

General Terms and Conditions for Field Service (Issue 10/2015)

1. Preamble and definitions

- 1.1 The following general terms and conditions (hereinafter referred to as "General Conditions") shall apply for contracts relating to the execution of erection, commissioning and/or service and maintenance work according to Clause 3.1 (hereinafter referred to as "Works"), which MECOS AG (hereinafter referred to as "Contractor") undertakes for its customer (hereinafter referred to as "Principal") on the latter's technical system designated in the contract document (hereinafter referred to as "Object of Works").
- 1.2 Unless otherwise expressly stated in the quotation, quotations are non binding.
- 1.3 These General Conditions shall apply exclusively; any provisions to the contrary of or deviating from these General Conditions are not accepted unless Contractor has expressly agreed to them in writing. These General Conditions shall also apply if Works to Principal are performed without reservation by Contractor in the knowledge of any such deviating or contravening conditions. They are also deemed accepted by Principal if the latter accepts Works from Contractor or performs services himself.
- 1.4 These General Conditions, as amended, shall also be valid for all future transactions with Principal.
- 1.5 The terms below are defined as follows:
 - Erection: The assembly of pre-manufactured parts, which are in general supplied by Principal (e.g. machines, apparatus, pipelines), on the Object of Works, at the location where the Works shall be carried out ("Place of Works"), and/or erection assistance;
 - Commissioning: Start-up of the Object of Works for the purposes of undertaking a trial run and/or tests and/or assisting commissioning;
 - Maintenance Services: all services that are meant to preserve the functionality of the Object of Works (maintenance, inspection), to restore its functionality following failure (overhaul/repair) or to improve its functionality

2. Documentation/software/intellectual property

- 2.1 The catalogues, product descriptions and other documents submitted prior to conclusion of the contract shall solely serve for information purposes and do not constitute or form part of an offer in the legal sense.
- 2.2 Contractor may rely, without verification, on the accuracy and completeness of the information supplied to it by Principal in any form and may base its Works on such information, unless the information in question is obviously incorrect or incomplete. The same shall apply to anything else that is supplied by Principal.
- 2.3. Technical documents and figures on weight, performance, operating costs, etc. shall be for information purposes only and non-binding, unless expressly stated in writing that they are binding. All of Contractor's technical documents (including documents in electronic format) shall remain its intellectual property and may without Contractor's written approval not be copied or duplicated, nor disclosed to third parties in any way for a period of 10 years after the end of any warranty period and must be returned upon request.
- 2.4 In case the Works include supply of software or intellectual property, the Principal shall only have the non-exclusive, royalty-free, irrevocable and non-transferable and non-sublicenseable rights to use such software or intellectual property for an unlimited period. Said rights of use are limited to the Works performed and to the purpose of use specified or intended in the contract. No further use is permitted. Principal shall only be entitled to transfer said rights to a third party who acquires the Object of Works, provided always that said rights are not extended or otherwise modified. Any transfer shall only be permitted in total and not in parts.
- 2.5 Unless otherwise explicitly provided for in the contract, any supply of software shall not include the source code. Principal shall not be entitled to modify, to reverse engineer, to decompile or to disassemble the software in any way. Principal shall be obliged not to disclose or make accessible the software, including programming documents, to third parties other than as provided for in Clause 2.4.

3. Works to be performed by Contractor

- 3.1 The scope of the Works to be performed by Contractor is exclusively set out in the contract (including all the documents referred to therein, such as the price sheet, quotation and/or construction timetables). Amendments to the scope of the Works shall require a written agreement between Contractor and Principal. The Works do not include co-ordination, supervision or management of Principal's employees or Principal's contractors/customers or of other third parties.
- 3.2 Contractor reserves the right to award third parties with performance of the Works and to recall or replace its staff for serious reasons during the assignment, or to fully or partially refuse to dispatch them.

- 3.3 If Contractor recalls its staff or refuses to dispatch them, for reasons that are outside its control, in particular due to force majeure, Principal shall be responsible for all the associated costs and delays.

