

## General Conditions

### 1. Scope

**1.1.** These General Conditions shall apply to all parts of this Contract between the Principal and SKIDATA and to all and any additional or subsequent orders and any other business transactions except as otherwise determined in writing for individual items in the previous conditions of the individual partial contracts; such special conditions shall have priority over these General Conditions.

**1.2.** The parties agree that the Principal's General Terms and Conditions, if any, shall not apply.

**1.3.** Collateral agreements, amendments and changes to this Contract must be in writing (and signed by both parties) in order to be valid. Any waiver of this requirement of written form must be in writing, as well. There shall be no oral collateral agreements; however, oral collateral agreements, if any, shall become ineffective once this Contract becomes effective.

### 2. Offer, Conclusion of Contract

**2.1.** Unless stated otherwise SKIDATA's offers are not binding and without engagement, and are made with the sole purpose of inviting the Principal to place an order. Thus, they are subject to changes, in particular price changes, technical changes, constructional changes and SKIDATA does not assume any responsibility for errors and typographical mistakes, if any. SKIDATA's relevant brochures and other advertising means constitute general descriptions without engagement and do not become part of the Contract. SKIDATA's written order confirmation shall be exclusively decisive for the determination of the actual scope of delivery / service and possible deviating conditions. In case of any differences between such order confirmation and the order placed, the order shall be deemed to be placed as stated in the order confirmation, unless the Principal objects to the order confirmation within eight (8) days upon receipt of the same.

**2.2.** Order acceptance by SKIDATA is effected by a written order confirmation or by effecting the respective delivery and/or rendering the ordered service.

**2.3.** Unless otherwise agreed upon in writing, the Principal shall be responsible for obtaining any permits from public authorities or third parties required for the conclusion or performance of the Contract. The Principal undertakes to inform SKIDATA immediately of any required permits and to indemnify and hold SKIDATA harmless in respect of any claims and proceedings. SKIDATA shall not be obliged to commence with the performance of the Contract for as long as the required permits are not yet granted and are in full force and effect.

### 3. Delivery and Term of Delivery

**3.1.** Terms of delivery and/or service shall be without engagement unless expressly agreed upon as binding in writing in the order confirmation or in the individual contract. In case of any changes or amendments to the order for whatever reasons after the time the order was placed, the term of delivery and/or performance shall be extended by an appropriate period of time. The Principal shall be obliged to accept delayed deliveries unless the transaction includes a written agreement for delivery by a fixed date.

**3.2.** Unless otherwise agreed upon, SKIDATA shall render the agreed services in a manner customary in the industry in SKIDATA's discretion and within SKIDATA's usual working hours. The Principal will be charged separately for any additional costs incurred for any performance by SKIDATA outside these usual working hours. SKIDATA shall be entitled, in its sole discretion, to choose the persons - including third parties - who are to effect performance.

**3.3.** In case of shipping delivery shall be effected at the Principal's risk and expense unless otherwise agreed upon. Upon handing over the item to be delivered to the carrier, the risk shall be transferred to the Principal without exceptions. Special packaging shall be at the Principal's expense. Upon the Principal's request and at its expense, SKIDATA shall insure the delivery against breakage, loss in transit, fire and perishing. Duly ordered and delivered goods will basically not be taken back. If SKIDATA agreed to take back delivered goods in any exceptional case, the Principal shall receive a credit less a processing fee and any expenses incurred.

**3.4.** Any obligations to deliver and to perform as well as any terms of delivery and performance shall be suspended for as long as the Principal is in arrears with its payments or fails to perform any act necessary for the execution of the order.

**3.5.** SKIDATA shall be entitled to effect and separately invoice partial or advance performances and deliveries if so required by the development or production process.

**3.6.** In case of any delay in delivery caused by SKIDATA's gross negligence or wilful intent, the Principal shall be entitled to demand compensation amounting to 0.5 percent of the value of the delayed order for every full week of delay, however, not more than a total of 5 percent of the value of the delayed order. Any further claims shall be excluded. In case such delay in delivery is caused by mobilization, wars, riots, strikes, lock-outs or the occurrence of any unforeseeable events, force majeure or any network disturbances (including the internet), the term of delivery shall be extended by an appropriate period of time. For this purpose, it shall be irrelevant whether such circumstances occur at SKIDATA's or at any of its sub-contractors' or sub-suppliers' sites.

