

## General Terms and Conditions for the Provision of Work and Services by PHOENIX CONTACT

### I. Basic provisions

#### 1. Scope/general

- 1.1. These General Terms and Conditions apply to all work and services provided by any company of the Phoenix Contact Group (the relevant company hereinafter referred to either as “**PHOENIX CONTACT**” or “**CONTRACTOR**”) on behalf of customers (hereinafter referred to either as “**CUSTOMER**” or “**CLIENT**”).
- 1.2. These General Terms and Conditions are only applicable with respect to entrepreneurs within the meaning of Section 14 German Civil Code (*Bürgerliches Gesetzbuch – BGB*). They also apply to legal persons under public law or special funds under public law.
- 1.3. Different or additional general terms and conditions of business of the CUSTOMER do not apply and do not become a constituent part of the contract even if PHOENIX CONTACT has not expressly objected thereto.
- 1.4. These General Terms and Conditions apply as amended as a framework agreement also for future contracts for work and services with the same CUSTOMER, without PHOENIX CONTACT having to refer to these again in each individual case; PHOENIX CONTACT will inform the CUSTOMER without undue delay about changes to these General Terms and Conditions.
- 1.5. If any framework agreement or other contracts with the CUSTOMER of PHOENIX CONTACT have been entered into with respect to the provision of (a) SERVICE(S), these take precedence. They are supplemented by these General Terms and Conditions unless any more specific provisions are agreed therein.
- 1.6. All SERVICES are services within the meaning of Sections 611 et seqq. German Civil Code (*Bürgerliches Gesetzbuch – BGB*). If individual SERVICES are on the basis of mandatory law subject to statutory provisions governing contracts for work, Section II of these General Terms and Conditions of Business applies additionally.

#### 2. Definitions

**AFFILIATED COMPANIES** within the meaning of these General Terms and Conditions are companies in which PHOENIX CONTACT directly or indirectly (i) holds more than half of the voting rights; or (ii) can appoint or dismiss more than half the members of the administrative, management or supervisory board or the bodies appointed for legal representation; or (iii) has the right to manage the business of the company; or (iv) in substance bears the majority of risks and opportunities of an company that serve to achieve a strictly limited and precisely defined objective of PHOENIX CONTACT (special purpose vehicle) and such companies that directly or indirectly have the above-stated influence possibilities on PHOENIX CONTACT and their affiliated companies, however, only as long as the

above requirements are met. **AFFILIATED COMPANIES** also include the commercial agents (*Handelsvertreter*) belonging to the relevant company and subcontractors used by PHOENIX CONTACT. **AFFILIATED COMPANIES** are not third parties within the meaning of these General Terms and Conditions.

**CLIENT MATERIALS** are all materials, papers, results, software, objects, documents, sketches, drawings, drafts, concepts, information, DATA etc. that exist at the time of conclusion of the **INDIVIDUAL CONTRACT** or are procured, developed or acquired during the term of the **INDIVIDUAL CONTRACT** by the **CLIENT** or by third parties acting for it.

**CONFIDENTIAL INFORMATION** is all information and documents of the other contractual partner in each case that are marked as confidential or have expressly been designated as such prior to their provision. **CONFIDENTIAL INFORMATION** is, however, at any rate conditions and the remuneration (including all costs and material prices) that PHOENIX CONTACT discloses to the **CUSTOMER**. Information not deemed **CONFIDENTIAL INFORMATION** is information (a) that was already verifiably known to the recipient upon conclusion of the **INDIVIDUAL CONTRACT** or becomes known to the recipient thereafter from a third party, without any non-disclosure agreement, statutory regulations or official orders being breached, (b) which was known publicly upon conclusion of the **INDIVIDUAL CONTRACT** or becomes publicly known thereafter, provided this is not based on any breach of these non-disclosure obligations or (c) has been developed by the recipient independently and without recourse to **CONFIDENTIAL INFORMATION** or in accordance with the exceptions set forth in these clauses (a) and (b).