4. Obligations of Principal

- 4.1 Principal shall in particular, at its own cost and risk:
 - 4.1.2 inform Contractor in a timely manner of the planned timing of the assignment and request Contractor's staff only when all the preparatory work to be undertaken by Principal has been completed.
 - 4.1.3 ensure that necessary entry and exit, residence, work and other permits for Contractor's staff and for execution of the Work can be obtained in a timely manner, and support Contractor if such permits can only be procured by the latter.
 - 4.1.4 take all necessary sickness and accident prevention measures and agreed or statutorily prescribed safety and protection precautions, and explicitly notify Contractor if it is necessary to be considerate of Principal and/or to other contractors, or if relevant regulations must be observed, or if special risks (including risks associated with the safety or health of Contractor's staff) have to be observed.

Principal shall also ensure that the staff dispatched by Contractor is not exposed in any way to harmful substances, such as irritant gases, respirable asbestos fibres, caustic liquids, etc. Contractor shall be entitled to refuse to undertake Works or to cease Works if, in its opinion, the safety or health of its staff is not ensured.

In the event of accident or illness, Principal shall also provide Contractor's staff with adequate and comprehensive assistance.

- 4.1.5 supply the material necessary for execution of the Works and store it in such a way that it is protected from all detrimental influences. Before commencement of Works Principal shall in the presence of Contractor's staff examine such material with regard to completeness and correctness.
 - 4.1.6 supply all preparatory, excavation, erection & construction work as well as casting work, including the necessary materials, in a timely and proper manner.

Principal shall also maintain the transport routes to the place of Works, and also the Place of Works and the Object of Works itself in a suitable and ready-to-work condition and ensure unhindered access to the Place of Works at all times.
 - 4.1.7 for all its work arising in connection with its obligations of cooperation to provide -together with the associated operating staff- the required number of adequately qualified specialists and assistants holding the relevant supporting documentation, and the necessary tools, erection equipment, building site installations, assistance material and equipment, in an operationally safe condition in compliance with the valid accident prevention regulations. The specialists and assistants shall follow Contractor's advice. However, Contractor shall not be liable or responsible for them, unless a defect or damage has been caused through the deliberate or grossly negligently wrongful advice of one of Contractor's duly authorised representatives; in such cases, Clause 11 shall apply.
 - 4.1.8 take out an erection insurance with suitable and sufficient cover, including insurance of the scope of Contractor's Works and a waiver of recourse in Contractor's favor. The deductibles for each case shall not exceed EUR 15,000.
 - 4.1.9 provide
 - heatable and air-conditioned, lockable premises and appropriate sanitary facilities for Contractor's staff;
 - all the installations necessary for modern communication;
 - adequate supply with electricity, lighting, water, gas, compressed air, steam and fuel; and
 - necessary consumables and installation material, cleaning materials and lubricants and also small parts.
 - 4.1.10 arrange for the disposal of all materials, packaging material and residual materials and for cleaning of the construction site.
 - 4.1.11 immediately return tools and equipment supplied by Contractor to the location designated by Contractor. Principal shall also arrange for the appropriate permits for the import and export of tools, equipment and material to be granted to Contractor in good time, and shall support Contractor if such permits can only be obtained by the latter.
- 4.2 If Principal fails to meet its contractual obligations to cooperate in a complete, correct or timely manner, Contractor may at Principal's cost, notwithstanding any other rights, either execute the work in question itself or arrange for it to be executed. Contractor shall be entitled to levy an administrative costs surcharge of 20% on the costs of any procured services.