**3.7.** In case of any delay in acceptance by the Principal, the Principal shall be obliged to pay storage costs for the ordered goods, and SKIDATA reserves the right to assert further claims. Should the Principal refuse to accept the goods, SKIDATA shall also be entitled to demand and/or keep any agreed initial deposit, however, at least 15 percent of the purchase price as liquidated damages. This amount shall also be applied as minimum damages for non-performance.

**3.8.** The Principal shall be responsible for the fulfilment of the necessary technical preconditions for the delivery/service, and the Principal ensures that the technical equipment such as feed lines, cables, hardware, networks and the like are in an excellent condition and ready to operate and compatible with the deliveries/services to be effected by SKIDATA. SKIDATA shall be entitled but not obliged to inspect such equipment for a separate remuneration. The Principal must obtain at its own risk and expense any permits required for the use and the operation of any plant or equipment.

#### **4. Prices**

- 4.1.** All prices are stated in euro, net of any applicable taxes, ex SKIDATA's warehouse unless otherwise agreed upon.
- 4.2.** Unless stated otherwise the prices and conditions are without engagement and not binding for subsequent orders.
- 4.3.** In case of continuous business relationships, orders shall be deemed to be placed at the prices valid at the time of the relevant order. SKIDATA shall be entitled to adjust its prices in case of any material changes of the basis of calculation or the costs, especially changes in wages, energy, materials, exchange rates, etc. occurring after placement of the order.
- 4.4.** In case of any delay in payment or the initiation of insolvency proceedings or the refusal to initiate insolvency proceedings due to lack of assets, all discounts and rebates granted shall be void. Fixed prices must be expressly agreed upon in writing.
- 4.5.** In case of repair orders, SKIDATA effects the work it considers necessary and expedient. Such work will be invoiced on a time and material basis. Unless otherwise agreed upon, SKIDATA shall not be obliged to obtain the Principal's approval before execution of the repair works. The Principal must in any case bear the costs for appraisal and the quotation.
- 4.6.** If an order is placed without any prior offer, SKIDATA shall be entitled to invoice its usual prices and/or prices according to its price list.
- 4.7.** In case of services invoiced in regular intervals, the price is subject to a value guarantee in accordance with the harmonised EU consumer price index and the month in which the applicable contract was concluded shall be the starting basis.

#### **5. Payment**

- 5.1.** SKIDATA shall be entitled to invoice 1/3 of the total receivable upon sending the order confirmation, 1/3 upon expiration of half of the planned or agreed delivery or performance period, and the remainder upon effecting the delivery/service. In case of recurring fees SKIDATA will render the invoices in accordance with the provisions applicable to the respective fees/prices.
- 5.2.** Unless otherwise agreed-upon in writing all payments shall be due immediately upon receipt of invoice. All payments are to be made in full, without any deductions and in the agreed currency to SKIDATA's paying agent. If no currency was agreed upon, payments are to be made in euros (€). Payments agreed to be made in regular intervals are due on a monthly basis in advance, at the beginning of the month. Should the Contract commence or terminate on a date during a month, the payment shall be made on a pro rata basis. SKIDATA will only accept cheques or bills of exchange on account of payment and only if they are eligible for discount. The Principal is not entitled to any set-off or retention. Payment shall be deemed effected as soon as the amount was credited to SKIDATA's account and is at SKIDATA's free disposal.
- 5.3.** In case of any delay in payment, SKIDATA shall be entitled to demand default interest amounting to 1 % per month. In addition, the Principal shall bear all costs for court and out-of-court collection measures such as dunning and collection charges and attorney's fees. In case of any delay in payment and irrespective of the stated reason for payment, payments will first be allocated to costs, then to interest, and then to the principal amount.
- 5.4.** Should the Principal be in default in payment for more than two weeks, SKIDATA shall be - for the duration of such default and regardless of other claims - released from all other obligations to perform and/or to deliver and from any warranty obligations and from any and all other obligations and all claims resulting from the present and any other legal transactions shall fall due immediately and SKIDATA shall be entitled to collect any delivered items not yet fully paid. These measures do not release the Principal from its obligation to perform. These measures shall not be deemed to be a rescission or redhibitory action of the Contract by SKIDATA unless explicitly stated otherwise.

