

## **General Terms and Conditions of Waldorf Technik for Deliveries and Services**

### **1. GENERAL, CONCLUSION OF CONTRACT, SCOPE OF SERVICES**

- 1.1 These General Terms and Conditions ("GTC") apply to the legal relationships between us (also referred to here as "WT") and companies, legal entities under public law or special funds under public law ("Customers"). These GTC are in particular to be regarded as a framework agreement for all purchase agreements, service contracts and contracts for work and services for goods offered by WT ("Products") as well as for all other services, in particular support, maintenance, consultancy and other service offerings. They also apply to all future business relationships even if they are not expressly agreed again.
- 1.2 These GTC apply exclusively to all offers, sales, deliveries and services, and to all other legal relationships between us and our Customers. Any deviating or supplementary conditions of the Customer are applicable only if we expressly confirm them.
- 1.3 Our offers are in principle non-binding and subject to change unless they are expressly marked as binding or they contain a binding deadline by which the offer must be accepted. Acceptance of our offers must be in writing or in text form. Oral agreements require confirmation in text form by WT in order to be valid. Changes and additions to a confirmed order require an additional order placement in text form.
- 1.4 The data on the goods to be supplied or services to be provided (such as weights, dimensions, consumption, strength, tolerances and technical data) and visual representations thereof (such as drawings and illustrations) are only approximate unless the purpose for which the goods are to be used makes exact compliance necessary. Unless expressly agreed in the individual case, they do not constitute guaranteed attributes, but descriptions or designations of the goods or services.  
  
Deviations/changes that are customary in the trade and deviations/changes which arise as a result of legal provisions or constitute technical improvements and substitution of components by equivalents are permitted insofar as they do not impair the Products' fitness for the contractually agreed purpose.
- 1.5 WT reserves the right to make the following changes to the contractual products after concluding the contract, provided this is reasonable for the Customer:

product modifications in the course of continuous product development and improvement; minor and insignificant deviations in colour, shape, design, dimensions, weight or quantity; deviations customary in the trade.

WT will inform the Customer in writing of all changes, additions or deletions that may become necessary during the processing of the order, which go beyond deviations/changes that are customary in the trade within the meaning of the aforementioned clause 1.5 of these GTC, such as for additional equipment, devices, tools, etc. required for the ordered Product's function. The change is deemed to have been approved by the Customer if WT has granted the Customer a reasonable period of time to make an express declaration together with the information; WT undertakes to specifically draw the Customer's attention to such consequence of the customer's conduct at the start of the time period.

- 1.6 The ownership right and copyright of drawings, plans, samples and other documents of a tangible and intangible nature, also in electronic form, will remain with WT, insofar as this has not been expressly agreed otherwise in the individual case. Documents may only be reproduced or made accessible to third parties with WT's prior written consent. The same applies to information and documents designated as confidential by the Customer.

## **2. PRICES, PAYMENT TERMS**

- 2.1 The prices and delivery options stated in our catalogues, printed matter, letters, etc. are subject to change; cost estimates are non-binding. The prices will apply without discounts or other rebates and, unless expressly agreed otherwise in the individual case, ex works/warehouse (EXW Incoterms 2020), excluding packaging, disposal costs, transport, insurance, assembly and commissioning, plus the applicable value added tax, customs duties and other public charges.
- 2.2 If the agreed prices are based on our list prices and the delivery/service is to take place more than four months after conclusion of the contract, the list prices valid at the time of delivery/service will apply. If special productions require the use of new technologies or processes and result in additional costs, WT is entitled to demand an adjustment of the agreed prices to the altered costs; delivery deadlines and terms of payment are to be redefined accordingly. This provision is applicable only if the order confirmation expressly refers to this possibility. In this case, the order confirmation describes the state of the art, which is the basis of the initial price.
- 2.3 In the absence of any agreements to the contrary, payments must be made immediately after invoicing without any deductions.

