

**§ 1 General information and scope**

(1) These General Terms and Conditions of Sale (“GTCS”) shall apply to all our business relations between us, IHI Charging Systems International GmbH based in 99334 Amt Wachsenburg, OT Ichtershausen and our customers (“Customer“ or “Customers“). The GTCS shall only apply if the Customer is an entrepreneur pursuant to § 14 of the German Civil Code (“BGB”).

(2) The GTCS apply in particular to contracts for the sale and/or the delivery of tangible goods (“Goods“), irrespective of whether we produce the Goods on our own or purchase the Goods from suppliers (§§ 433, 651 BGB). Unless otherwise agreed, these GTCS apply in the respective version as framework agreement also for future contracts with the same Customer for sale and/or delivery of Goods without any requirement on our part to point out reference in the respective individual case.

(3) These GTCS apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Customer shall only become part of the contract and only to the extent as far as we have expressly accepted their application. This requirement for an acceptance also applies, amongst others, if we, with knowledge of general terms and conditions of the Customer, carry out delivery to the Customer without reservation.

(4) In individual cases, individual agreements with the Customer (including collateral agreements, supplements and amendments) shall in any case take precedence over these GTCS. For the content of such agreements, under the reservation of proof to the contrary, a written contract or our written confirmation is decisive.

(5) Legally relevant declarations and notifications of the Customer with regard to the contract (e.g. setting of a deadline, notification of defects, withdrawal or reduction) must be made in written or text form (e.g. letter, e-mail, fax). Legal formal requirements and further evidence, in particular in the event of doubt as to the legitimacy of the declarant, shall remain unaffected.

(6) References to the validity of statutory provisions have only clarifying significance. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCS.

**§ 2 Conclusion of the contract**

(1) Our offers are binding if they contain a specific acceptance period. In this case they can only be accepted within the acceptance period.

(2) Otherwise our offers are without obligation and non-binding. This shall also apply if we have handed over catalogue, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents to the Customer - also in an electronic form.

(3) The order of the Goods by the Customer is deemed a binding contractual offer. Insofar as not otherwise stated in the order we are entitled to accept this contractual offer within 4 weeks after its receipt. We can declare the acceptance either in writing or by delivery of the Goods to the Customer.

**§ 3 Delivery time and delay**

(1) The Time of delivery shall be agreed individually or stated by us upon acceptance of the order. If this is not the case, the delivery period shall be approx. 12 weeks from conclusion of the contract.

(2) In the event that we fail to meet the agreed delivery times in whole or in part for reasons of force majeure or other reasons for which we cannot be held responsible, we are entitled to postpone the commissioned service for the duration of the hindrance and a reasonable initial period. We will notify our Customer of this without undue delay and simultaneously notify the Customer of the estimated new delivery time. If performance remains unavailable within the new delivery period we are entitled to withdraw from the contract in whole or in part. Reasons of force majeure within the meaning of this provision include in particular natural disasters, storms, fire, war, terrorism, unrest, embargoes, trade blockades, sabotage, strikes and industrial action, either at our suppliers or at us. Reasons for which we cannot be held responsible within the meaning of this provision are in particular the non-timely self-delivery by our supplier if we have concluded a congruent hedging transaction, neither we nor our supplier are at fault or we are not obliged to procure in individual cases.

(3) Whether a delay has incurred shall be determined in accordance with the statutory provisions. In any case, however, a written reminder from the Customer is required.

(4) The rights of the Customer pursuant to § 8 GTCS and our statutory rights, in particular in case of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), remain unaffected.

#### **§ 4 Delivery, passing of risk, acceptance and default of acceptance**

(1) The delivery is carried out according to the agreed delivery terms. Insofar as not otherwise agreed, delivery is carried out EXW (Incoterms 2010) from the place of production of the Goods at which also the place of performance for the delivery and a possible subsequent performance is. At the Customer's request and expense, the Goods will be shipped to another destination (dispatch purchase). Unless otherwise agreed, we shall be entitled to determine the type of dispatch (in particular transport company, dispatch route, packaging) ourselves.