#### **6. Software**

- 6.1.** If SKIDATA software, including Hosted Services, is included in the scope of delivery/service, such software may only be used within the agreed scope of delivery/service and only on systems fulfilling the system requirements in accordance with the description of the relevant software. The Principal must take all measures necessary in order to fulfil these system requirements at its own risk and expense.
- 6.2.** Without SKIDATA's prior written consent, the Principal shall not be entitled to copy or modify the software, to make it available to third parties or to use it for any other than the agreed purposes, otherwise any claims, e.g. warranty claims or damages, shall be excluded. This shall in particular apply to the source code.
- 6.3.** The Principal shall not be entitled to demand disclosure or modification of the source code.
- 6.4.** The Principal undertakes not to change, copy, decode, decompile or transfer to other computers licensed programmes and related documentation.
- 6.5.** In every respect, all software updates, patches, bugfixes, and upgrades shall be subject to the terms and conditions of use in accordance with SKIDATA's applicable Software Conditions and/or Service Conditions. A material breach of the Software Conditions and/or Service Conditions shall entitle SKIDATA to prohibit the use of the software.

## 7. Warranty

**7.1.** SKIDATA assumes warranty that the delivery/service will be executed in accordance with the Contract, and that the delivery/service will be free from any defects of quality or of title at the time of delivery.

**7.2.** The warranty period shall be 12 (twelve) months and shall commence at the time of delivery.

**7.3.** Movable items shall remain movable items, even if they are connected with immovable items, provided they can be separated again without damages to the substance regardless of any connecting pieces.

**7.4.** The Principal must give notice of any defects and of any lack of warranted characteristics immediately and in writing and with a detailed description of the defect, otherwise all claims shall forfeit. The same obligation to give notice of defects shall apply to hidden defects; in this case the obligation to give notice commences upon detection of the defect.

**7.5.** SKIDATA shall be entitled to effect any inspection it may deem necessary. For such inspections and any warranty repairs at the Principal's site, the Principal must make available to SKIDATA the required resources and employees free of charge. Should such inspection reveal that SKIDATA is not responsible for the defect, the Principal shall cover the costs of the inspection at a reasonable price.

**7.6.** SKIDATA fulfils its warranty obligation within a reasonable period of time under exclusion of further or other claims in its sole discretion exclusively by rectification or substitute delivery of the defective delivery/service or by granting a price reduction. The Principal shall be obliged to send the defective goods to SKIDATA at its own expense. Only after sending back the defective goods to SKIDATA shall the Principal be entitled to a new or substitute delivery. Replaced parts shall become the property of SKIDATA. If the transport of the defective goods to SKIDATA is impossible, rectification shall be effected against reimbursement of the additional costs occurring.

**7.7.** Defects which are not within the responsibility of SKIDATA shall be excluded from warranty. This shall especially apply to defects from materials or advance performances provided by the Principal. SKIDATA does not assume any warranty for hardware and software not produced by SKIDATA. Any defects resulting from normal wear and tear are excluded from warranty.

**7.8.** The warranty shall expire if:

- a) the Principal or any third party effects any repairs, changes or maintenance or other works to the delivered items without SKIDATA's written consent;
- b) required maintenance works are not effected in time;
- c) the Principal is in delay with its performance, especially in case of any delay in payment;
- d) the Principal violates any conditions regarding the scope of use, e.g. as contained in the Software Conditions.

**7.9.** In addition, warranty shall be excluded in case of any damage as a result of third party acts, equipment (such as networks, feed lines, cables) not operating in a technically proper manner, of third party software, internet disturbances, software viruses, chemical influences, force majeure or any acts by the Principal or its staff or any acts by third parties.