- In the case of orders for plants, machinery and machinery parts with a total price of less than € 50,000.00, payments must be made as follows: for first order, advance payment or 30 days net, subject to a positive credit check, without deduction of discount. For subsequent orders, 30 days net after positive initial settlement, without deduction of discount, subject to a positive credit check.
  - For orders not including construction services with a total price of more than € 50,000.00, payments must be made as follows: 50 % immediately net after order confirmation, 40 % immediately after announcement of readiness for first approval at the Company Waldorf Technik (delivery shall take place after payment of the 2. partial invoice), 10 % after release or commissioning 30 days net, but late. 90 days after delivery, in each case without deduction of discount and subject to a positive credit check.
  - For orders including construction services with a total price of more than € 50,000.00, payments must be made as follows: 50 % immediately net after order confirmation, 40 % immediately after announcement of readiness for first approval at the Company Waldorf Technik (delivery shall take place after payment of the 2. partial invoice), 10 % after release or commissioning 30 days net, but late. 90 days after delivery, in each case without deduction of discount and subject to a positive credit check.
  - For the provision of services and assembly work, WT is entitled to invoice part payments for partial services rendered. WT can make the continuation of the work dependent on the payment of these partial invoices, unless the Customer provides security for the amount invoiced.
- 2.4 If a fixed payment deadline is not met, default will occur without a reminder. In this case, WT is entitled to demand default interest at the statutory rate, unless WT proves a higher loss incurred as a result of default interest. WT reserves the right to assert further claims.
- 2.5 If the Customer is in default with an amount of at least 1/10 of the payment owed, the entire remaining amount will become due without reminder. If the Customer's buyer has paid for the Product in full or in part, WT's claim against the Customer becomes due immediately. The same will apply in the event of cessation of payments, application for the opening of insolvency proceedings against the Customer's assets or in the event of compulsory enforcement. The Customer is entitled only to rights of set-off, retention and refusal of performance against WT's claims if its counterclaims have been declared final and absolute or are undisputed by WT. The Customer may only exercise rights of retention and rights to refuse performance insofar as its counterclaim

is based on the same contractual relationship. This will have no effect on the Customer's claims for defects.

- 2.6 WT is entitled to make the supply of outstanding goods and services dependent on advance payment or provision of a security if, after the contract has been concluded, it learns of circumstances which are likely to materially adversely affect the Customer's creditworthiness and which jeopardise the Customer's ability to pay WT's outstanding claims under the respective contractual relationship (including other individual orders under the same framework agreement).
- 2.7 In the absence of any other provision by the Customer, payments will be set off against the oldest outstanding invoice, including any associated ancillary costs.

### **3. DELIVERY AND PERFORMANCE DEADLINES**

- 3.1 WT's compliance with delivery/performance deadlines is subject to all technical issues having been clarified and the Customer having duly fulfilled all obligations incumbent upon it, such as providing the necessary technical information and documents, official certificates or permits as well as material aids, test material for trial runs, sample parts, machinery, machinery parts or tools that the Customer has to supply.
- 3.2 Unless otherwise agreed, sample parts (components) to be processed are ready for series production and have been supplied in sufficient quantities.
- 3.3 In the case of an agreed down-payment/advance payment, the agreed payment terms and other obligations must be fulfilled.
- 3.4 If the Customer does not fulfil the aforementioned prerequisites in due time, the delivery/performance periods will be extended or the delivery/performance deadlines will be postponed by the period of the delay for which the Customer is responsible plus a reasonable start-up period, or new delivery/performance periods or new delivery/performance deadlines will be agreed. This also applies if the Customer subsequently requests a change in the scope of the service and this change is associated with an additional expenditure of time.

This does not apply if WT is responsible for the delay.

- 3.5 Under no circumstances are delivery deadlines or delivery periods to be regarded as fixed, unless this is expressly agreed.
- 3.6 Insofar as WT does not expressly bear the procurement risk, the delivery is subject to WT having been supplied in a timely manner. This does not apply if WT is responsible for the non-supply or delay. The Customer will be informed of the services not being available without undue delay. The consideration will be refunded without undue

delay. WT will present the covering contract to the Customer and assign the resulting rights to it to the extent required without undue delay.