(2) The risk of accidental loss and accidental deterioration of the Goods shall pass to the Customer by no later than when the Goods are handed over. At a sale involving the carriage of Goods the risk of accidental loss and accidental deterioration of the Goods and the risk of delay shall, however, pass with the delivery of the Goods to the carrier, the freight forwarder or the other person or institution determined to carry out the shipment already. Insofar as an acceptance has been agreed, such acceptance shall be decisive for the passing of risk. Incidentally, the statutory regulations of the law governing contracts for work and services shall also apply accordingly to an agreed acceptance. It is deemed equivalent to the handover or acceptance if the Customer is in default with the acceptance.

(3) If the Customer is in default of acceptance, if it fails to provide an act of assistance or if our delivery is delayed for other reasons for which the Customer is responsible we are entitled to request compensation for the thus arising damages including additional expenses (e.g. storage costs). Therefore we charge a lump-sum compensation of 150,00 EUR per calendar day, beginning with the delivery period or - in the absence of a delivery period - with the notification that the Goods are ready for dispatch. The proof of a higher damage and our statutory claims (in particular reimbursement of additional expenses, appropriate compensation, termination) shall remain unaffected; however, the lump sum shall be set off against further monetary claims. The Customer shall be entitled to prove that we have incurred no damage at all or only substantially less damage than the aforementioned lump sum.

#### **§ 5 Prices and terms of payment**

(1) Unless otherwise agreed in individual cases, our prices valid at the time of the conclusion of the contract shall apply ex works (EXW Incoterms 2010), plus statutory value-added tax. By a dispatch purchase (§ 4 para. 1 GTCS) the Customer carries the transport costs ex warehouse and the costs of a

transport insurance if necessary desired by the Customer. Unless we invoice the actual transport costs incurred in the individual case, a flat-rate transport charge (excluding transport insurance) of 500,00 EUR for European Customers and 1500,00 EUR for Customers outside the EU shall be deemed agreed. Any customs duties, fees, taxes and other public charges shall be borne by the Customer.

(2) The purchase price is due and payable within 14 days from invoicing and delivery or acceptance of the Goods. However, even within the framework of an ongoing business relationship, we are entitled at any time to make a delivery in whole or in part only against advance payment. We declare a corresponding reservation at the latest with the order confirmation.

(3) The Customer shall be in default with the expiry of the aforementioned payment deadline. Interest is to be paid on the purchase price at the respective applicable statutory interest rate for default during the default; the Customer currently owes default interest at a rate of nine (9) percentage points above the respective base interest rate. We reserve the right to assert further damages on default. Our claim for the payment of commercial maturity interest (§ 353 of the German Commercial Code (“HGB”)) remains unaffected.

(4) The Customer is only entitled to rights to offset or retention to the extent that its entitlement has been determined legally binding or is undisputed. In case of defects to the delivery the rights of the Customer, in particular § 7 para. 4 s. 4 GTCS, remain unaffected.

(5) If it becomes transparent after conclusion of the contract that our entitlement to the purchase price is at risk through insufficient ability of the Customer to perform (e.g. by an application for opening of insolvency proceedings) then according to the statutory regulations we are entitled to refuse performance and – if applicable after setting a deadline – to cancel the contract (§ 321 BGB). In case of contracts concerning the production of non-fungible objects (in German: “unvertretbare Sachen”; individual productions) we can declare the cancellation of the contract immediately; the statutory regulations concerning the lack of necessity to set a deadline remain unaffected.

## **§ 6 Reservation of title**

(1) We reserve the right of property of the sold Goods until the full payment of all of our current and future claims from the purchase contract and the current business relationship (secured claims).