**7.10.** Moreover, warranty is in any case excluded for any defects which are caused by changes of hardware or software delivered by SKIDATA or by changes of hardware or software which is related to such SKIDATA products, if such changes were made without SKIDATA's prior express consent. Such changes include for example, but not exclusively: The connection, the employment or installation of components not certified by SKIDATA such as not certified hardware or Consumable Products, the installation of updates available for software of a third party, the connection of hardware of other producers than SKIDATA, the installation of drivers associated to such hardware or the installation of software of third parties.

**7.11.** The Principal shall bear the burden of proof for all and any origins for its claims, in particular for the defect itself, its existence at the time of delivery, the time of detection of such defect and the timely execution of the notice of defect. Any assumption of defectiveness shall be excluded.

## 8. Liability

**8.1.** SKIDATA's liability shall be limited to direct damage due to gross negligence or wilful intent and only to diligence one usually employs in one's own affairs. Any liability for slight negligence shall be excluded. The Principal shall be obliged to provide evidence for SKIDATA's fault. SKIDATA's liability shall in any case be limited to the amount of the agreed total price of the order. If the basis for the liability is a continuing obligation, liability shall be limited to the amount of the remuneration to be paid, however, not more than the remuneration to be paid for the period of one year.

**8.2.** The Principal must inform SKIDATA immediately in writing of any damages detected, otherwise, the Principal shall not be entitled to assert any claims. Unless otherwise agreed in writing, claims for damages must be asserted in court within a period of six months, otherwise they shall forfeit.

**8.3.** Any liability for consequential damage, financial loss, loss of profit or for claims resulting from data losses, consultancy mistakes, participation in the preparational work or software defects shall be excluded. In case of any loss or defect of data carriers, SKIDATA shall not be liable for the replacement of lost data. SKIDATA shall not be liable for any defaults or infringements by the Principal resulting from the failure to observe conditions for admission by public authorities, infringement of third party licences or the non-observance of conditions for mounting, commissioning or operation.

**8.4.** Under no circumstances shall SKIDATA be liable for any damage resulting from the failure to duly and regularly executed data backups.

**8.5.** Moreover, SKIDATA shall not be liable for any damages which are caused by changes of hardware or software delivered by SKIDATA or by changes of hardware or software which is related to such SKIDATA products, if such changes were made without SKIDATA's prior express consent. Such changes include for example, but not exclusively: The connection, the employment or installation of components not certified by SKIDATA such as not certified hardware or Consumable Products, the installation of updates available for software of a third party, the connection of hardware of other producers than SKIDATA, the installation of drivers associated to such hardware or the installation of software of third parties.

**8.6.** Also, SKIDATA shall not be liable for any damages, that can be ascribed to criminal or otherwise illegal acts committed by third parties, such as for example piracy, the copying, reproduction, modification or other manipulation of hardware, software or any other products of SKIDATA or of products related to SKIDATA products.

**8.7.** The Principal must immediately inform SKIDATA of any claims asserted or threatened to be asserted against SKIDATA by any third party due to any misuse of the deliveries/services by the Principal, and the Principal must use its best efforts to defend SKIDATA against such claims. In addition, the Principal shall be obliged to compensate SKIDATA for any damage resulting from the assertion of such claims.

## **9. Retention of Title, Right of Retention, Insurance**

**9.1.** SKIDATA reserves the right to retain title to all deliveries and services until full payment of all receivables resulting from the business relationship with the Principal, including interest and costs, if any. In case of financing by bill of exchange / cheque, the retention of title shall remain valid until full clearance. In case of any connection of the goods with immovable items, only the title to the corresponding connecting piece (such as base plates) shall be transferred to the Principal, the remainder of the goods remain movable property. Until full payment of all deliveries and services, the Principal shall only be entitled to re-sell or process the deliveries and services and/or to combine them with other goods upon SKIDATA's consent. In case of any re-sale, the Principal already now assigns to SKIDATA any claims to third parties in an amount corresponding to the amount of SKIDATA's invoice, and SKIDATA expressly accepts such assignment. In case of any disposal by third parties, the Principal shall be obliged to disclose the retention of title and to inform SKIDATA immediately. Any pledge or transfer by way of security of the goods subject to retention of title shall be inadmissible.