- 3.7 Delivery/performance deadlines or delivery/performance periods are deemed to have been met for supplies if the Product has left WT's factory by their expiry or notification that it is ready for shipment has been given, or, if the delivery/performance is delayed for reasons for which the Customer is responsible, upon notification that the Product is ready for shipment within the agreed period. If acceptance is required from the Customer, the acceptance date set by WT with reasonable notice or agreed with the Customer is decisive. The statutory provisions on default of acceptance and the following clause 3.11 will remain unaffected.
- 3.8 WT will not be liable for the impossibility of the delivery/performance or for delays in delivery/performance insofar as these are caused by force majeure or other events not foreseeable at the time the contract was concluded (e.g. operational disruptions of all types, pandemics including COVID-19, difficulties in procuring materials or energy, transport delays, strikes, legal lock-outs, lack of personnel, energy or raw materials, difficulties in obtaining the required official permits, official measures or the failure of suppliers or subcontractors to deliver, to deliver correctly or on time) for which WT is not responsible. If such events make the delivery or performance extremely difficult or impossible for WT and the impediment is not only temporary, WT is entitled to withdraw from the contract. Where impediments are temporary, the delivery/performance period will be extended or the delivery/performance deadlines will be postponed by the duration of the impediment plus a reasonable start-up period, or new delivery/performance periods or new delivery/performance deadlines will be agreed. Where the Customer cannot be reasonably expected to accept the goods or services owing to the delay, it may withdraw from the contract by sending WT a written declaration without undue delay.

WT will inform the Customer of an impediment to delivery/performance without undue delay after WT has become aware of it.

- 3.9 We will be in default only after a written reminder has been sent, even in the case of bindingly agreed periods and deadlines.
- 3.10 If WT is in default with a delivery or performance or if a delivery or performance becomes impossible for WT, regardless of the reason, and if WT should be liable for this, WT's liability is limited to damages in accordance with clause 7 .
- 3.11 If the Customer is in default with acceptance or culpably breaches other duties to cooperate, WT may demand that any losses which this may incur be reimbursed (including additional expenses). WT reserves the right to assert further-reaching

claims. The risk of accidental loss or accidental deterioration of a Product will pass to the Customer at the latest when it falls into default of acceptance. When default of acceptance occurs, the claims to which WT is entitled from the transaction will also become due. If the Customer falls into default of acceptance, WT is entitled to store the Product at the risk and expense of the Customer.

- 3.12 WT is entitled to partial deliveries and partial performances at any time if the partial delivery can be used by the Customer in the context of the contractual purpose, the delivery of the remaining ordered Products is ensured and the Customer does not incur any significant additional expenditure or additional costs as a result, unless WT expressly agrees to bear these costs.

#### **4. TRANSFER OF RISK, SHIPPING, TESTS, ASSEMBLY**

- 4.1 The risk of accidental loss and accidental deterioration of the Products will pass to the Customer – even in the event of partial delivery – upon handover, in the event of sale by delivery to a place other than the place of performance upon delivery of the Products to the forwarding agent, the carrier or any other third party designated to carry out the shipment (FCA, FOB Incoterms 2020). This also applies to carriage paid delivery, loading onto our vehicles for the purpose of delivery, and in the event of self-collection by the Customer upon handover of the goods to the Customer. Unless otherwise agreed, the Customer or its forwarding agent, carrier or collector will be responsible for the safe loading, stowage and securing of the Products, and for their unloading.

If acceptance has been agreed, the risk will pass to the Customer with the (possibly fictitious) acceptance. For the time between the Customer obtaining possession and the acceptance, or in other cases in which the Customer obtains possession of the Products before the transfer of risk, the Customer undertakes to insure the Products at replacement value and already now assigns to WT the claim to the sum insured for damages.