- 4.3 Principal shall be fully responsible for co-ordination, supervision and management of Erection, Commissioning and/or Maintenance Services carried out at the Object of Works, including co-ordination, supervision and management of Principal's employees and Principal's contractors/customers and of other third parties.
- 5. Pricing**
- 5.1 General
- Unless otherwise agreed in writing, Contractor's remuneration for the Works shall be on a time and materials basis in accordance with the following provisions.
- 5.2 Details:
- 5.2.1 Working time
- 5.2.1.1 Working time up to 10 hours per working day is included in the daily rates as per the price sheet. The normal working day shall be between 6 a.m. and 8 p.m. The full daily rate shall apply for each commenced working day. Only short assignments which are completed within less than 5 hours including travelling time to the Place of Works and back to Contractor's premises are excluded; in these cases 50 % of the respective daily rates shall apply.
- 5.2.1.2 Waiting and idle times, for which Contractor is not responsible, shall be invoiced as working time. All other associated costs shall also be borne by Principal.
- 5.2.1.3 Working time which exceeds 5 working days per week and/or 10 working hours per day, work on days off during the week and on public holidays at the respective Place of Works, and also night work between 8 p.m. and 6 a.m., shall count as overtime and shall be charged at the agreed overtime rate as per price sheet. The same shall apply for work during the period from December 24 up to and including January 1.
- 5.2.1.4 The maximum working time per day shall be as prescribed by the provisions applicable at the Place of Works, it shall however in no cases exceed 12 hours. For health and safety reasons, one day during the week must be a day off, except in the case of offshore assignments. An uninterrupted break of at least 11 hours must be taken after the end of the daily working time. If a longer working time is necessary for a short period following an unexpected emergency, Principal must apply in writing for the working time extension, which needs to be approved in writing by Contractor. The respective working time shall be charged as emergency work.
- 5.2.2 Travelling time, preparation and post-processing
- Principal must bear the costs for the following items, if they are not included under Clause 5.2.4:
- 5.2.2.1 Reasonable preparation and postprocessing periods required shall be charged as working time. Travelling time between Contractor's place of dispatch and Place of Works shall be charged to Principal as working time, on the basis of the actual travelling time.
- 5.2.2.2 If the daily journey between the place of accommodation and the Place of Works takes more than half an hour per trip, then the travelling time in excess of this amount shall be charged as working time.
- 5.2.3 Travelling costs and other costs
- Principal must bear the costs for the following items, if they are not included under Clause 5.2.4:
- 5.2.3.1 Business Class flights (Economy Class within Europe) and 2nd class rail travel within Germany (1st class elsewhere and when travelling to destinations outside Germany). Costs incurred shall be invoiced to Principal plus a 10% surcharge as administrative costs.
- 5.2.3.2 Excess baggage costs shall be charged to Principal plus a 10% surcharge as administrative costs.
- 5.2.3.3 If a private car or rental car is used, the charges (including all associated costs) shall be in accordance with Contractor's guidelines. Principal shall free of charge arrange for daily travelling for Contractor's staff between the place of accommodation and the Place of Works, or else Principal shall be charged the corresponding travelling costs plus a 10% surcharge as administrative costs.
- 5.2.3.4 Principal shall, at its own expense, provide Contractor's staff with individual accommodation in accordance with the standard in Central Europe, or else Principal shall be charged the corresponding hotel costs resp. compensation for private accommodation according to the price sheet plus a 10% surcharge as administrative costs.
- 5.2.3.5 Principal shall be charged for trips home (after two months in the case of assignments in Europe and in camps, after three months outside Europe, after four weeks in case of offshore installations). If the longest period of stay under local regulations is less than 4 weeks, then trips home shall be charged on the basis of the local regulations (e.g. North Sea after 2 or 3 weeks). If the employee in question does not take the trip home, the normal costs shall be reimbursed to the employee and charged to Principal.
- 5.2.3.6 A daily accommodation allowance (based on the price sheet) covering the period of absence of Contractor's staff from his premises shall be charged to Principal.
- 5.2.3.7 Works undertaken by sub-suppliers, auxiliary persons and other subcontractors shall be charged subject to a surcharge of 20% as administrative costs.
- 5.2.4 Flat rate mobilisation, demobilisation and remobilisation in the event of assignments abroad
- 5.2.4.1 in cases where the Place of Works is abroad, travelling times and travel costs incurred when taking up and concluding Works, shall in deviation from the rules under Clauses 5.2.2 and 5.2.3, be charged in the form of a flat rate "mobilisation/demobilisation charge". This shall apply to regular trips to the place of arrival in the country of destination as defined by Contractor and shall include the following costs:
- flight ticket/mileage allowance
 - reasonable preparation and postprocessing times
 - taxis, rental cars etc. on travel days
 - travelling time
 - accommodation costs during the trip
 - accommodation allowance on travel days
 - visa costs
- These rules shall apply accordingly when Contractor's staff leave the Place of Works (for example in order to avoid waiting times) and are subsequently remobilised.
- 5.2.4.2 If Principal contradicts the application of the "mobilisation/demobilisation charge" and/or wishes to be charged on the basis of the costs actually incurred, the actual costs shall be charged in accordance with Clauses 5.2.2 and 5.2.3, plus the relevant surcharge for administrative costs.
- 5.2.5 Invoice basis
- 5.2.5.1 Records of Contractor's working time (e.g. timesheet) shall be submitted to Principal or its representative, either when the work is concluded or on a monthly basis, for certification and countersignature, and shall form the basis of the invoice. If Principal does not immediately provide a certification and countersignature, without providing justification, the working time records produced by Contractor shall be deemed to have been approved and shall serve as basis for the invoice.
- 5.2.5.2 Contractor will invoice the provision of special tools, measuring and testing instruments (including all the associated costs) separately to Principal.
- 6. Applicable norms and standards**
- Unless otherwise explicitly agreed in the contract, the following conditions, laws, norms and standards are applied to the services in the following order of precedence:
- these General Conditions
 - Contractor norms/directives as well as existing German technical regulations
 - the metric system
- 7. Taxes**
- Principal shall pay and bear, or reimburse, all taxes, charges, levies, duties etc. arising out of the assignment, on the basis of legal provisions of Principal's country or of the country in which the Works are performed, and also the taxes, insurance premiums etc. payable by Contractor or its staff at the Place of Works.
- 8. Payment terms**
- 8.1 The Works performed shall be charged via a monthly invoice.
- 8.2 Payments are to be made by Principal, without deduction, within 30 days of the invoice date, into one of the accounts designated on the invoice. Payment shall be deemed to have been made as soon as it has been unconditionally credited to Contractor's account.
- 8.3 In the event of delay of payment interest shall be charged in accordance with the applicable legal provisions without prejudice to other claims of Contractor.
- 8.4 Principal shall not be entitled to offset any sums or claim any right of retention against payments due to Contractor unless Contractor does not dispute Principal's claims or Principal's claims are confirmed as valid and due by final judgement.
- 8.5 In the event of serious breaches of contract by Principal (such as delay of payment, cheque or bill protest), Contractor shall be entitled to immediately call in all outstanding or deferred invoices and to demand payment in advance