**9.2.** In order to secure its receivables due from the Principal, SKIDATA shall be entitled to retain goods and services until settlement of all receivables from the present and other legal transactions, such as for example delivery of hardware components or consumable products, performance of consulting services or performance of maintenance under the respective agreements.

**9.3.** To the extent deliveries and services are the subject matter of a continuing obligation or in case a period exceeding 2 (two) months between delivery and payment is agreed upon, the Principal shall be obliged to obtain insurance adequate for the value of the delivery / service.

## **10. Data Protection**

**10.1.** SKIDATA shall be entitled to collect, process, forward and use the Principal's personal data to the extent necessary for the establishment and fulfilment of the Contract as well as for invoicing and Principal service purposes. SKIDATA shall also be entitled to transfer such data to affiliated companies or third parties commissioned to process data for SKIDATA to the extent such transfer is necessary to enable SKIDATA to perform.

**10.2.** When using SKIDATA's deliveries and services, the Principal shall be obliged to adhere to any and all applicable legal provisions for data protection. The Principal shall be solely responsible for any notices to be given to public authorities (e. g. data protection committee).

**10.3.** These obligations shall remain valid for a period of 5 (five) years after termination of the contractual relationship between SKIDATA and the Principal, unless mandatory legal provisions require a longer or an indefinite period of time.

**10.4.** These provisions shall not affect any Non-Disclosure Agreement between SKIDATA and the Principal.

## **11. Industrial Property Rights and Copyrights, Confidentiality**

**11.1.** SKIDATA is the owner of industrial property rights, copyrights and/or know-how concerning the subject matter of the Contract, if any. The Principal must treat confidentially and keep secret any information received in connection with the subject matter of the Contract or any development work. Production documents, specifications, samples, models, drawings, printing plates, photographs, and other materials shall remain the tangible and intellectual property of SKIDATA. Any confidential information may only be used for the execution of the agreed order and must not be disclosed or transferred to external third parties.

**11.2.** Unless otherwise agreed upon, SKIDATA and/or its licensors shall be entitled to all rights to the agreed deliveries/services resulting from patent rights, trademark rights, protection by registration of a design, copyrights or other intangible property rights or otherwise from the creation of the service provided to the Principal.

**11.3.** Unless otherwise agreed upon in writing, the Principal shall only obtain the exclusive, non-transferable right to use such deliveries subject to compliance with the contractual specifications at the agreed place and for the agreed purpose in accordance with the acquired licences after full payment of the agreed price. The Principal does not acquire any rights exceeding the scope of use stipulated in the relevant contract concluded with SKIDATA.

**11.4.** All other rights are reserved by SKIDATA and/or its licensors. The prior written consent by SKIDATA and/or any other authorised licensors, if any, shall be required for any act by the Principal beyond the agreed scope of use, for example any copying or changes.

**11.5.** The Principal undertakes to use the subject matter of the Contract in accordance with the Contract and to indemnify SKIDATA and hold SKIDATA harmless in respect of any claims and proceedings.

## **12. Rescission of Contract**

**12.1.** Irrespective of any other rights to terminate the Contract, SKIDATA and the Principal shall be entitled to rescind the Contract without setting any period of time, if insolvency proceedings are instituted against the assets of the other party or an application for the institution of insolvency proceedings was rejected for lack of assets.

**12.2.** In case of any material breach of contract by either party, the respective other party must request the defaulting party in writing to remedy the breach within a period of 30 (thirty) days, whereby the breach of contract must be specifically described, and if the defaulting party fails to remedy such material breach within the time of 30 (thirty) days, the



other party shall be entitled to terminate the present Contract with immediate effect in writing (including fax or email). From SKIDATA's perspective such material breach shall for example be fulfilled, if a delivery/service cannot be performed due to reasons attributable to the Principal or if the Principal does not comply with any legal or contractual obligation vis-à-vis SKIDATA it may have. The Principal may consider a material breach by SKIDATA for example if SKIDATA materially violates its obligation to effect delivery/service in time.