- 4.2 The Products are generally installed by the Customer. The Customer must arrange for suitable lifting equipment for the installation in good time. If the parties have agreed on WT installing the Products, large plants/machinery including all accessories will be unloaded from the truck by a transport company instructed by WT, placed on armoured rollers, transported to the installation site and positioned at the installation site. All aids required for this (crane, forklift truck and armoured rollers) must be provided by the Customer in good time, unless otherwise agreed between the parties. Insofar as the parties have agreed on WT installing the Products, the Customer must in particular ensure that (i) the installation site is free of obstacles, (ii) if air cushions are used, the transport route does not exceed a length of 30 m and (iii) the transport route is

completely level and free of interfering contours. The lifting of the Products again at the installation site (for example, due to a plinth) by a special crane is not included in the scope of delivery.

- 4.3 Transport insurance will be taken out only at the request and expense of the Customer, unless expressly agreed otherwise in the individual case.
- 4.4 If delivery or performance and acceptance is delayed for reasons for which the Customer is responsible, the risk passes to the Customer upon notification that the Product is ready for shipment or ready to be accepted.
- 4.5 Unless WT has received special shipping requirements from the Customer or unless expressly agreed otherwise in the individual case, shipping will be carried out by Deutsche Post AG, a parcel service, Deutsche Bahn AG or by a forwarding agent, depending on the type, scope and expediency of the delivery, at WT's reasonable discretion and without liability for the type of shipping. The additional costs incurred by express mail or express delivery requested by the Customer will also be borne by the Customer.
- 4.6 The packaging will be determined by WT itself depending on the weight, volume, type and duration of transport of the Product, unless WT has received special packaging requirements from the Customer or unless expressly agreed otherwise in the individual case. WT is only required to dispose of packaging of any kind, in particular outer packaging and transport packaging, if and insofar as WT has a duty to do so due to mandatory public law provisions or if this has been expressly agreed in the individual case. This also applies if WT bears the costs of packaging or shipping.
- 4.7 The Customer must report any transport damage directly to the carrier without undue delay and inform WT. If WT has taken out transport insurance on behalf of the Customer, WT must be sent a statement from the carrier about the damage found without undue delay so that any claims can be asserted against the transport insurer.  
  
Even if they show minor defects, the Customer must accept delivered Products without prejudice to its rights under clause 5.
- 4.8 If agreed between WT and the Customer, WT will test the delivery items before delivery. Subject to individual agreement with the buyer, only such Products are owed with which materials customary in the market can be processed in the size and condition stated in the specification.

For the delivery of test material, the Customer must observe WT's corresponding delivery instructions (delivery specifications for trial run material). WT is responsible for retaining and disposing of the sample material provided only to the extent that this is expressly stated in the order confirmation.

- 4.9 Assembly and service work, commissioning services and instruction of the Customer's operating personnel will be charged based on time and effort. Invoicing will be carried out in accordance with WT's currently applicable charge rates. The working hours, waiting times, travel times, expenses for daily allowance, costs for overnight stays as well as necessary outlays for fare and transport are calculated. The material used as well as other expenses for the consumption of materials will be charged according to the agreed prices in the absence of an agreement at reasonable prices.

If assigned assembly personnel cannot work for reasons for which WT is not responsible, the waiting time will be charged as working time. This also applies to quarantine measures ordered by the authorities. If, for reasons for which WT is not responsible, work has to be carried out at times or under circumstances that deviate from the contractually stipulated conditions, the Customer must additionally compensate the additional expenses caused by this. Insofar as the execution of work is requested at times or under circumstances that require collectively agreed surcharges (including for overtime), WT may charge surcharges on its hourly charge rates in the amount of the percentages applicable to WT under the collective agreement.

Instruction of operating personnel will be charged additionally even if assembly is included in the price.

## **5. LIABILITY FOR DEFECTS**

- 5.1 The Customer is required to inspect the delivered Products without undue delay after delivery and to report any defects.
- 5.2 The delivered Products are deemed to have been approved if WT, with regard to obvious defects, obvious shortages or other defects which were or would have been identifiable in the course of an immediate, careful inspection, has not received notification of the defect within 7 days of delivery of the product, or otherwise – in the case of unclear or hidden defects – within 7 days of the discovery of the defect or the time at which the defect was identifiable to the Customer in the course of normal use of the Product without closer inspection.
- 5.3 In the event of a justified complaint, the Customer will be entitled to two attempts to rectify defects or make a replacement delivery at WT's discretion free of charge within a reasonable period of time. Shortages will be delivered subsequently. If two attempts to rectify defects or make a replacement delivery within a reasonable period of time are unsuccessful, the Customer will be entitled to the statutory rights, subject to the provisions of clause 7. Subsequent performance will include neither removal of the defective item nor reassembly if WT was not originally required to carry out assembly.



