

1. Scope

- 1.1 PCS sells, delivers and installs goods, including hardware and software, exclusively on the basis of these Terms and Conditions. They shall apply to all future contracts for the sale, delivery and installation of goods, even if they are not expressly agreed.
- 1.2 Contracts, standard clauses, terms and conditions of business or purchase of the customer shall not apply and shall not become part of the contract, even if individual provisions of the customer are not included in the Terms and Conditions of PCS. The tacit delivery of goods or provision of services by PCS shall not be considered consent to the validity of the terms and conditions of business and / or contract of the customer.
- 1.3 These Terms and Conditions shall apply only to business customers, but not to consumers (Section 13 German Civil Code [BGB]). Business customers are entrepreneurs (Section 14 German Civil Code), who, upon conclusion of the legal transaction, act in pursuance of their trade or self-employed profession, as well as legal entities under public law and special funds under public law.

2. Offers, conclusion of contract

- 2.1 Offers and price lists of PCS are non-binding price information and are subject to change without notice.
- 2.2 The contract concerning the sale, deliveries and services shall be concluded by the confirmation by PCS of the customer's order on the basis of a corresponding offer by PCS, unless the parties expressly agree on a different procedure. If the customer's order deviates from the contents of the corresponding offer of PCS, such deviations shall be deemed agreed only if expressly accepted by PCS in its order confirmation.

3. Delivery item

- 3.1 Unless otherwise agreed in writing, the content, scope and quality of the deliveries and services owed (hereinafter referred to as Deliveries) shall be determined by the order confirmation of PCS, subordinately by the offer of PCS and the product descriptions valid at the time of the offer of PCS, and, in addition, by these General Terms and Conditions. Use of the product as presupposed in the contract follows from the description of the product qualities. Technical data, specifications, product descriptions or other descriptions of services shall not be deemed warranties or guarantees.
- 3.2 Advertising statements of a manufacturer of hardware or software shall not become a part of the contract.
- 3.3 If the delivery of user documentation has been agreed, PCS may also provide it electronically or as integrated user assistance.
- 3.4 PCS shall be entitled to deliver goods and services of a higher quality, except where the customer cannot reasonably be expected to accept such higher quality.
- 3.5 PCS shall deliver the goods free of third party rights within the European Union, the European Economic Area (EEA) or in the country outside the EU and the EEA where the customer is domiciled.
- 3.6 The installation of the deliveries, instruction and training are not owed, unless these services are expressly agreed.

4. Rights of use

- 4.1 Offers, cost estimates, service descriptions and other documents (hereinafter collectively referred to as Documents) provided by PCS to the customer shall be treated confidentially and may not be made accessible to third parties without the prior written consent of PCS. They shall be

returned to PCS if an order is not placed. Electronic copies of these Documents shall in such case be physically and irretrievably deleted. The provisions of clause 12 (Confidentiality) shall apply in addition.

- 4.2 PCS grants the customer the simple right, limited in terms of content or territory, to use the contractually agreed software, the documentation to be supplied (if agreed) and other copyrighted services, upon payment in full of the remuneration payable, to the extent agreed for its own purposes within the European Union (EU), the European Economic Area (EEA) or the country outside the EU and the EEA where the customer is domiciled. Unless otherwise agreed in writing, the right to use the software shall be limited to the version and release of the respective software as stated in the order confirmation or as delivered by PCS. No right is granted to the source code of the software nor any right to the transfer of such rights.
- 4.3 A right to reproduction (except insofar as necessary for use as agreed), distribution, public reproduction, translation, editing, redesign, extension or production of derived works is expressly not granted. Likewise, a right to rent out, including leasing of the software, a similar right to transfer for use or a right to process third-party data with the software is expressly not granted.
- 4.4 Property right and copyright notices on and in the software may not be removed; these must be retained, especially in the case of permitted copies.
- 4.5 Documentation, records and other materials may not be copied.