**CONTRACTOR MATERIALS** are all materials, papers, results, software, objects, documents, sketches, drawings, drafts, concepts, information, DATA etc., including any adaptations therefore, that exist at the time of conclusion of the **INDIVIDUAL CONTRACT** or are procured, developed or acquired during the term of the **INDIVIDUAL CONTRACT** by the **CONTRACTOR**, its subcontractors, suppliers and/or any other third parties used by the **CONTRACTOR**.

**DATA** are all data in connection with the **INDIVIDUAL CONTRACT**, in particular product, machine, maintenance, production, environmental, analysis and process data. **DATA** within the meaning of this definition are not personal data in accordance with respectively the German Federal Data Protection Act (*Bundesdatenschutzgesetz – BDSG*) or the General Data Protection Regulation (GDPR).

**INDIVIDUAL CONTRACT** is the agreed **SERVICE** that the **CONTRACTOR** has to provide to the **CLIENT** in the specific individual case. The

INDIVIDUAL CONTRACT can in particular, but not exclusively be awarded with SPECIFICATIONS or any other contractual agreements between the CONTRACTOR and the CLIENT which govern the terms and SERVICES in the individual case.

**INDUSTRIAL PROPERTY RIGHTS** are registered and non-registered industrial property rights and similar rights, as well as applications for the registration of these rights and rights to these rights in the contractual territory (in particular patents, trademarks, copyrights, designs and neighbouring rights).

**SERVICE(S)** is the act performed by the CONTRACTOR that is intended to meet the obligations under the specific INDIVIDUAL CONTRACT. SERVICES under these General Terms and Conditions in particular include but are not limited to consulting, documentation, test support, engineering, development or implementation, system maintenance, commissioning and the creation of software (application software).

**SPECIFICATIONS** are the specification of the SERVICE that the CONTRACTOR provides to the CLIENT.

**TEXT FORM** is the legible reproduction of any declaration of intent, in particular an e-mail or a letter in which the relevant contractual partner can clearly be identified. An electronic signature and/or a written signature by the relevant contractual partner is not necessary. TEXT FORM also includes declarations sent by means of electronic data interchange.

**WORKING DAYS** are calendar days from Monday to Friday with the exception of statutory public holidays at the location where PHOENIX CONTACT has its registered office.

**WRITTEN FORM** requires that any declaration of intent or knowledge, unless specified otherwise in these General Terms and Conditions, is, by the person or persons duly authorised to represent the relevant contractual partner, (a) signed with personal signature or (b) signed by means of a mark made by hand which has been certified by a notary or (c) notarised and sent to the other contractual partner as an original document or as a fax.

### 3. Conclusion of contract

- 3.1. Any offers made by PHOENIX CONTACT are subject to change, unless expressly designated as binding or expressly contain binding commitments or their binding nature has otherwise been agreed. They are requests to submit orders.
- 3.2. The CUSTOMER is bound to its order for fourteen (14) WORKING DAYS, for five (5) WORKING DAYS if the order is in TEXT FORM, following receipt of the order.
- 3.3. An INDIVIDUAL CONTRACT is only concluded between the contractual partners if PHOENIX CONTACT confirms the relevant order in TEXT FORM. This confirmation can on the part of PHOENIX CONTACT be replaced by performing the delivery and/or service.

### 4. Cooperation obligations of CUSTOMER

- 4.1. The CLIENT will provide all cooperation and equipment/services required for the proper provision

of the SERVICE by the CONTRACTOR. The provision of the SERVICE in accordance with the contract essentially depends on the provision of this cooperation and equipment/services by the CLIENT and can require that the CLIENT exerts influence on the persons it uses to fulfil its obligations, representatives, service recipients, other service providers or other third parties (but not the persons the CONTRACTOR uses to fulfil its obligations). The CONTRACTOR may when providing SERVICES rely on communications, instructions, approvals, sign-offs, declarations of acceptance or similar declarations of the CLIENT; compliance with and/or implementation of such declarations is deemed a contractually compliant SERVICE and the CONTRACTOR is not responsible for any consequences resulting therefrom.