or securities. If no payment in advance is made, or no security is provided, within a reasonable time limit set by Contractor, it may withdraw from the contract or refuse to provide further Works and may claim for non-performance of the contract. Any agreed price discounts shall be cancelled in this case.

9. Time of performance and deadlines; delay; acceptance of the Works

9.1 Principal shall confirm completion of the Works on the completion record submitted by Contractor. This confirmation may also be given on the basis of the working time records.

9.2 Time schedules for performance and deadlines shall only be binding if expressly specified in writing in the contract. The time of performance starts according to mutual agreement, provided always that Contractor has received all information including licences and permits to be furnished by Principal and these are duly clarified, however, not before receipt of agreed down payments and/or payment securities. Time schedules for performance and deadlines shall be deemed to have been observed if Contractor has notified Principal within the period or by the deadline set for completion of the Works.

9.3 Time schedules for performance and deadlines shall be extended by a reasonable period, also in cases where the original period of performance already has elapsed, in the event of strikes, lockouts, acts of god or in case of any unforeseen circumstances arising beyond control of Contractor, e.g., factory disturbances, scrapping, late receipt of material purchased from sub-suppliers, faulty or delayed supplies/services by subcontractors or other delays due to reasons beyond the control of Contractor, provided such circumstances affect the timely performance. In substantial cases Contractor will notify Principal on occurrence and anticipated duration for such events. Contractor expressly reserves the right of termination according to Clause 13.

The time of performance shall also be extended accordingly if Principal is in delay with his payment obligations or other obligations, at least for a period corresponding to the delay.

9.4 In the event Principal can prove that (i) a delay in respect of a deadline expressly specified in writing in the contract as binding arises due to the fault of Contractor and (ii) Principal suffers damage in consequence thereof, Principal shall be entitled, to the exclusion of any further claims for any delay whatsoever, to claim liquidated damages to an amount not exceeding 0.5% for each full week of delay, but in the aggregate limited to 5%, of the respective value of that part of the Works which due to the delay could not be put to commercial use within the agreed time. To the extent Contractor does not deny that liquidated damages are due, Principal shall be entitled to deduct any liquidated damages payable by Contractor under this Clause from Contractor's final invoice. Principal shall not be entitled to claim liquidated damages for the first two weeks of delay. Further Principal shall not be entitled to liquidated damages if Principal has been provided with an appropriate replacement.