The expenses required for the purpose of inspection and subsequent performance, in particular transport, travel, labour and material costs (not: removal and assembly costs), insofar as these are not increased because the subject matter of the contract is located at a place other than our Customer's place of performance, will be borne by WT if there is actually a defect. Otherwise, WT may demand compensation from the Customer for the costs incurred by the unjustified request for rectification of the defect (in particular inspection and transport costs), unless the lack of defectiveness was not identifiable for the Customer.

WT can refuse to rectify defects or make a replacement delivery if the Customer does not fulfil its payment obligations towards WT to an extent that corresponds to the defect-free part of the service provided.

- 5.4 No warranty will be assumed, in particular, in the following cases: Unsuitable or incorrect use by the Customer or by third parties instructed by the Customer, in particular through the use of insufficiently qualified personnel, faulty assembly or commissioning, natural wear and tear (wearing parts), faulty or negligent handling, improper maintenance, unsuitable operating materials, defective construction work, unsuitable construction land, chemical, electrochemical or electrical influences, provided WT is not responsible for these circumstances.
- 5.5 WT is also not required to provide a warranty insofar as defects of Products are based on defective materials supplied by the Customer or insofar as defects of Products are based on the fact that the Customer has prescribed the execution of the order according to construction plans of third parties.
- 5.6 A delivery of used Products agreed with the Customer in the individual case is made to the exclusion of any warranty, unless WT has caused the defect intentionally or through gross negligence or has fraudulently concealed the defect.
- 5.7 The warranty period will be a maximum of 5000 operation hours or 12 months (whichever comes first), excluding wear parts. The warranty period will commence upon the date of successful commissioning of the system, but no later than 4 weeks from date of delivery. Replaced parts will become our property and must be sent to us at our request.
- 5.8 The right of recovery in accordance with sections 445a, 445b German Civil Code (*BGB*) is excluded, unless WT has caused the defect intentionally or by gross negligence or has fraudulently concealed the defect.

## **6. LIABILITY FOR LEGAL DEFECTS**

- 6.1 If the Customer instructs WT to execute the order according to certain specifications, the Customer is responsible for ensuring that this does not violate third parties' property rights. The Customer thereby indemnifies WT against any third-party claims; the Customer also bears the costs of any defence measures, including legal disputes.
- 6.2 If the Products delivered by WT infringe a third-party industrial property right or copyright, WT will, at its discretion and at its cost, modify or replace the Products delivered by WT so that the third-party rights are no longer infringed, but the Products delivered by WT continue to satisfy the contractually agreed functions, or procure the right of use for the Customer by concluding a licence/user agreement. If WT does not manage to do this within a reasonable time period, the Customer may withdraw from the contract or make a reasonable reduction to the purchase price. Any damages claims on the part of the Customer are subject to the limitations of clause 7.

## **7. LIABILITY FOR DAMAGES**

- 7.1 WT's liability for damages – only in the event of slightly negligent breaches of duty and subject to the exceptions in the following clause 7.2 – is limited as follows: (i) in the event of a breach of material duties (cardinal duties), WT's liability is limited to the amount of the damage typically foreseeable at the time the contract is concluded; (ii) WT is not liable in the event of breaches of minor duties. Cardinal duties are contractual duties where compliance is indispensable to proper performance of the contract and where the Customer is entitled to rely on such duties being complied with. Liability for loss of profit, production downtime or indirect damage is excluded.
- 7.2 The above limitation of liability does not apply to instances of mandatory statutory liability, particularly in accordance with the German Product Liability Act (*ProdHaftG*), in the event of assumption of a warranty or of a procurement risk, or to any damage resulting from injury to life, limb or health.