- 4.2. The CUSTOMER will provide PHOENIX CONTACT with all information, CLIENT MATERIALS and DATA and special requests (hereinafter together the "**CUSTOMER INFORMATION**") required for performance on the contract with respect to the SERVICES in due time, free of charge, in full, free from INDUSTRIAL PROPERTY RIGHTS of third parties and correctly. This also applies to documents (e.g. regarding special safety and accident prevention regulations in the relevant area) as well as events and circumstances that first become known during the performance of the INDIVIDUAL CONTRACT. The CUSTOMER provide CUSTOMER INFORMATION to PHOENIX CONTACT that it has appropriately checked beforehand. If necessary, the CUSTOMER will update the CUSTOMER INFORMATION. The CUSTOMER must provide PHOENIX CONTACT with the customer-specific documents and other necessary internal company information required for performance without being requested to do so.
- 4.3. The CUSTOMER will appoint a competent qualified contact person who will be available to PHOENIX CONTACT to provide the required information and can make the necessary decisions with authority to represent the CUSTOMER or can have such made without undue delay. PHOENIX CONTACT will involve the CUSTOMER's contact person, when and to the extent required for contract performance.
- 4.4. The CUSTOMER must create all conditions to facilitate proper contractual performance. The CUSTOMER will in particular ensure that all necessary cooperation on its part or on the part of the persons its uses to fulfil its obligations is provided to PHOENIX CONTACT in due time and free of charge.
- 4.5. The CLIENT will also inform the CONTRACTOR in due time about the laws applicable to the CLIENT which could be significant for the provision of the SERVICE.
- 4.6. If PHOENIX CONTACT provides the SERVICES at the premises of the CLIENT, the CLIENT must procure the employees of PHOENIX CONTACT or third parties PHOENIX CONTACT has instructed to act for it access during normal business hours and under the company access rules also free of charge to all rooms, installations (hardware, software, networks etc.) and other work equipment that are necessary for the proper provision of the SERVICES by PHOENIX CONTACT. The CLIENT

must in necessary also ensure the free provision of functioning workstations for the employees of PHOENIX CONTACT or third parties PHOENIX CONTACT has instructed to act for it.

- 4.7. The CONTRACTOR is not responsible for consequences resulting from any improper and/or late cooperation or equipment/services provided by the CLIENT. Any dates and deadlines are deferred for the duration of any such infringement, plus an appropriate period for the proper continuation of the SERVICES concerned. The CLIENT will on the basis of the applicable "Rates for the Provision of Services" as amended reimburse the CONTRACTOR the CONTRACTOR's additional expenses resulting from such an infringement on the part of the CLIENT: The CLIENT's payment obligations remain unaffected by this.
- 4.8. The CUSTOMER indemnifies PHOENIX CONTACT against third-party claims resulting from the use of the CUSTOMER INFORMATION and will compensate PHOENIX CONTACT for any damage it incurs upon first request, unless the CUSTOMER is not responsible for this. If any third party a claim against PHOENIX CONTACT to desist from further provision, production or delivery of the goods/services that are the subject of the contract by referring to INDUSTRIAL PROPERTY RIGHTS to which it is entitled, PHOENIX CONTACT is entitled to withhold the SERVICE until the infringement of rights has be finally established by a court of law.

## **5. Provision of services by the CONTRACTOR**

- 5.1. PHOENIX CONTACT provides the SERVICES at its own responsibility, unless otherwise expressly agreed in writing. PHOENIX CONTACT is, however, entitled to use third parties for the performance of the contract. The SERVICES will, unless agreed otherwise, be provided at the location of the registered office of PHOENIX CONTACT.
- 5.2. PHOENIX CONTACT is obliged when providing the SERVICES in relation to facilities, machines or systems on the CUSTOMER's premises to observe the safety and accident prevention regulations that apply there. The requirement for this is, however, that PHOENIX CONTACT is informed about the existence and content of such safety and accident prevention regulations in due time before the SERVICES are provided.
- 5.3. PHOENIX CONTACT provides the SERVICES in accordance with the generally accepted technical rules and standards at the time the INDIVIDUAL CONTRACT is concluded, unless agreed otherwise in the relevant INDIVIDUAL CONTRACT.
- 5.4. The review of the CUSTOMER INFORMATION for opposing INDUSTRIAL PROPERTY RIGHTS of third parties, in particular the conducting of a "freedom to operate" analysis is, subject to an expressly different contract in the individual case, not the subject of the SERVICES owed by PHOENIX CONTACT. If third-party INDUSTRIAL PROPERTY RIGHTS are infringed by the contractually compliant use of the CUSTOMER INFORMATION or the products manufactured in this respect, this does not constitute any defect in the SERVICE. PHOENIX CONTACT will advise the

CUSTOMER about any third-party right which become known to PHOENIX CONTACT.

