by a court or explicitly accepted by S&T in writing against claims on the part of S&T.

#### 4.4 FACTORING

The consent to any factoring of accounts receivable on the part of S&T shall be deemed to have been granted by agreement of these GTC.

## 5. RESERVATION OF TITLE

- (a) Until full payment of all receivables and the pertaining interest and the costs associated with enforcement, S&T shall retain the title to all goods handed over to the customer. The same shall apply to receivables and/or interest and ancillary costs arising from previous transactions. Assertion of title retention shall not be considered avoidance of contract and shall not suspend any of the customer's obligations, in particular that of paying the purchase price.
- (b) For as long as the retention of title exists, any sale, processing, pledging, use as collateral or other form of disposal of the purchased goods to third parties shall generally not be admissible. If they are sold to a third party nevertheless, without passing on the retention of title, the purchase price to be paid shall be deemed to have been assigned to S&T at the time of the sale (assignment for security/extended retention of title). The customer agrees to keep such proceeds separately and to pass them on to S&T without delay. Moreover, the customer shall take out adequate insurance for the goods owned by S&T at its own expense against loss or damage. Should said goods be distrained or attached, the customer shall be obliged – as in case of all other events negatively affecting the retention of title – to inform S&T accordingly in writing within three days and to notify all information required to enforce the title, with the customer bearing the cost of enforcement of such rights.
- (c) If the customer assembles any goods that are subject to title retention in third-party premises, it shall contractually secure the rights of S&T – in particular access to the equipment as well as cashing in by S&T – vis-à-vis said third party and provide written evidence thereof upon request. For as long as S&T has a contractual right of ownership, it may claim provision of machines including cash collection from the locations (collection request) in case of a justified demand of restitution of the delivered goods. The customer agrees to assign – in full or in part – its rights from the installation contracts to S&T. Upon receipt of the collection request (Inkassoverlangen), the customer shall be obliged to take safety precautions in order to avoid any unauthorised cash collection from the machines. This shall also include surrendering all the keys. Upon receipt of the collection request, the customer shall immediately provide S&T with a complete list of machine locations. Assignment of the right of collection on the part of S&T to third parties shall be admissible. The same shall apply even if the customer is not an entrepreneur, but uses the goods that are subject to retention of title in commercial transactions.

## 6. WARRANTY

### 6.1 WARRANTY PERIOD

- (a) The warranty period shall be twelve (12) months from the point of transfer of risk. During this period, S&T shall warrant that the equipment delivered disposes of the properties agreed upon, provided that operating and maintenance instructions, if any, are adhered to and the equipment is used according to custom and usage. Generally, there shall be no claim to warranty adjustments by S&T for: streamers, products from which the serial number sticker or type label was removed, third-party software or drivers, pixel errors in LCD and notebook displays within the agreed error category, i.e. class II of ISO standard 13406-2, unless any different technical features were offered or agreed upon in writing upon contract conclusion, wear of data carriers, LCD backlighting or cathode-ray tubes, equipment with removed or broken warranty seal, cosmetic damage, and any damage caused by external intervention, improper handling or viruses and the like. The warranty period shall neither be extended nor interrupted through improvements, attempted improvements, subsequent completion of missing items etc.
- (b) After expiry of the 12-month period, all warranty claims shall lapse; accordingly no recourse may be had to S&T under § 933b ABGB (Austrian general civil code) by the customer; the same shall apply in case of hidden defects. In case of second-hand equipment, the same shall be purchased as is, and any warranty shall be excluded. The duties to inspect the goods and report any defects under §§ 377 and 378 UGB (Austrian business code) shall apply to entrepreneurs; the latter shall be obliged to immediately inspect the delivered goods and to report any defects in writing no later than on the eighth day after receiving the goods, otherwise warranty claims shall be excluded. Said period, however, shall not apply to transport damage and deficiencies – see also item 2.1. (i). A notice of defect does not entitle the customer to retain any unpaid invoice amounts.