(2) The Goods subject to reservation of title must neither be pledged to third parties, nor assigned as collateral before the full payment of the secured claims. The Customer must inform us immediately in writing if and insofar as there are any accesses of third parties (e.g. distraint) to the Goods which belong to us.

(3) In case of a conduct of the Customer which is in breach of the contract, in particular in case of non-payment of the due purchase price, we are entitled to withdraw from the contract according to the statutory regulations or/and to request that the Goods are handed over on the basis of the reservation of title. The request for handing over does not at the same time include the declaration of the withdrawal if we merely request that the Goods are handed over and reserve the right to withdrawal. If the Customer does not pay the due purchase price we may only make use of these rights if we have unsuccessfully set the Customer a reasonable deadline for payment in advance or such setting of a deadline is unnecessary according to the statutory provisions.

(4) The Customer is entitled except for revocation (§ 6 para. 4 (c) GTCS), to resell and/or to process the Goods which are subject to the reservation of title in proper business transactions. In this case the following provisions shall apply in addition:

(a) The reservation of title covers the products which are produced by processing, mixing or combining of our Goods at their full value, whereby we are deemed the manufacturer. If the ownership right

of third parties continues to exist with a processing, mixing or combination with goods of third parties then we shall acquire co-ownership in the ratio of the invoice values of the processed, mixed or combined goods. Incidentally the same shall apply to the created product as to the Goods delivered under reservation of title.

(b) The Customer hereby already assigns the claims against third parties, which arise from the resale of the Goods or product in total respectively in the amount of our possible co-ownership share, to us as collateral according to the afore-mentioned paragraph. We hereby accept the assignment. The obligations of the Customer stated in § 6 para. 2 GTCS shall also apply with regard to the assigned claims.

(c) Besides us, the Customer shall remain authorised to collect the receivables. We undertake not to collect the claim as long as the Customer meets its payment obligations towards us, there is no lack of his solvency and we do not assert the retention of title by exercising a right according to § 6 para. 3 GTCS. However, if this is the case we can request that the Customer informs us of the assigned claims and its debtors, provides all information which is necessary for the collection, hands over the relevant documents and informs the debtors (third parties) of the assignment. In this case we shall also be entitled to revoke the Customer's authorization to further sell and process the Goods subject to retention of title.

(d) If the realisable value of the collateral items exceeds our claims by more than ten percent we shall upon request of the Customer release collateral items at our choice.

## **§ 7 Claims for defects by the Customer**

(1) With regard to the rights of the Customer in the event of defects of quality and defects of title the statutory provisions apply unless otherwise specified below. The specific statutory provisions which apply in case of a final delivery of the Goods to a consumer remain unaffected (Entrepreneur's recourse pursuant to §§ 478, 445a, 445b BGB).

(2) Basis of our liability for defects is mainly any agreement reached concerning the condition of the Goods. All product descriptions which are the subject of the individual contract or which have been made public by us (in particular in catalogues or on our Internet homepage) shall be deemed an agreement on the quality of the Goods. As far as the condition has not been agreed upon, the statutory provisions must be applied to assess whether there is a defect or not (§ 434 para. 1 S. 2 and 3 BGB).

(3) Claims of the Customer as to defects require that the Customer has complied with its statutory obligations of examination and notification of complaint (§§ 377 HGB). For this applies: If a defect is determined during the inspection or subsequently then this is to be reported to us by the Customer without undue delay in writing. In any case, obvious defects must be reported in writing within three working days of receipt of the Goods and not recognizable defects during the inspection within the same period from discovery. If the Customer fails to properly inspect the Goods and/or report any defects our liability for the non-reported defect is excluded.

(4) If the delivered item is defective and the Customer claims subsequent performance we are entitled to initially choose whether we shall provide subsequent performance by eliminating the defect (subsequent improvement) or by delivery of a faultless object (substitute delivery). Our right to refuse subsequent performance under the statutory conditions remains unaffected. We are entitled to make the owed subsequent performance dependent on the fact that the Customer pays the due purchase price. The Customer is however entitled to retain a part of the purchase price which is reasonable in the ratio to the defect.