## **6. Changes to services ("Change Request")**

- 6.1. The CUSTOMER can request a change to the SERVICE (hereinafter "**CHANGE REQUEST**") at any time in writing. The CUSTOMER must describe the desired change in more detail in the CHANGE REQUEST. If the CUSTOMER and PHOENIX CONTACT agree on the implementation of such a change (hereinafter "**CHANGE**"), it will be carried out and documented accordingly as an addendum to the INDIVIDUAL CONTRACT.
- 6.2. Following receipt of a CHANGE REQUEST, the CONTRACTOR can inform the CLIENT about how long a more detailed review of the CHANGE REQUEST is expected to take and about any costs for such a review.
- 6.3. If the CUSTOMER then requests a review of the CHANGE REQUEST on the specified terms, PHOENIX CONTACT will conduct such a review and submit an offer to the CUSTOMER for the implementation of the CHANGE REQUEST (hereinafter "**CHANGE PROPOSAL**") within an appropriate period of time, unless PHOENIX CONTACT rejects the CHANGE REQUEST. PHOENIX CONTACT may in particular reject the CHANGE REQUEST if it is unreasonable technically, economically or in terms of time, is outside the CONTRACTOR's service portfolio or may conflict with statutory provisions. The CHANGE PROPOSAL is binding for five (5) WORKING DAYS commencing upon its submission.
- 6.4. After receiving the CHANGE PROPOSAL, the CUSTOMER decides whether it accepts the CHANGE PROPOSAL. If PHOENIX CONTACT does not receive any declaration of acceptance from the CUSTOMER within the period set forth in clause 1.6.3, PHOENIX CONTACT is no longer bound to the CHANGE PROPOSAL and can reject the CHANGE REQUEST. If the CUSTOMER accepts the CHANGE PROPOSAL in due time, the CHANGE becomes part of the INDIVIDUAL CONTRACT.
- 6.5. PHOENIX CONTACT may request a CHANGE by submitting a CHANGE PROPOSAL to the CUSTOMER. The CUSTOMER will carefully review any such CHANGE PROPOSAL initiated by PHOENIX CONTACT within five (5) WORKING DAYS.
- 6.6. Any CHANGE shall become effective only if WRITTEN FORM has been observed. PHOENIX CONTACT provides the SERVICES up until the CHANGE takes effect in accordance with the provisions applicable up until that time.

## **7. Acceptance of the SERVICES**

The SERVICES are only then the subject of any acceptance by the CLIENT if and to the extent that (i) this is expressly agreed in the General Terms and Conditions, (ii) provided for by applicable mandatory law, (iii) the CONTRACTOR in its discretion submits the SERVICES concerned to the CLIENT for acceptance or (iv) this is agreed between the contractual partners in the relevant INDIVIDUAL CONTRACT and/or

SPECIFICATIONS. The acceptance process set for in clause II.1 applies to such SERVICES.

## **8. Time of performance/default**

- 8.1. The dates specified in the order confirmation are binding if they are designated as binding in the order confirmation. PHOENIX CONTACT will otherwise endeavour to the best of its ability to comply with these. PHOENIX CONTACT is obliged to inform the CUSTOMER without undue delay if circumstances arise which result in the fact that the agreed date cannot be met.
- 8.2. Delivery periods for the SERVICE begin when the CUSTOMER receives the order confirmation of PHOENIX CONTACT. If the CUSTOMER has requested a CHANGE following the conclusion of the INDIVIDUAL CONTRACT, a new appropriate delivery period for the SERVICE commences upon confirmation of the CHANGE by PHOENIX CONTACT.
- 8.3. In the event of any delay in the SERVICE, the CUSTOMER is entitled after setting an appropriate grace period of at least, unless inappropriate, fourteen (14) WORKING DAYS warning that it will reject the SERVICE, to declare its rescission (*Rücktritt*) from the respective INDIVIDUAL CONTRACT affected in each case by the delay with respect to the delayed part if PHOENIX CONTACT has not rendered performance beforehand.
- 8.4. PHOENIX CONTACT is not deemed to be in default as long as the CUSTOMER is in default with respect to the performance of obligations, in particular cooperation obligations in accordance with clause I.4, to PHOENIX CONTACT, including those from other contracts, unless the CUSTOMER has provided security in accordance with Section 273 (3) German Civil Code.