### 6.2 REMEDY OF DEFECTS BY S&T

- (a) Asserting any warranty claims is contingent upon the customer requesting a complaint number in writing at the service department of S&T and/or with the competent service partner of S&T, submitting some form of evidence of the equipment purchase (invoice) that matches the serial number and indicating the defect; the rejected goods must then be handed in at S&T/the service partner or sent to one of them carriage paid or kept ready for collection, if a pick-up service was agreed upon – in each case with the RMA number visibly attached to the package. If it turns out that no defects exist or that any other information relating to warranty was wrong, S&T may charge a reasonable handling fee. If the notice of defects is justified, S&T shall be free to meet the customer's warranty claims through improvement, with any parts replaced transferring to the ownership of S&T, by supplementing the missing items, reducing the price, replacement, or taking back the goods and reimbursing the purchase price. If goods are taken back more than six months after delivery, any reimbursement of the purchase price to the customer shall take place after deduction of an adequate amount of compensation for the benefits of use on the part of the customer. S&T shall be entitled to freely choose the place for improvement work. For the execution of the remedial measures, the customer shall return the goods to S&T upon request without charge, unless agreed otherwise. The remedy of defects by external companies shall only be admissible if S&T explicitly refuses to remedy the defects without being justified to do so and in spite of granting a reasonable period of grace. No other warranty claims beyond that shall exist. If the customer has granted a reasonable period of grace upon being first requested to do so, and if S&T refuses to effect supplementary performance or if two attempts at supplementary performance fail due to the same defect within said period, the customer shall have the right to demand a reduction of the compensation, or in case of a major defect, rescission of the contract.
- (b) Please note that warranty claims do not exist during the entire warranty period for products such as wear parts, especially battery packs and/or components, whose usually assumed service life is below the above-stated and/or the legal warranty period. For the same reasons, warranty claims regarding the image quality of LCD displays will not be accepted after expiry of a period of twelve months after delivery. Damage caused by improper handling, wear or unusual external influences (humidity, heat, cold) as well as by modifications or attempts to remedy any defects on the part of the customer or any third parties, by the use of inadequate software and by operating the equipment with devices whose compatibility S&T has not guaranteed in writing shall be explicitly excluded from any warranty, guarantee and/or claim for damages. S&T shall not assume any warranty for the compatibility of delivered goods with other hardware and software products, and S&T shall not be subject to any duties to warn or provide information in this respect. Nor shall S&T be liable for any loss of data – e.g. within the scope of warranty handling – and the customer shall itself backup its own data accordingly.

### 6.3 EXCLUSION OF WARRANTY

- (a) Warranty claims shall only vest in the direct customer; they shall not be transferable and shall only be valid if the customer is not in default of payment, except if the latter is economically justifiable considering the defect. If the contracting partner resells the goods purchased from S&T to a final user, S&T provides for any warranty claims asserted by the final user to be directly handled with the final user by S&T or any service partner of S&T on behalf and by order of the contracting partner as the latter's vicarious agent (such provision to be made, for instance, in a service or repair card enclosed with the device). This shall not establish any direct claim of the final user vis-à-vis S&T.
- (b) S&T shall have no obligation to provide services within the scope of warranty if the relevant claims are caused by: (i) site or environmental conditions that do not correspond to the site specifications of S&T; (ii) the customer's failure to observe the specifications or order documents; (iii) improper operation; (iv) media, software, interface connections, accessories or other customer or third-party products; (v) changes that were not approved or executed by S&T, unless the customer proves that these changes were irrelevant to the occurrence of the defect; or (vi) misuse, negligence, accident, loss or damage during transport, water or fire damage, electrical failures, transport by the customer or other causes beyond the sphere of influence of S&T.

### 6.4 THIRD-PARTY PROPERTY RIGHTS

- (a) If a third party asserts any claims against the customer to the effect that information, technical concepts, specifications, instructions, software, data or material ("Material") handed over by S&T and used by the customer are violating that third party's rights to intellectual property and the proprietary rights pertaining thereto, S&T shall indemnify the customer, provided the latter observes the following provisions: (i) immediate notification of S&T in writing, no later than 30 days after the customer was made aware of the claim or earlier if applicable law so requires; (ii) transfer of the exclusive control of the legal defence and all settlement negotiations to S&T to the extent permitted by law, and (iii) provision of all the information and assistance required

for legal defence and the settlement negotiations as well as granting the corresponding power of attorney to S&T.

- (b) If S&T has reason to assume or if it turns out that any Material might have infringed upon any third party's property rights, copyrights or other proprietary rights, S&T may either choose to change that Material so that it no longer infringes said rights (with its usability or functionality essentially being preserved) or to procure a licence for further use. If neither is a commercially reasonable option, S&T shall be entitled to terminate the right of use for the Material concerned, to demand the return of such Material and to refund the compensation paid to the customer.
- (c) S&T shall not indemnify the customer if the latter modifies or uses the Material for any purpose other than that set out in this contract or in the order, provided that the claim for infringement could have been avoided had an unmodified version of said Material been used. S&T will not indemnify the customer if a claim for infringement is made in reliance on information, technical concepts, specifications, instructions, software, data or material not provided by S&T.
- (d) This section conclusively governs the remedies either party may rely on to assert claims and losses in respect of indemnity in case of infringements of intellectual property rights and related proprietary rights.