(5) The Customer is obliged to give us sufficient time and occasion for the subsequent performance owed and especially has to hand over to us the objected Goods for inspection purposes. In the event of

a substitute delivery the Customer must return to us the objected Goods in accordance with the statutory provisions. The subsequent performance does neither comprise the dismantling nor the re-assembly of the defective Goods if we were not initially contractually obliged to mount the Goods. The expenses which are necessary for the purpose of inspection and subsequent performance, including transport, route, work and material costs, as well as possible costs for the dismantling and re-assembly, we borne or reimburse in accordance with the statutory regulations, if there actually is a defect. Otherwise, we may demand compensation from the Customer for the costs incurred as a result of the unjustified demand to remedy the defect (in particular testing and transport costs), unless the lack of defectiveness was not recognisable to the Customer.

(6) In urgent cases, e.g. if the operational safety is endangered or to prevent disproportionate damage, the Customer has the right to remedy the defect himself and to demand compensation from us for the objectively necessary expenses. We must be informed immediately, if possible in advance, of any such remedy. The right of self-remedy does not exist if we would be entitled to refuse such subsequent performance in accordance with the statutory provisions.

(7) The Customer shall not be entitled to any claims for defects which result from any handling contrary to operating, maintenance and installation instructions, unsuitable or improper treatment or use, overuse (e.g. by changes caused by an increase in performance), incorrect or negligent handling, ordinary wear and tear and unauthorized interference with the Goods by the Customer or by third parties.

(8) If the supplementary performance has failed or a reasonable period set by the Customer for the supplementary performance has expired unsuccessfully as well as in the other statutory cases, the Customer may withdraw from the purchase contract or reduce the purchase price in accordance with the law. However, in the case of an insignificant defect, there is no right of withdrawal.

(9) Customer's claims for damages and/or compensation for futile expenses are also subject to the limitations of § 8 GTCS.

## **§ 8 Liability**

(1) As far as not otherwise stated in these GTCS including the following provisions we shall be liable pursuant to the statutory provisions in case of a breach of a contractual or tortious duty.

(2) The following applies to liability in the context of fault-based liability: We shall be liable for damages - for whatever legal reason - in the event of intent and gross negligence. In the event of ordinary negligence, we shall be liable, subject to a milder standard of liability in accordance with the statutory provisions (e.g. for care in our own affairs), only for

(a) damages from the injury to life, body or health,

(b) damages from breach of an essential contractual duty (obligation, the satisfaction of which enables the proper execution of the contract at all and on whose compliance the contractual partner relies or may rely on); in this case our liability is limited to the reimbursement of the foreseeable, typically occurring damages.

(3) The restriction and exclusions of liability pursuant to para. 2 shall also apply in the event of breaches of duty by persons whose fault we are responsible for in accordance with statutory provisions and for the liability of these persons. They shall not apply insofar as we have maliciously failed to disclose a defect or have taken over a guarantee for the condition of the Goods. The same shall apply to claims of the Customer according to the German Product Liability Act ("ProdHaftG").

(4) The Customer can only withdraw from or terminate the contract due to a breach of a duty, which does not consist of a defect, if we are responsible for the breach of duty. A free right of termination of the Customer (in particular according to §§ 650 and 648 BGB) is excluded.

(5) In all other respects our liability is excluded.

## **§ 9 Compliance**

(1) Within the framework of its commercial relationship with us, the Customer is obliged to desist from all practices which may lead to penal liability due to fraud or embezzlement, insolvency crimes, crimes in violation of competition, guaranteeing advantages, bribery, acceptance of bribes or other corruption crimes on the part of persons employed by the Customer or other third parties.

(2) In the event of violation of the above, we have the right to immediately withdraw from or terminate all legal transactions existing with the Customer.