5. Delivery, delivery periods, delays in delivery

- 5.1 If the parties have agreed to call off partial quantities or partial services (Call Orders), the customer must call off and accept the partial quantities or partial services in due time and in the agreed partial quantities or partial services. If, in the case of Call Orders, the term, delivery dates and / or the scope of the individual partial deliveries and lots have not been agreed with binding effect, PCS may, after confirmation of the order, request the customer to specify them with binding effect, taking into account the interests and concerns of PCS. If the customer does not specify them in writing and with binding effect within a period of 21 calendar days after such request, PCS may specify them with binding effect for the customer. Any further claims of PCS remain unaffected.
- 5.2 Deliveries shall be made to the delivery address provided by the customer, unless the parties agree otherwise. PCS shall be entitled to make partial deliveries and provide partial services, unless such partial deliveries and services are economically unreasonable for the customer.
- 5.3 Service and delivery dates and periods and / or delivery periods after an agreed event (Delivery Times) shall be binding only if they have been expressly agreed with PCS as binding. Compliance with Delivery Times for the agreed deliveries shall be subject to the timely receipt of the customer's order, the timely and proper provision of all materials and acts of participation by the customer, and the payment of the agreed advance payments and those requested by PCS (clause 7.3). If the customer fails to meet these and other agreed preconditions in due time, the Delivery Times shall be extended accordingly plus a reasonable restart time.
- 5.4 The right of correct and timely delivery to PCS is reserved. PCS shall inform the customer without delay if it fails to receive deliveries correctly or in a timely manner itself.
- 5.5 Binding Delivery Times are deemed to have been met if the agreed deliveries are dispatched or made available for collection within a delivery time agreed with binding effect. Insofar as the creation of a new item and / or the installation of the delivery items is / are contractually ag-

- reed, binding Delivery Times shall be deemed to have been met if the creation and / or the installation is carried out within the agreed period.
- 5.6 If PCS is in default with only a part of the delivery, the customer may withdraw from the contract only with respect to that part, except where the remaining parts of the delivery or service are not economically viable on their own for the customer.
- 5.7 If, after the due date, the customer sets PCS a time limit for delivery, which must always be reasonable, the customer shall at the same time declare in text form, in a legally binding and unambiguous manner, whether, after expiry of the time limit set, the customer will continue to insist on the agreed delivery or whether it will assert claims in lieu of performance. In addition, the customer shall, at the request of PCS, declare without undue delay whether, after expiry of a grace period set by it, the customer will withdraw from the contract, claim damages in lieu of performance and / or reimbursement of expenses, or continue to insist on the performance of the agreed deliveries and services.
- 5.8 The acceptance of the delivery is an essential contractual obligation of the customer. If dispatch or the provision of services is delayed at the request of the customer or for reasons for which the customer is responsible, the risk of performance and remuneration shall pass to the customer upon notification of readiness for dispatch.

6. Duties of the customer / data backup

6.1 Acts of participation and provision of materials

In addition to the acts of participation and the provision of materials described in these Terms and Conditions, in the offer and, if applicable, in the order confirmation, the customer shall, at the request of PCS, provide all necessary and expedient participation and the materials in the required quality and completeness in a timely manner and make decisions so that PCS is able to provide the deliveries and services of PCS as agreed. If participation, materials and decisions are not provided or made completely, in the required quality or in a timely manner, the customer shall pay for the waiting time of the affected employees of PCS on the basis of the PCS price list valid at such time. PCS reserves the right to assert further claims.

- 6.2 The customer is obliged to carry out data backups regularly, but at least once per calendar day, in line with the risk and store the data backups in a separate location on separate hardware or storage media. The data backups must be carried out in such a way that they can be used without additional effort in a machine-readable form (with standard programs) to restore changed or lost data.