## 7. LIABILITY

- (a) Any damage incurred by the customer in the course of business, for instance due to performance being impossible, to fault upon contract conclusion, to tort, default and impairment of performance, or due to warranty repairs shall be excluded, unless S&T demonstrably acted with gross negligence or intent.
- (b) Liability for consequential damage, indirect damage, lost profit, damage resulting from data loss or for any damage that was not reasonably foreseeable when the contract was concluded shall be excluded under any circumstances.
- (c) Where liability is excluded or restricted under these Terms and Conditions, this shall also apply to the personal liability of the officers of S&T, its salaried employees, workforce, staff, representatives and subcontractors.
- (d) Claims for damages shall become statute-barred as provided for by law, but in any case not later than at the end of one (1) year after the damage and the party at fault have become known.
- (e) Personal injury and claims under product liability shall be excluded from these restrictions of liability. Claims based on the product liability act or product liability claims derived from other acts shall be excluded with respect to property damage to commercially used objects of business enterprises (§ 2 PHG, product liability act). Entrepreneurs shall be obliged to transfer the exclusion of liability for commercial property damage under the PHG to their customers upon reselling the goods, including the present provisions. If no such transfer takes place, the customer undertakes to indemnify S&T and to reimburse all costs associated with the assertion of liability. Should the customer itself be made liable under the PHG, it shall explicitly renounce all recourse claims vis-à-vis S&T. The recourse claim of any contracting partner providing warranty, as a trader, to a consumer shall be excluded.
- (f) S&T shall not be liable for the observance of legal provisions during the operation of products delivered. The customer shall be responsible exclusively for obtaining official authorisations.

## 8. GUARANTEE AND SERVICE REPAIRS

- (a) Any services exceeding the scope of warranty, e.g. pick-up or on-site service within the scope of a manufacturer's guarantee, shall require a separate written agreement. Such activated guarantee, if agreed and not indicated otherwise, shall exclusively be performed in Austria and Germany and on the terms defined by S&T exclusively.
- (b) If before execution of any service repair with costs associated to it, a cost estimate is requested, the cost of preparation of such estimate shall be paid by the customer. Repaired equipment shall only be handed over against cash payment (cash on delivery).
- (c) Response times shall be deemed approximate agreements and may deviate in individual instances (e.g. remote location of equipment, lack of spare parts). Any response times agreed shall not apply to replacement parts/components not required to maintain the function of the product (e.g. cosmetic repairs etc.).

## 9. USERS' RIGHT OF RESCISSION AND WITHDRAWAL IN CASE OF DISTANT SELLING

- (a) If goods are purchased in the course of distant selling, users within the meaning of consumer protection law may rescind their contract declaration within 14 days without giving any reasons in writing (e.g. letter, fax, e-mail), or – if the product is handed over to them before expiry of said deadline – by returning the product. The deadline shall commence upon receipt of the present instruction in writing, but not before receipt of the goods by the recipient (in case of repeated deliveries of the same type of goods not before receipt of the first partial delivery), and not before the duties to provide information have been met. Timely dispatch of the rescission notice or of the product shall suffice to observe the rescission deadline. The rescission notice shall be addressed to: S&T AG, Industriezeile 35, 4021 Linz | fax: +43 732 7664 – 801 | e-mail: kontakt@snt.at
- (b) Under § 5f (1) KSchG (consumer protection act), the right of rescission does not exist among others in case of distant selling contracts
  - for the supply of goods manufactured to the customer's specifications or clearly tailored to personal requirements, or which, due to their properties and condition, are not suitable for being returned or will decay quickly;
  - for the supply of audio or video recordings or of software, if the data carriers supplied were unsealed by the user.
- (c) Consequences of rescission:  
In case of effective rescission, the contractual performance mutually received shall be returned and any benefits gained therefrom (e.g. interest) surrendered. If the customer cannot return or surrender the goods and services received as well as any benefits therefrom (e.g. benefits of use), or if the customer can only do so partially or only in an impaired condition, it shall be obliged to compensate S&T for the corresponding value. Compensation for lost value relating to any benefits drawn from the goods and services shall be paid by the customer only to the extent that it has used the goods in a way exceeding inspection of properties and function. "Inspection of properties and function" shall mean testing the respective goods in a way possible and customary, for instance, in a shop.