9.5 Acceptance of the Works ("Acceptance") takes place when the Works are completed except in case of a material defect of the Works, which is solely due to the fault of the Contractor. In the event of such material defect, Acceptance takes place when it is remedied. A material defect exists when a defect of the Works prevents the use of such Works. After Acceptance the Principal shall confirm in writing to Contractor the fact of such Acceptance.

If, for reasons which are not the fault of the Contractor, Acceptance has not taken place within one month from the planned date for completion of the Works or from the date such completion would under normal circumstances be expected if it is not planned, then Acceptance takes place at the expiration of such one month period. If, within such one month period, a delay with the Acceptance is caused by the fault of the Contractor, such one month period shall be extended by the period of such delay.

9.6 In case of operation of the Object of Works Acceptance shall be deemed given.

9.7 Upon Acceptance, Contractor will be released from its liability for non-hidden defects, unless Principal has reserved its rights with regard to a specific defect.

10. Warranty

Contractor's Works shall be free of defects as per Clauses 10.1 and 10.2.

10.1 Defects

10.1.1 The Works shall be deemed to be free of defects if the Works have been properly executed, i.e. provided all parts being the subject matter of the Works have been assembled and mounted on the Object of Works without technical fault, with the due care and attention that is customary for the provision of such Works.

10.1.2 The warranty period for claims with respect to defective Works shall be 12 months from Acceptance as per Clause 9.5. The warranty period for remedial Works restarts and lasts six months from make-good or 12 months after the expiration of the above mentioned warranty period, whichever occurs first.

10.1.3 If a defect that existed at the time of transfer of risk should become apparent during the above warranty period, and if Principal makes a written notifica-

tion of defect immediately, and at the latest within 5 working days of its discovery, Contractor may elect either to remedy the defect or arrange for its remedy, via repair of its Works, without cost to Principal, within a reasonable time limit. All other costs and expenses shall be borne by Principal.

10.1.4 In order to enable Contractor to carry out necessary make-good, Principal shall:

- a) grant the necessary time and opportunity;
- b) furnish, at his expense, the necessary assistance staff and equipment and carry out ancillary work; and
- c) perform, at his expense, all work in excess of the original scope of Works.

The extra cost of any work carried out beyond regular working hours shall be to Principal's account.

10.1.5 Contractor only provides a warranty for the work undertaken by workers on behalf of Principal to the extent these workers work according to Contractor's advice and to the extent the advice itself was defect either due to gross negligence or wilful intent of Contractor. The onus of proof shall rest with Principal.

10.1.6 Contractor's warranty shall not apply to or include a defect that was caused through (i) normal wear and tear, (ii) unsuitable or inappropriate use, operation, storage, transport or maintenance, (iii) work or equipment or materials, or raw materials and supplies, which have been supplied by Principal or a third party and carried defects that could not be discovered from a visual inspection by Contractor at the Place of Works, and (iv) any other reason outside Contractor's control. Contractor's warranty shall also not apply to or include defects if, without Contractor's prior consent (except in the event of imminent danger or in order to avert a disproportionately serious damage), remedial work or changes have been undertaken on Contractor's Work. Contractor shall not be responsible for the consequences of inappropriate or unsuccessful attempts to remedy by Principal.

10.1.7 Principal's rights arising out of breach of warranty shall be subject to the following conditions precedent:

- a) the existence of a defect covered by Contractor's warranty has been reported to Contractor in writing immediately on discovery;
- b) no repair work has been carried out without Contractor's approval; and
- c) the defect was not caused by merely slight negligence.

10.2 Rights of Third Parties

Contractor warrants that Works do not infringe any third party rights registered in Germany at the date the contract enters into effect provided a damage caused by such breach of warranty is not based only on slight negligence. Contractor shall defend Principal and provide, at the discretion of Contractor, a suitable remedy in order to indemnify him, provided that Principal notifies a claim from a third party concerning violation of intellectual property rights within five days after it became known to Principal and subject to the condition precedent that Principal gives Contractor sufficient opportunity for legal defence. However, Principal shall defend and hold Contractor entirely harmless if the basis for violation of third party rights was the specification of Principal.