7. Prices, terms of payment, advance payments

- 7.1 The customer must pay the agreed prices, remuneration and license fees. In the absence of an express agreement to this effect, the prices, remunerations and license fees to be paid shall be as stated in the PCS price list valid at the time of service / delivery. A discount shall not be granted.
- 7.2 All prices are quoted net plus statutory value-added tax and other charges. Deliveries to places of delivery in Germany and Austria shall be made carriage paid. For deliveries to delivery points in other EU countries, the customer must pay a flatrate shipping fee per device and for deliveries to countries outside the EU, the respective transport costs. If PCS insures the delivery at the customer's request (clause 5.2), the customer shall pay the respective costs and fees.
- 7.3 If agreed partial deliveries or partial services are provided in accordance with clause 5.2 sentence 2 of these Terms and Conditions, they may be invoiced separately and independently by PCS.
- 7.4 In the case of payment claims, the customer shall be in default at the latest 30 calendar days from the date of the invoice. The statutory default inter-

est rate shall apply to interest on maturity, usage, deferral and / or default interest. Any further claims of PCS in these cases shall remain unaffected.

- 7.5 The customer may only offset claims under the same contractual relationship that are undisputed or have been legally established. Irrespective of this, the customer may offset a claim from a counterclaim that has replaced a right of retention to which the customer is entitled under the contractual relationship.
- The customer may exercise a right of retention to which it is entitled without restriction only on the basis of undisputed or legally established claims, provided that the claims are based on the same contractual relationship.
- For defects, the customer may only retain a proportionate part of the payment, taking the defect into account, and only if there is no doubt that the defects exists. The customer has no right of retention if a claim for defects is statute-barred.
- 7.6 PCS shall be entitled to make deliveries subject to partial or full advance payment of the remuneration due if, after conclusion of the contract, it becomes apparent to PCS that its claim to remuneration may be at risk due to the customer's inability to perform. This shall apply in particular if there is any indication for PCS that the financial situation of the customer has deteriorated significantly, or if the customer is in default with the payment of substantial parts of the claims for remuneration. In such cases, the statutory rights of PCS shall remain unaffected.

8. Retention of title

- 8.1 PCS reserves title to the delivered goods (reserved goods) until receipt of all payments under the contract. In addition, PCS shall retain title to the reserved goods until receipt of all payments arising under the business relationship with the customer.
- 8.2 At the customer's request, PCS shall, at its own discretion, release security to the extent that its realizable value exceeds the claims to be secured by more than 10% on a sustained basis.
- 8.3 The customer shall not be entitled to resell the reserved goods, unless the customer acquires the goods for resale as a distribution partner of PCS (see clause 8.4 below). The customer is not permitted to pledge the reserved goods or assign them as security.
- 8.4 If the customer is a distribution partner of PCS or if the customer expressly acquires the reserved goods from PCS for resale, the customer shall be entitled to resell the goods in the ordinary course of business. However, the customer hereby assigns to PCS all claims totaling the final invoice amount of our claim (including VAT) accruing from the resale to the customer against its customers or third parties, irrespective of whether the item(s) purchased are resold without or after processing. PCS accepts the assignment. The customer shall remain entitled to collect this claim in the ordinary course of business even after the assignment. The right of PCS to collect the claim itself shall remain unaffected. However, PCS undertakes not to collect the claim as long as the customer meets its payment obligations, is not in default of payment and, in particular, as long as no application for the institution of composition, self-administration or insolvency proceedings has been filed or payments have been suspended. If one of the above cases occurs, the customer is no longer entitled to collect the assigned claims itself. At the first request of PCS, the customer shall in such cases inform PCS about the assigned claims and their debtors, provide all information necessary for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment. PCS shall also be entitled to inform the third party of the assignment and demand payment directly to PCS.
- 8.5 Within the framework of orderly business operations and as long as

the customer is not in default, it may process, connect, install or modify the reserved goods, with the exception of contractually owed software, within the framework of orderly business operations. However, any connection, processing, installation or modification shall be made exclusively for PCS without any obligations arising therefrom for PCS. If the reserved goods are combined or processed with other goods not belonging to PCS (third party goods) and the third party goods are to be considered as the main goods, the customer shall provide PCS with a co-ownership share in the main goods in the ratio of the value of the reserved goods to the value of the main goods. The customer hereby grants to PCS the corresponding co-ownership share, unless the customer is not the owner of such third party goods. PCS hereby accepts the transfer.