The customer shall only be obliged to provide compensation for lost value in case of impairment of the goods to the extent that the uses or the impairment are due to a way of handling the goods that exceeds inspection of the properties and the function. "Inspection of properties and function" shall mean testing the respective goods in a way possible and customary, for instance, in a shop.

Goods suitable for being dispatched in a package shall be returned at the risk of S&T. The customer shall bear the regular costs of reshipment if the delivered goods correspond to the ones ordered and if the price of the object to be returned does not exceed an amount of EUR 40, or if, in case of any higher price, the customer has not yet effected compensation or any contractually agreed partial payment. Otherwise, reshipment shall be without costs for the customer. Objects that are not suitable to be dispatched in packages shall be collected from the customer. Any obligations to make payments must be fulfilled within 30 days. The deadline for the customer shall commence upon the dispatch of its rescission notice or of the object, for S&T upon their receipt.

## 10. INSTRUCTIONS FOR THE RETURN OF GOODS

Please note that all goods must be adequately and safely packed for transport during any reshipment (ideally, for instance, in the original packaging) and that the sender may be liable for any damage in case of non-observance of this duty of care. Additionally, we recommend requesting a reshipment number before returning the goods, in order to ensure the quickest possible, transparent handling of the matter.

## 11. ON-SITE PURCHASE IN THE WEB COLLECTION CENTER (WAC, WEB-ABHOL-CENTER)

S&T offers e-commerce buyers the possibility to order and/or purchase goods from a retail partner (also called "Web-Abhol-Center") and to collect them on site at the seat of the retail partner. In this case, the exclusive contracting partner of the customer shall be the retail partner the customer buys and collects the goods from, who will also invoice the goods ordered online to the customer. S&T shall in this case only be the mediator of the transaction. All agreements and declarations relating to an order in a web collection center therefore exclusively apply between the customer and the retail partner, even if such declarations of intent are notified to the customer by order and on behalf of S&T's retail partner – for instance, through automated messages of the S&T e-commerce order system. S&T shall impose the obligation on said web collection center partners to observe the consumer protection laws.

## 12. RE-EXPORT OF PRODUCTS

If goods are exported, the customer shall in any event be obliged to procure any export licenses, customs papers etc. under its own responsibility and at its own expense. The customer shall further be obliged to return all export and customs papers and the like to S&T; otherwise it shall be obliged to pay, for instance, any sales tax incurred. Customers exporting products, technology or technical data, in particular equipment – also in a finished or processed or disassembled state – undertake to observe the applicable laws and regulations and to obtain the required export and/or import licenses at their own expense. This obligation shall be imposed upon each domestic buyer together with the further obligation to impose the same on any further domestic buyers.

## 13. TERM

- (a) Unless the contract provides for a specific term, the contract may be terminated by either party subject to three (3) months' notice at the end of each calendar quarter. This shall not apply in cases where a contract, by its very nature, terminates upon performance of the parties' mutual obligations (purchase contract and contract for work and services).
- (b) Notice of termination shall be given in writing. Transmission of the notice by fax, e-mail or any other electronic form of transmission shall not suffice to ensure compliance with the period of notice and with the written form requirement.
- (c) The parties shall also be entitled to terminate the contract for cause by unilaterally declaring to do so, with immediate effect at any time. Such cause shall be in particular
- if insolvency proceedings are opened with respect to the other party's assets or if a corresponding application is rejected for lack of assets; in this case, the right of termination may be asserted until complete performance with no time limit;
  - if either party breaches material confidentiality obligations or other material contractual provisions despite a written dunning notice;
  - if an event of force majeure or a similar event continues for more than 90 days.