## **8. RETENTION OF TITLE**

- 8.1 WT reserves the title to the delivered Products until all claims of WT against the Customer arising from the business relationship, including future claims arising from contracts concluded simultaneously or subsequently, have been paid in full. This will also apply when individual or all of WT's claims have been included in a current invoice and the balance has been struck and acknowledged.
- 8.2 The Customer is entitled to resell or process Products acquired subject to retention of title in the ordinary course of business; however, the Customer hereby assigns to WT

all claims arising from the resale or processing against its buyers or third parties, regardless of whether the delivered Products were resold processed or unprocessed, in the amount of the final invoice (including VAT) agreed with WT. WT hereby accepts the assignment. The Customer will remain authorised to collect the claim even after it has been assigned. This does not affect WT's authority to collect the claim itself. However, WT will not collect the claim as long as the Customer meets its payment obligations and is not in default with payment, and as long as no application is filed for the opening of insolvency proceedings and payments have not stopped. However, where such case occurs, WT may demand that the Customer notify WT of the claims assigned and their debtors, that it provide WT with whatever details are required to collect the claims, hand over to WT the associated documents and notify the debtors (third parties) of the assignment.

- 8.3 Any processing, combining, mixing, blending or altering of the Products subject to retention of title by the Customer will always be carried out on WT's behalf. If a Product is processed, combined, mixed or blended with other items which do not belong to WT, WT will acquire co-title in the new item in the ratio of the value of the Product (final invoice amount including VAT) compared with the other processed items at the time of processing, combining, mixing or blending. The same incidentally also applies to the item created through processing, combining, mixing, blending or alteration as to the Products delivered subject to retention of title. If the combining/mixing process takes place in such a way that the Customer's item must then be regarded as the principal item, then it is deemed agreed that the Customer will transfer co-title to WT pro rata. The Customer will hold the sole title or co-title thus generated in custody on WT's behalf free of charge.
- 8.4 WT is entitled to insure the Product against theft, breakage, fire, water and/or other damage at the Customer's expense if the Customer has not provided evidence that it has taken out such insurance itself.
- 8.5 In the event of conduct in breach of contract by the Customer, in particular default of payment, WT will be entitled to repossess the Products – after issuing a written reminder and withdrawing from the contract – and the Customer will expressly be required to surrender these.
- 8.6 The Products which are subject to retention of title may not be pledged to third parties or assigned as collateral until the secured claims have been paid in full. The Customer must inform WT in writing without undue delay if third parties assert rights to Products delivered subject to retention of title so that WT can, if necessary, initiate third-party proceedings instituted to prevent execution of a judgment pursuant to section 771 German Code of Civil Procedure (*ZPO*).

## 9. LICENSING OF SOFTWARE

- 9.1 To the extent that software is included in the scope of delivery, the Customer is granted a non-exclusive, non-transferable, non-sublicensable, worldwide right, limited to the purposes contractually agreed upon by the parties, to use the delivered software including its documentation on or for the Product intended for it, upon full payment of the respective agreed remuneration. Use of the software on other (possibly also additional) products or systems is not covered by the rights granted to the Customer. In principle, the Customer is also not entitled to receive the associated object or source code, unless its provision to the Customer was separately agreed in writing.
- 9.2 Unless expressly agreed otherwise, the software delivered by WT is standard software which was not tailored or adjusted to meet the specific needs of the Customer. Therefore, the provisions of the purchase agreement generally apply to the supply of the software by WT.
- 9.3 In the case of software from third-party manufacturers/upstream suppliers, WT will only provide the Customer with the original user documentation of the respective manufacturer/upstream supplier. WT is not required to deliver any additional documentation. Documentation can also be provided online (e.g. as an online help page).
- 9.4 If software from a third-party manufacturer/upstream supplier forms part of the service owed by WT, the Customer may also only use such software in accordance with the terms of licence/use of the respective manufacturer/upstream supplier; on request by WT, it must confirm its acceptance of these terms, also in relation to the respective manufacturer/upstream supplier, in writing. These terms of licence/use will be provided to the Customer on request even before conclusion of the contract.
- 9.5 All rights to the software and the documentation, including copies, not expressly transferred to the Customer by WT within the context of this clause 9 will remain with WT or the manufacturer/upstream supplier of the software.
- 9.6 The Customer undertakes, in particular, not to modify, reproduce or create derivative works of the software, not to rent it out, make it publicly available or otherwise distribute it without WT's express consent. The Customer may only perform the acts referred to in section 69d German Act on Copyright and Related Rights (*UrhG*) under the circumstances described therein and may not otherwise reverse engineer, decompile, disassemble or otherwise use the software to create other software products or attempt to reveal the source code, system architecture or algorithms of the software. The Customer must also install all software updates provided free of charge by WT or the respective manufacturer/upstream supplier. The Customer undertakes not to