- 8.6 In the event of seizure, confiscation, execution or other dispositions or interventions of third parties in the reserved goods or in security interests of PCS resulting therefrom, the customer shall notify PCS immediately in writing or in text form to enable PCS to enforce its rights against the third party. The customer shall immediately inform the third party of the ownership and rights of PCS in writing or in text form. If the third party is not able or not willing to reimburse PCS for the judicial and extrajudicial costs incurred in enforcing its property rights, the customer shall indemnify PCS against such costs upon first request or reimburse PCS for such costs.
- 8.7 In the event of a breach of duty by the customer – except for an insignificant breach of a non-performance-related accessory obligation –, in particular in case of a delay or suspension of payment, PCS shall be entitled to seize the goods, withdraw from the contract and / or take back the reserved goods
- 8.8 After taking back the reserved goods and after giving written notice, stating a reasonable period of time, PCS shall be entitled to realize the reserved goods; the realization proceeds shall be offset against the liabilities of the customer – less reasonable costs of realization. In particular, PCS shall be entitled to sell the goods by private sale after giving a prior warning of such realization.

9. Complaints and notices of defects

9.1 Duty to inspect

Immediately after the delivery of the goods, the customer shall thoroughly inspect them to ensure that they are in conformity with the contract and shall notify PCS immediately in writing or in text form of any deficiencies – in particular defects. If such notice is not given or not given in due time, the delivery shall be deemed accepted, unless the defect was not recognizable during the inspection.

9.2 Notices of defects

- 9.2.1 The customer shall immediately notify PCS in writing or in text form of any defects, specifying in detail and comprehensibly the circumstances in which they have become apparent and their effects.
- 9.2.2 Any alleged or suspected defects of title shall also be notified to PCS immediately in writing or in text form. The customer shall provide evidence of any warnings or claims of third parties in connection with an alleged defect of title.

9.3 Damage in transit

The customer must immediately notify the carrier of any recognizable damage or losses caused during transit. Any other damage or losses caused during transit shall be reported to the carrier immediately and PCS shall be notified in writing or in text form. The customer shall immediately obtain and submit to PCS a damage report from the railroad, post office or delivery agent or from the carrier, freight forwarder or forwarding agent.

10. Claims for defects, quality guarantee

- 10.1 Claims for material defects or defects of title shall become statute-barred within one year from the statutory commencement of the limitation period. The statutory periods for the customer's right of recourse in the case of a purchase of consumer goods (Section 478 German Civil Code) shall remain unaffected by the above provision.
- 10.2 Subsequent performance shall be effected, at the option of PCS, by remedying the defect or by delivering a defect-free item or defect-free spare parts (replacement delivery). In case of a replacement delivery, the customer shall return the defective item at the expense of PCS.
- 10.3 In the case of software, defects may also be rectified by supplying an update, upgrade or patch or by a workaround, unless this is unreasonable for the customer.
- 10.4 The customer shall cooperate to a reasonable extent in the search for and analysis of the cause of the defect and shall, in particular, enable PCS to examine the defective items and the environment in which they are used, provide all necessary and expedient information and allow PCS to inspect the documents which might provide further details of any reported defect.
- 10.5 In the event that PCS has given a quality guarantee and the consequences of a breach of such guarantee are not covered by the quality guarantee, the statutory provisions on subsequent performance and liability for guaranteed quality features shall remain unaffected.
- 10.6 Statutory provisions shall apply without limitation to defects caused as a result of an intentional or grossly negligent breach of duty on the part of PCS, to fraudulent concealment of a defect, and to cases of injury to life, body or health due to a defect.
- 10.7 Clause 11 shall apply to claims for damages and reimbursement of expenses for defects.