## **§ 10 Export controls and sanctions**

(1) The Customer is obliged to adhere to all applicable laws, ordinances and official instructions with regard to the usage, export and import of the delivered Goods. If the Customer wishes us to deliver abroad, the Customer is obliged to ensure that all necessary permits for use, export and import are obtained.

(2) If the Customer delivers the Goods delivered by us or goods containing the Goods delivered by us abroad, he shall also be obliged to us to ensure that all permits for use, export and import required for this delivery have been obtained and that the delivery does not violate delivery prohibitions, trade embargoes or other sanctions.

(3) Unless otherwise agreed, the Customer shall bear the resulting costs and any costs incurred in the event of a breach. This includes in particular any customs duties, fees, taxes, other public charges and penalties.

## **§ 11 Intellectual property and confidentiality**

(1) The Customer recognizes our intellectual property rights (and those of our licensors) with regard to the Goods, the technical documentation, other product descriptions or documents. This also applies with regard to written documents which are marked as confidential. These may only be handed over to third parties with our explicit consent. The Customer does not acquire intellectual property rights such as e.g. patents and utility models. The Customer only acquires the right to use the Goods within the scope of this contract.

(2) The Customer agrees not to remove or modify references to the manufacturer or to patents (such as e.g. serial numbers on rating plates or on signs of cast or machined parts) which are contained on the Goods.

## **§ 12 Changes and hardship**

(1) The Customer may request changes to the design of the Goods the Customer has ordered, where the Goods to be furnished by us are to be specifically manufactured for the Customer. If any such change causes an increase in the costs or in the time required for our performance or if such change results in additional costs for the rework a reasonable adjustment shall be made and the contract shall be modified accordingly, provided that we in our reasonable discretion accept such request for changes.

(2) If for any reason our production or purchase costs for the Goods (e.g. costs of energy, equipment, labour, regulation, transportation, currency exchange rate, raw material) have materially changed

to an amount which is above our production or purchase costs for the Goods at the time the prices were agreed upon, then we may, by written notice to the Customer of such increased costs, request a renegotiation of the price of the Goods under this contract.

### **§ 13 Statute-of-limitations**

(1) Deviating from § 438 para. 1 no. 3 BGB the general statute-of-limitations for claims from defects of quality and title is one year from delivery. As far as an acceptance has been agreed upon, the statute-of-limitations period shall commence with acceptance. This shall not affect statutory special provisions on limitation of actions (in particular § 438 para. 1 no. 1 and para. 3, §§ 444, 445b BGB).

(2) The aforementioned statutes-of-limitations shall also apply to claims for damages of the Customer which are due to a defect of the Goods, unless the application of the regular legal statutes-of-limitations (§§ 195 and 199 BGB) would lead to a shorter statute-of-limitations in an individual case. Otherwise, the statutory periods of limitation shall apply exclusively to claims for damages by the customer pursuant to § 8 para. 2 s. 1 and s. 2(a) GTC.

### **§ 14 Applicable law and place of jurisdiction**

(1) The law of the Federal Republic of Germany shall apply to these GTCS and all legal relations between us and the Customer under the exclusion of all international and supranational legal regulations, in particular the UN Convention on the International Sale of Goods.

(2) If the Customer is a merchant pursuant to the German Commercial Code ("HGB"), a body corporate organized under public law or a public separate estate, the exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is 99310 Arnstadt, Germany. The same applies if the Customer is an entrepreneur within the meaning of § 14 BGB. We are, however, also entitled to file an action at the general place of jurisdiction of the Customer. Prior statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

### **§ 15 Final provisions**

(1) The Customer and we might discuss and mutually agree on additional or altering regulations in separate agreements.

(2) These GTCS are composed in English and German. In case of deviation between the English and German version the German version is decisive.

(3) If single provisions of these GTCS are or will become in whole or part invalid, not enforceable or not realisable, the validity of the other provisions of these GTCS remains unaffected.