## 14. MISCELLANEOUS

### 14.1 CONFIDENTIALITY

- (a) The parties shall keep confidential any information and data obtained in the course of execution of an order, unless the respective other party has released the party from this obligation in writing.
- (b) This confidentiality obligation shall not apply to information which the other party has demonstrably
- and lawfully received from third parties; or
  - that were public domain already at the time of conclusion of the contract or subsequently became public domain without any breach of obligations hereunder; or
  - that have been independently developed by the party subject to confidentiality; or
  - to methods, ideas, know-how and conceptual designs of any third party (third-party know-how) which said third party has lawfully brought to the other party's attention, even if this third-party know-how is accidentally consistent with confidential information as defined herein; or
  - to information that must be disclosed due to mandatory legal provisions.
- (c) The customer expressly agrees that its corporate or personal data (name, title, address, date of birth, occupation, e-mail address, telephone number) required in connection with the order placed will be electronically recorded and processed by S&T, which agreement shall also apply if said data are not used for performing the order, but are processed and transmitted to affiliated companies of S&T, among others for the purpose of intracompany CRM (customer relationship management). This consent may be withdrawn by the customer at any time.

In particular, the customer agrees that its personal data (name, title, address, date of birth, occupation, e-mail address, telephone number) are processed to be included in the customer database, and that it will be informed about new products and services by S&T by e-mail and/or newsletter. The customer further expressly agrees to S&T transmitting its personal data to third-party firms, for instance those involved in order processing as vicarious agents, such as forwarding agents or service partners, or firms offering additional services associated with the purchased goods, for instance telecom providers or TV companies, for electronic recording and processing. No transmission of data to any other third parties shall take place, unless

the supplier is obliged to transmit them under the law, or if this is explicitly admissible on the basis of any particular legal provision. For the rest, the respective provisions under data protection law shall apply.

S&T shall observe all data protection provisions and the possible request by the customer to desist from using the data for direct marketing purposes. The declarations of consent may be withdrawn in writing at any time by sending a letter to S&T AG, Industriezeile 35, 4021 Linz, or by e-mail to kontakt@snt.at.

- (d) S&T shall be entitled to use the customer's name, its logo (word and design mark), as well as information about services provided as a reference or for marketing purposes, subject to observance of the confidentiality obligation set out herein. In particular, this shall refer to the use in marketing brochures, on websites, in project applications, press releases and internal memos, as well as internal and external presentations, by way of naming the relevant customers of S&T. Any other use in a technical article or as an expression of opinion in a technical context shall require the customer's prior consent.
- (e) The obligations according to 14.1 shall survive until three years after termination of the contract, unless any mandatory legal provisions require an unlimited or at least a longer-term obligation.

### 14.2 TRANSFER OF RIGHTS AND OBLIGATIONS

The contracting parties shall not be entitled to transfer any rights and obligations to third parties without the other party's consent. The provision of goods and services by affiliated companies of S&T AG shall be exempt from this provision.

### 14.3 WRITTEN FORM

Any contractual agreement and any amendment and supplement thereto, as well as any other understanding shall be made in writing and signed by both parties, if mutual, to be valid. Any waiver of the written form requirement shall also meet these requirements.

### 14.4 SEVERABILITY CLAUSE

- (a) Should individual clauses of the contract be or become invalid or inadmissible, this shall not affect the validity of the remaining provisions thereof. The ineffective or inadmissible provision shall be replaced by a provision most closely fulfilling the economic purpose of the invalid or inadmissible provision. The same shall apply to any loopholes.
- (b) In case of consumer transactions, the present GTC shall only be effective to the extent they are not in conflict with mandatory provisions under consumer protection law. In particular, the statutory warranty provisions, providing for a warranty period of 24 months for movables, the provisions regarding the place of jurisdiction, as well as any other applicable consumer protection regulations shall apply to consumers/users.

### 14.5 PLACE OF JURISDICTION, GOVERNING LAW

- (a) The exclusive place of performance of the purchase contract shall be Linz. All disputes arising between the contracting parties shall be governed by Austrian law exclusively, excluding its conflict-of-law rules. The materially competent court in Linz shall have jurisdiction. S&T may choose to sue the customer before the court that is geographically and materially competent according to the legal provisions of the sovereign state where the customer has its seat.
- (b) Application of the UN Convention on Contracts for the International Sale of Goods (UN Sales Convention), and of the conflict-of-law rules of the Act on International Private Law shall be expressly excluded.

### 14.6 ACKNOWLEDGEMENT AND AMENDMENT OF GTC

S&T shall be entitled to amend the GTC and to inform the customer of said amendment, even by e-mail. If the customer fails to object to such amendments in writing within a period of 10 days after receipt, said new GTC shall be deemed to have been accepted and agreed to by the customer. The customer shall acknowledge the General Terms and Conditions set out above as amended by S&T in each case, and they shall serve as the basis of all transactions.