10.3 Further claims due to breach of warranty other than those mentioned under Clause 10.1 and 10.2 shall be excluded.

11. Limitation of liability of Contractor

Notwithstanding anything contained to the contrary in the contract, at law or otherwise the following provisions 11.1 through 11.5 shall apply:

11.1 Contractor shall only be liable for the circumstances expressly specified in these General Conditions and to the extent and subject to the limitation(s) stated hereunder. Further rights and remedies against Contractor arising in contract, at law or otherwise are excluded, in particular any rights and claims of Principal for compensation of damages, reduction of contract price, withdrawal or cancellation.

11.2 Contractor shall in no event be liable and shall in no event indemnify Principal for any loss of profit, loss of revenue, loss of interest, cost of capital, loss of business, business or progress interruption, loss of production, additional production costs, downtime costs, loss of use of any Works or any parts thereof or any other real or personal property, loss of data or information, any loss or damage similar to any of the foregoing, or any indirect, consequential, special, ancillary or incidental loss or damages or any exemplary or punitive damages, or any claims of Principal's contractors/customer(s) or other third parties against Principal, including claims for penalties and liquidated damages, arising out of or in connection with the contract, irrespective whether based on contract (including but not limited to breach of warranty and breach of contract), tort (including but not limited to negligence), law, strict liability, indemnification or otherwise.

11.3 The total liability of Contractor for all claims in the aggregate, irrespective whether in contract (including but not limited to breach of warranty and breach of contract), tort (including but not limited to negligence), law, strict liability, indemnification or otherwise, arising out of, connected with, or resulting from the performance or non-performance of the contract or from the performance or use of the Works, shall not exceed in the aggregate 100% of the contract price or 1 Million Euros, whichever is less.

11.4 The above provisions on limitation of liability shall apply to the maximum extent permitted by law.

11.5 Principal shall be responsible for damages caused by its staff. This shall also apply if Contractor's staff monitor or supervise work, unless Principal can prove that the damage was caused by Contractor's personnel's assistance due to gross negligence or wilful misconduct. Principal shall be responsible for damages which are caused by defects to tools, equipment and materials provided by it. This shall also apply if Contractor's staff have used these without objection.

12. Principal's right of termination

Principal shall only have the right to terminate the contract by written notice under the preconditions set out hereunder:

12.1 If it should become entirely impossible for Contractor to perform the contract and such impossibility occurs for reasons due to Contractor's fault. In the event of partial impossibility of performance, Principal shall have the right to terminate the contract only if partial performance is proved by Principal to be unreasonable to him; otherwise Principal shall only be entitled to claim a reasonable reduction of the price.

12.2 If, in the case of a defect for which Contractor is responsible in terms of Clause 10, Principal has granted twice a reasonable period in writing, expressly stating that he will terminate the contract and if such period expires fruitlessly, provided that Principal proves that this period has expired for reasons due to Contractor's fault and that the delay in remedying the defect or the defect substantially makes adherence to the contract unreasonable.

In case of termination as per this Clause 12 the obligations of Contractor to provide the Works under the contract expire ipso iure with receipt of the notice of termination. Contractor shall reimburse to Principal the costs Principal incurred in excess of the contract price to the extent such costs were necessary and reasonable in order to complete the Works either by Principal or through third parties.

13. Contractor's right of termination

Contractor shall have the right to terminate the contract in whole or in part by written notice if

- (i) unforeseen circumstances or other circumstances beyond Contractor's reasonable control materially modify the economic intent or the content of Contractor's performance or any of the above circumstances materially affect the operations of Contractor, or
- (ii) the economic situation of Principal undergoes a substantial deterioration, or
- (iii) Principal is in delay of any of his payment obligations and such delay exceeds 60 days, or
- (iv) Principal breaches of provision of the contract and has not remedied such breach within a reasonable period indicated by Contractor.