remove or to alter manufacturer's data, in particular copyright marks, without WT's prior express consent.

- 9.7 The software delivered by WT may contain other software that is subject to an "open source" or "free software" licence ("**Open Source Software**"). WT is entitled to include the Open Source Software in the software and the Customer is entitled to use it as part of the software. However, the rights of use granted within the framework of this clause 9 do not apply to the Open Source Software contained in the software. Instead, the terms of the respective open source software licence apply to the Open Source Software. No provision contained in these GTC limits the rights of the Customer under an open source software licence or grants the Customer rights that conflict with or supersede an open source software licence. In certain cases, WT is required, in accordance with the terms of licence of the respective Open Source Software, to provide the Customer with copies of the source codes of Open Source Software, the applicable terms of licence and/or other information. In such case, the Customer may obtain these copies of the relevant Open Source Software, licence terms and/or other information by sending a request to WT.
- 9.8 If the Customer declares withdrawal from the contract, the Customer's right to use software licensed or otherwise provided by WT will end. Within the context of the retransfer, the Customer must, at WT's discretion, (i) return all software, including any copies made, to WT, or (ii) destroy it and confirm this in writing to WT.

## **10. CONFIDENTIALITY, REVERSE ENGINEERING**

- 10.1 The Customer will treat all documents or other information provided to it by WT as confidential. This also applies if the information does not meet the requirements of a trade secret within the meaning of section 2 German Trade Secrets Act (*GeschGehG*)
- 10.2 This does not apply to the extent the information was independently developed by the Customer, transmitted to it by third parties without breach of a confidentiality obligation, is in the public domain or the Customer is required to disclose it due to a statutory, official or court order.
- 10.3 Reverse engineering regarding products or services delivered by WT within the meaning of section 3 German Trade Secrets Act (*GeschGehG*) is prohibited.

## **11. DATA PROTECTION**

- 11.1 The parties will process personal data exchanged within the framework of the business relationship in accordance with the applicable provisions of data protection law, in particular the General Data Protection Regulation (EU) 2016/679 (GDPR).

11.2 The Customer warrants that its employees involved in the processing of personal data are required to treat personal data confidentially and are trained to handle personal data in compliance with data protection law.

## **12. PLACE OF PERFORMANCE, PLACE OF JURISDICTION, ARBITRAL TRIBUNAL, APPLICABLE LAW**

12.1 The place of performance for all duties arising from this contractual relationship is WT's registered office.

12.2 The place of jurisdiction for all disputes arising directly or indirectly from this contractual relationship for WT is the competent court at the company's registered office, provided that the Customer is a merchant within the meaning of the German Commercial Code (*HGB*), a legal entity under public law or a special fund under public law. This does not affect WT's right to bring a claim against the Customer at its general place of jurisdiction.

12.3 If the Customer has its registered office outside the Federal Republic of Germany, WT, as claimant, will be entitled to appeal to a court of arbitration which will issue a final decision in accordance with the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with these Rules, excluding recourse to the ordinary courts of law. In the event of a decision by a sole arbitrator, the sole arbitrator is to be appointed by the International Court of Arbitration of the ICC. The language of the proceedings will be German. The venue of the arbitral tribunal is Düsseldorf.

12.4 All legal relationships between WT and the Customer are governed exclusively by the law of the Federal Republic of Germany applicable to legal relationships between German parties, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).