## **9. Payment terms/payment default/defence of uncertainty**

- 9.1. The CLIENT undertakes to pay the remuneration agreed in the relevant INDIVIDUAL CONTRACT. The contractual partners can agree fixed prices or remuneration on a time and materials basis. The SERVICES will be charged at the fixed price or on a time and materials basis specified in the offer or order confirmation, unless any different invoicing and payment method are agreed in the offer or order confirmation. In the case of SERVICES charged on a time and materials basis, the working hours and traveling times incurred will be invoiced in accordance with the "Rates for the Provision of Services" as amended and the materials used at the prices applicable at the time the contract is concluded. Other expenses, in particular preparation, travel, entertainment and accommodation will be charged in addition. Any guide prices included in the offer or the order confirmation for SERVICES on a time and materials basis are not binding.
- 9.2. All prices and remuneration are/is without statutory VAT, customs duties and other taxes and charges. These are to be paid by the CONTRACTOR.
- 9.3. The CLIENT reimburses the CONTRACTOR all expenditures, disbursements and expenses incurred by the CONTRACTOR within the scope of the proper provision of the SERVICES. The

CONTRACTOR will state these as separate items in its invoices.

- 9.4. The CONTRACTOR invoices the remuneration after providing the relevant SERVICES, unless a different payment schedule is provided for in the INDIVIDUAL CONTRACT. If the CONTRACTOR provides the SERVICES on an ongoing basis (i.e. for two (2) or more consecutive months), invoicing takes place at the beginning of the following month in each case.
- 9.5. Payments by the CUSTOMER are to be made within fourteen (14) calendar days after invoicing by PHOENIX CONTACT. With respect to claims of PHOENIX CONTACT against the CUSTOMER due to payment default the statutory provisions apply exclusively.
- 9.6. Any payment default on the part of the CUSTOMER within the meaning of Section 286 German Civil Code can cause all payment claims resulting from the business relations with the CUSTOMER to become due immediately.
- 9.7. If payment terms are not complied with or circumstances are known or recognisable which at the due commercial discretion of PHOENIX CONTACT create justified doubt with respect to the CUSTOMER's creditworthiness, including facts which already existed when the contract was concluded, of which PHOENIX CONTACT was not aware or should have been aware, PHOENIX CONTACT is without prejudice to further statutory rights entitled in these cases to discontinue further work on INDIVIDUAL CONTRACTS and to demand advance payments or the provision of appropriate, customary security, e.g. in the form of a bank guarantee of a German bank affiliated to the deposit protection fund for any outstanding deliveries and if any reasonable grace period for the provision of such security expires without any result, without prejudice to further statutory rights to withdraw from the INDIVIDUAL CONTRACT with respect to the part which has not yet been performed. The CUSTOMER is obliged to compensate PHOENIX CONTACT for all damage resulting from non-performance of the INDIVIDUAL CONTRACT.
- 9.8. The CUSTOMER may only set off with counterclaims that are undisputed by PHOENIX CONTACT or non-appealable or assert any right of retention based on such claims.
- 9.9. Incoming payments will initially be used to pay the costs, then the interest and finally the principal claims based on their age. Any provision of the CUSTOMER to the contrary is irrelevant with respect to payment.
- 9.10. In the case of agreed bank transfer, the date of payment is deemed the date on which the money is received by PHOENIX CONTACT or credited to the account of PHOENIX CONTACT or the account of the payment point specified by it.

## **10. Usage rights CLIENT MATERIALS**

- 10.1. All INDUSTRIAL PROPERTY RIGHTS to CLIENT MATERIALS remain with the CLIENT or the relevant right holder.
- 10.2. The CLIENT hereby grants the CONTRACTOR for the duration of the INDIVIDUAL CONTRACT a non-exclusive, irrevocable, non-transferable right, to use

the CLIENT MATERIALS and/or to have these used by subcontractors to the extent this is necessary for the provision of the SERVICES to the CLIENT.