11. Liability

The liability of PCS for claims for damages or reimbursement of expenses in vain, irrespective of the factual or legal grounds, shall be limited as follows:

- 11.1 In the event of intent, malice, claims under the Product Liability Act and in the event of injury to life, body or health, PCS shall be liable in accordance with statutory provisions. The following limitations of liability shall not apply in this regard.
- 11.2 In case of gross negligence, the liability of PCS shall be limited to the typical cases of damage that were foreseeable by PCS upon conclusion of contract. This limitation of liability shall not apply in case of gross negligence of a legal representative or executive employee of PCS.
- 11.3 In case of slight negligence, PCS shall only be liable to the extent that the damage was caused by a breach of material contractual obligations, such liability being limited to the typical damage that was foreseeable by PCS upon conclusion of the contract. Material contractual obligations are those obligations whose fulfilment is essential for the proper performance of the contract and on whose observance the contracting party regularly relies and may rely.
- 11.4 PCS shall be liable for any guarantee expressly declared by PCS to the extent specified in clause 10.5.
- 11.5 The objection of contributory negligence of the customer remains unaffected.

12. Confidentiality

- 12.1 The parties shall treat as confidential any information and business secrets that the other party discloses or gains knowledge of in the course of the preparation and the implementation of the contract. This shall not apply if information was already publicly known or known to the receiving party
- a)

- at the time of disclosure or of becoming known,
- b) information is developed by the receiving party after the conclusion of contract without using the confidential information of the other party or
 - c) information becomes publicly known after disclosure / becoming known without any fault on the part of the receiving party.
- 12.2. Furthermore, the parties are obligated to ensure confidentiality vis-à-vis third parties and also vis-à-vis their employees. The confidential information may be disclosed to employees of the parties who need to know the confidential information in order to implement the contract provided they have been obligated to maintain confidentiality in writing in advance, whereby such confidentiality obligations must be at least as strict as those in these Terms and Conditions.
- 12.3. If the customer is obligated by mandatory law, a final judgment or a decision of a public body that cannot be challenged to disclose confidential information of PCS, the customer shall inform PCS thereof without delay, unless this is not permitted by law. The customer shall reasonably support PCS in the defense against such disclosure obligations. In case of a disclosure, the customer shall disclose only as much confidential information as necessary to fulfill its obligation. Furthermore, the customer shall take all measures to protect the confidential information of PCS.

13. Protection of personal data

- 13.1 The parties undertake to protect and process personal data in accordance with legal provisions.
- 13.2 Insofar as PCS is contracted to process personal data of the customer, the parties shall enter into an additional agreement on such contract data processing.

14. Other provisions

- 14.1 PCS may, at its own discretion, use employees, freelancers or other vicarious agents for the provision of services and may have deliveries and services provided by subcontractors.
- 14.2 The courts with jurisdiction for the registered office of PCS in Munich, Germany, shall have exclusive jurisdiction for all legal disputes arising under or in connection with this contract and the conclusion thereof. Mandatory statutory places of jurisdiction shall remain unaffected.
- 14.3 The place of performance for the performance of both parties is the works of PCS in Munich, Germany.
- 14.4 This contract is subject to the substantive law of the Federal Republic of Germany for domestic transactions. The application of the uniform UN Convention on Contracts for the International Sale of Goods (CISG of 11.4.1980, UNCITRAL) and the German International Conflict of Laws Act (EGBGB) are excluded.
- 14.5 If a provision of this contract proves to be ineffective or void, this shall not affect the effectiveness of the remaining provisions of the contract. In this case, the parties shall agree on effective substitute provisions which most closely approximate the regulatory intent and commercial effects of the invalid provisions. The above shall apply accordingly to any unintentional gaps in the contract.
- 14.6 Amendments and supplements to the contract and these Terms and Conditions must be in writing to be effective. This shall also apply to the waiver of the written form requirement. The written form requirement is also met by fax and simple text form (e.g. e-mail), with the exception of declarations of a legal nature (e.g. notice of termination, withdrawal from the contract), for which the written form requirement of Section 126 of the German Civil Code must be met.
- 14.7 PCS shall be entitled to refuse the performance of its obligations under the contract if such performance would violate export regulations.