Any right of termination as per above shall remain unaffected by a prior extension of the time of performance as agreed upon by the parties. In case of termination as per this Clause 13 all obligations of Contractor out of and/or in connection with the contract expire. Principal shall pay to Contractor the price for the Works performed by Contractor plus Contractor's loss of profit and reimburse any costs and compensate any damages incurred by Contractor due to this termination.

14. Export control

14.1 Notwithstanding any regulation regarding force majeure as stated in the contract, Contractor reserves the right to suspend at its sole discretion its performance at any time, in whole or in part, without incurring any liability, whenever such performance would be prevented by any applicable export or re-export control regulation (including but not limited to EU and U.S. laws, as the case may be) or where an export license required by such regulations cannot be obtained. In the event the performance of the contract is prevented due to the above reasons for a period of more than 180 days, Contractor or Principal shall be entitled to terminate the contract to the extent the performance is prevented. In the event an export license has been denied by the responsible authorities, Contractor or Principal shall be entitled to terminate the denied part of the performance immediately. As consequence of such termination Principal shall pay to Contractor the price of the Works performed by Contractor under the contract and any cost for unavoidable

commitments incurred by Contractor with respect thereto. Any claims, rights and/or remedies of Principal with respect to such termination shall be excluded.

14.2 Contractor shall provide Principal with a customs invoice and a packing list as standard shipping documents. Such documents are made out to the name of Principal. The content and layout of such documents are defined by Contractor and cannot be adjusted or amended. The provision of any further information or documents which might be required by Principal for import purposes, such as but not limited to countries of origin, HS codes (numeric codes according to the "International Convention on the Harmonized System", issued by the World Customs Organization (WCO)), certificates of origin, declarations of preferential origin or other certificates shall be subject to an individual agreement. All costs for such additional information or documents shall be borne by Principal.

15. Assignment

Principal shall not assign or transfer his rights under the contract to any third party without Contractor's consent.

16. Confidentiality and data protection

16.1 Principal shall keep any information or documentation disclosed to him in connection with the Works, which are not in the public knowledge or accessible to the general public, strictly confidential and shall not disclose them or make them accessible to third parties; Principal shall only use such information or documentation in connection with and for the purpose of the Works and shall not otherwise use them in any way without prior written consent of Contractor.

16.2 Principal shall comply with any applicable data protection laws and regulations and shall take all precautionary measures to ensure protection against unauthorized access by third parties.

17. Written form

17.1 Telephone and verbal agreements and consents shall be valid only if they have been confirmed in writing which can also be in electronic form by e-mail.

17.2 Contract amendments or modifications must also be in writing; the same shall apply to a modification of this Clause on the written form itself.

18. Place of performance and ARBITRATION

18.1 The place of performance for all claims under the contract shall be Oberhausen, or such other premises of Contractor as may be indicated in the order acknowledgement.

18.2 ALL DISPUTES ARISING OUT OF OR IN CONNECTION WITH THE PRESENT CONTRACT INCLUDING ITS VALIDITY SHALL BE EXCLUSIVELY AND FINALLY SETTLED UNDER THE RULES OF ARBITRATION OF THE INTERNATIONAL CHAMBER OF COMMERCE (ICC) BY 3 ARBITRATORS APPOINTED IN ACCORDANCE WITH THE SAID RULES. VENUE OF ARBITRATION SHALL BE ZURICH, SWITZERLAND. THE LANGUAGE OF ARBITRATION SHALL BE ENGLISH. THE PARTIES WILL KEEP THE EXISTENCE OF THE ARBITRATION OR ANY INFORMATION OR DOCUMENT RELATING THERETO OR DISCLOSED THEREIN AND THEREFORE CONFIDENTIAL.

19. GOVERNING LAW and severability

19.1 THIS CONTRACT SHALL BE SUBJECT TO THE SUBSTANTIVE LAWS OF SWITZERLAND TO THE EXCLUSION OF THE CONFLICTS OF LAWS PROVISIONS AND THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS.

19.2 In case of invalidity or unenforceability of any provision, the remainder shall not be invalid or unenforceable but said provision shall be replaced by a valid and enforceable provision which corresponds to the largest extent legally permissible to the invalid provision and the parties' presumed intention.

Principal is herewith informed that Contractor stores personal data according to the applicable Swiss Data Protection laws.