#### **CONTRACTOR MATERIALS**

- 10.3. All INDUSTRIAL PROPERTY RIGHTS to CONTRACTOR MATERIALS remain with the CONTRACTOR or the relevant holder of the rights.
- 10.4. The CONTRACTOR grants the CLIENT a non-exclusive and perpetual right to use CONTRACTOR MATERIALS provided to and/or developed for the CLIENT within the scope of the provision of the SERVICES exclusively for its own purposes provided this is required for the contractually proper use of the SERVICES.

#### **11. Non-disclosure**

- 11.1. The contractual partners agree to keep CONFIDENTIAL INFORMATION secret and not to disclose or make such accessible to third parties. This obligation exists for a period of five (5) years after the relevant INDIVIDUAL CONTRACT ends.
- 11.2. If CONFIDENTIAL INFORMATION has to be disclosed due to statutory obligations or upon the order of a court or a public authority, the recipient obliged to disclose such will to the extent permissible and possible inform the other contractual partner in advance and give it the opportunity to take action against the disclosure.
- 11.3. The CONTRACTOR is entitled to grant access to CONFIDENTIAL INFORMATION to (a) lawyers, auditors and other advisors, (b) technical service providers (e.g. computer centre operators, host providers, cloud providers) and/or (c) third parties reasonably involved in the execution of corporate transactions relating to PHOENIX CONTACT (e.g. merger, corporate sale or sale of shares), provided that (i) this is necessary to protect the justified interests of the CONTRACTOR and (ii) the recipients in each case are either subject to a statutory obligation to maintain professional secrecy or have consented to non-disclosure obligations beforehand which are essentially in line with those of these General Terms and Conditions.

#### **12. Exclusion and limitation of liability**

- 12.1. PHOENIX CONTACT is liable without limitation in the cases listed under (a) - (e) below: (a) for any intentional or grossly negligent breach of duty; (b) in the event of injury to life, body or health; (c) in the event of delay if a fixed delivery and/or performance date has been agreed; (d) in the event that a guarantee for the quality of the SERVICE or the existence of successful performance or a procurement risk within the meaning of Section 276 German Civil Code has been assumed; (e) in the case of any liability in accordance with the German Product Liability Act (*Produkthaftungsgesetz* – ProdHG) or any other mandatory statutory liabilities.
- 12.2. In the event of any breach of material obligations which is not intentional or grossly negligent, liability is limited to foreseeable damage typical for such a contract. Material obligations are obligations the fulfilment of which is indispensable for the proper execution of the INDIVIDUAL CONTRACT and on the fulfilment of which the contractual partner may usually rely.
- 12.3. The contractual partners agree that foreseeable

damage typical for the contract or typically for the foreseeable expenses and the liability related to this do not exceed the net invoice amounts in accordance with the INDIVIDUAL CONTRACTS taking the bonuses, rebates, credits to be expected or to be granted into consideration (hereinafter referred to as the "**AMOUNT**"), which the CUSTOMER has paid for the SERVICES in the calendar year to PHOENIX CONTACT which proceeds the calendar year in which the damaging event occurs. If the damaging event occurs within the first calendar year, the AMOUNT paid up to that point by the CUSTOMER to PHOENIX CONTACT will for the purposes in this context be extrapolated over twelve (12) months.

- 12.4. In the event of at least grossly negligent default, the liability of PHOENIX CONTACT is limited to 0.5% of the AMOUNT per case of default and to a maximum of 5% of the AMOUNT per calendar year.
- 12.5. The limitations of liability also expressly apply to agreed qualities in accordance with Section 633 German Civil Code.
- 12.6. Unless specified otherwise in clauses I.12.1 to I.12.4, the liability of PHOENIX CONTACT for compensation of damage or expenditure (*Aufwendungsersatz*) is excluded.
- 12.7. The CLIENT is obliged to carry out an appropriate data backup and to create backup copies of all data and programs in this respect in machine-readable form at least once a day. In the event of any data loss caused by the CONTRACTOR, the liability of the CONTRACTOR is limited to the costs of recovering the data which the CLIENT could not have prevented by meeting the above specified obligation or other taking other measures that can reasonably be expected of the CLIENT.
- 12.8. If the liability of PHOENIX CONTACT is excluded or limited, this also applies to corporate bodies, employees, representatives, persons used to fulfil its obligations and subcontractors of PHOENIX CONTACT.
- 12.9. Without prejudice to clause II.2.2, claims of the CUSTOMER for damages except in the cases of clause I.12.1 otherwise become statute-barred within twelve (12) months.
- 12.10. Nothing of the foregoing shall be construed as a reversal of the burden of proof.