**12.3.** In case of any material change of the distribution of ownership and/or of control of the Principal, SKIDATA shall be entitled to terminate this contract upon 3 (three) months' notice, such termination to be declared within 3 months from the day it receives knowledge of such change. In any case, such material change shall be fulfilled if at least 50 percent of the ownership, of the shares or of the rights to vote are transferred to one or more new or existent owners, shareholders or beneficiaries. In any case, the whole or partial transmission of this contract to a third party requires SKIDATA's consent.

**12.4.** In case the contract is rightfully terminated by SKIDATA, the Principal must compensate SKIDATA for any disadvantages and for the loss of profit suffered. Subject to any other claims, SKIDATA may invoice deliveries and services already effected (partial performance) and which cannot be reversed.

### **13. Interventions by Third Parties**

**13.1.** Any intervention by third parties in the hardware and/or software the Principal acquired from SKIDATA is prohibited unless SKIDATA gave its written consent to a specific intervention.

**13.2.** Irrespective of any other provisions, SKIDATA is in any case entitled to terminate without notice all and any continuing obligations affected by such intervention. The Principal must effect any due payments for such continuing obligations, payments already made will not be repaid.

**13.3.** Irrespective of its right to terminate the contracts, SKIDATA shall alternatively be entitled not to terminate such contracts and to perform any work necessary in order to reinstate the software and/or hardware to its original state and to remedy all consequences arisen due to such intervention. The Principal will be invoiced for any costs arising therefrom such as costs for materials and travel expenses as well as working hours on a time and material basis. Travel times shall be deemed to be working hours.

**13.4.** In case of any unauthorised interventions by third parties in the hardware and/or software provided by SKIDATA, all warranty claims in respect of all and any directly or indirectly affected components shall forfeit.

**13.5.** In no event shall SKIDATA assume any liability for any damage resulting from any unauthorized intervention by third parties in the hardware and/or software provided by SKIDATA.

### **14. Export**

The Principal is only allowed to export SKIDATA's products, if it observes all relevant export provisions.

### **15. Assignment**

SKIDATA shall be entitled to assign in whole or in part any receivables and rights resulting from the contractual relationship to third parties without the Principal's written consent.

### **16. Consent to Marketing and Advertising Activities**

**16.1.** The Principal agrees that SKIDATA may state the Principal's name and address as well as some general key points of joint projects as a reference for public relation purposes, such as advertising, marketing and competition purposes. For this purpose, the Principal will provide SKIDATA with a company logo in the required graphic format and file format, and the Principal will grant SKIDATA a corresponding licence to use such logo (i. e. to print it or to use it on websites).

**16.2.** In addition, the Principal shall enable SKIDATA to take pictures of the Principal's outside facilities as well as of the products provided by SKIDATA in the environment in which they are used and to use such pictures for the above-stated advertising, competition and marketing purposes, and the Principal shall grant SKIDATA all necessary rights thereto.

**16.3.** Any confidentiality agreements shall not be affected by these provisions.

### **17. Place of Performance, Choice of Law, Place of Venue**

**17.1.** Unless otherwise agreed upon, the place of performance for both parties shall be at the seat of SKIDATA.

**17.2.** Austrian law shall apply, with the exception of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and any and all reference of law provisions. The court at SKIDATA's seat having subject matter jurisdiction shall be exclusively competent for all disputes arising out of or in connection with the agreements made. However, SKIDATA shall be entitled at its sole discretion to file an action resulting from the Contract with the court with subject matter and local jurisdiction competent for the Principal's seat of business or residence or otherwise competent for the Principal's assets.

### **18. Severability Clause**

Should any provision contained in these General Conditions or any other conditions of the Contract subject to these conditions be or become ineffective or unlawful, this shall not affect the validity of the remaining provisions. The parties to the Contract must replace any ineffective or unlawful provision by a provision usual in the industry which comes as close as possible to the parties' economic intent.