#### **13. Data protection**

- 13.1. The contractual partners undertake in each case to comply with all data protection laws and requirements in this respect which apply to the performance of their contractual duties.
- 13.2. If it cannot be ruled out technically and organisationally when providing certain SERVICES that the CONTRACTOR receives knowledge of personal data that are subject to the control of the CLIENT, the contractual partners will enter into a data processing agreement.

#### **14. Entrepreneurial responsibility**

The contractual partners are committed in the following sense to their social responsibility within the scope of their entrepreneurial activities worldwide. The contractual partners therefore undertake to comply with the content of the Code of Conduct for social responsibility as amended of the

Central Association of the Electric Industry (*Zentralverband der Elektroindustrie – ZVEI*). This Code of Conduct as an industry guideline states what this in particular means with respect to working conditions, social and environmental accountability as well as transparency, trustful collaboration and dialogue. PHOENIX CONTACT will provide the CUSTOMER with this Code of Conduct upon first request.

**15. Export provisions/export control/reservation clause/statutory provisions**

- 15.1. The CLIENT is responsible to ensure that its use of the SERVICES is compatible with all statutory and regulatory requirements applicable to it.
- 15.2. The CLIENT is advised that the export of the SERVICES, information and documentation can be subject to authorisation or can be excluded in accordance with the export provisions of the Federal Republic of Germany, the European Union and/or the United States of America (US (re-)export provisions) applicable in each case, e.g. due to their type or their purpose or end use, and that infringements are subject to criminal penalties. The CLIENT therefore warrants that it will strictly observe all relevant nationally or internationally applicable (re-)export provisions and on all accounts EU dual-use and sanctions law and obtain any approvals which may be necessary. The CLIENT undertakes in this respect in particular to check and ensure that (i) if the SERVICES, information and documentation may only be delivered for any use in armaments, nuclear technologies or weapons or to any military recipient with the approval of the relevant, in particular also national authorities, this approval will in the case of resale be obtained in advance; (ii) the relevant UN resolutions, EU regulations and German laws as well as regulations of the competent German and European authorities are observed; (iii) it will not deliver any products, services, information or documentation directly or indirectly to any persons and companies set forth in the sanctions lists relevant in each case.
- 15.3. In the event of any culpable breach of the above obligations by the CLIENT, the CLIENT will indemnify PHOENIX CONTACT upon first request from any and all claims and compensate any damage incurred by PHOENIX CONTACT based on claims that suppliers or licensors of PHOENIX CONTACT, third parties or state and/or national authorities or organisations assert against PHOENIX CONTACT.
- 15.4. The delivery and performance obligations under the relevant INDIVIDUAL CONTRACT (contractual performance) are conditional on performance not being precluded by any obstacles or prohibitions on the basis of national or international regulations, in particular export control provisions and embargoes or other sanctions. The contractual partners undertake to provide all information and documents necessary for export/shipment/import. Delays due to export inspections or approval proceedings suspend agreed deadlines and delivery times. If required approvals are not issued to the contractual partner obliged to obtain these despite the proper filing of an application, the INDIVIDUAL CONTRACT is deemed not to have been concluded with respect to

the parts affected; claims for damages are excluded in this respect and due to the above specified exceeding of deadlines, unless the contractual partner obliged to provide performance has assumed a performance guarantee or a procurement risk in accordance with Section 276 German Civil Code.

- 15.5. PHOENIX CONTACT will upon request specify the relevant points of contact for further information to the CUSTOMER.

**16. Applicable law/arbitration**

- 16.1. All legal relationships between the CUSTOMER and PHOENIX CONTACT are governed exclusively by German law. German law also applies to current and future debt obligations that fall under Regulation (EC) No. 864/2007 (Rome II) on the law applicable to non-contractual obligations. The provisions of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (UN Sales Law) are excluded.
- 16.2. The courts of Cologne, Germany, have exclusive jurisdiction for all disputes relating to any INDIVIDUAL CONTRACT.

**17. WRITTEN FORM/assignment/acknowledgment**

- 17.1. Oral side agreements do not exist. Changes and additions to these General Terms and Conditions require WRITTEN FORM and the mutual agreement of the contractual partners. The same applies to any waiver of this requirement for written form or its cancellation. Section 305b German Civil Code (precedence of individual agreements) remains unaffected.
- 17.2. Unilateral declarations and notifications in accordance with these General Terms and Conditions in principle require TEXT FORM, unless this is regulated otherwise in these General Terms and Conditions of Business.
- 17.3. The CLIENT may only assign rights and obligations under or in connection with these General Terms and Conditions following the prior written consent of CONTRACTOR. Section 354a German Commercial Code remains unaffected.
- 17.4. Any acknowledgment of breaches of duty by PHOENIX CONTACT always requires WRITTEN FORM.

**18. Termination**

- 18.1. Any termination of the relevant INDIVIDUAL CONTRACT is based on the applicable statutory provisions.
- 18.2. Good cause entitling the CONTRACTOR to termination in particular exists if the CLIENT is in default of a due payment (a) in the amount of 50% of the agreed overall remuneration under the INDIVIDUAL CONTRACT CONCERNED, (b) in the case of monthly billing for two consecutive months with the payment of the remuneration or a significant part thereof or (c) in the case of monthly billing in a period covering more than two months with the payment of the remuneration in the amount of two months and if the CONTRACTOR does not eliminate this default in response to a warning issued by the CLIENT within five (5) WORKING DAYS. Good cause is also deemed to include, but is not limited to if (a) insolvency proceedings over the

assets of a contractual partner are rejected due to a lack of assets; or (b) the other contractual partner in each case discontinues its payments; or (c) the rights and shareholder structure of the other contractual partner permanently change in a way that can establish significant economic or legal disadvantages for the contractual partner giving notice of termination (e.g. majority holding of a competitor).

18.3. In the cases of termination of an INDIVIDUAL CONTRACT in accordance with the above provisions, the CONTRACTOR must pay the agreed remuneration minus the proportional remuneration for the agreed scope of services saved by the termination. In addition, a claim also exists to remuneration of the services and expenses incurred in connection with the termination, also with respect to relations of PHOENIX CONTACT with third parties. Section 648a (6) German Civil Code remains unaffected.

18.4. Notices of termination are only valid if made in WRITTEN FORM.

## II. Special provision for work services

The provisions of this section II additionally apply for work services.

### 1. Acceptance of the SERVICE

1.1. Unless a different period is specified in the INDIVIDUAL CONTRACT, the CLIENT accepts the SERVICE within ten (10) WORKING DAYS commencing upon ready for acceptance declaration (hereinafter "**ACCEPTANCE PERIOD**"), provided the SERVICES are free from material defects. The SERVICES are free from material defects if they substantially meet the agreed acceptance criteria. If no specific acceptance criteria have been agreed, the SERVICES are free of material defects if they substantially present the quality described in the INDIVIDUAL ORDER and/or SPECIFICATIONS. Immaterial deviations from the acceptance criteria or the INDIVIDUAL CONTRACT and/or SPECIFICATIONS are not material defects and do not prevent acceptance.

1.2. If material defects exist, the CLIENT must inform the CONTRACTOR of this in WRITTEN FORM within the ACCEPTANCE PERIOD. If the CLIENT does not inform the CONTRACTOR of any defects preventing acceptance before expiry of the ACCEPTANCE PERIOD, the SERVICES concerned are deemed accepted. The same applies if the CLIENT reports defects preventing acceptance in due form and time, the CONTRACTOR presents the contractual services concerned to the CLIENT again as "defects remedied" and the CONTRACTOR does not object within ten (10) WORKING DAYS (this consequence arises, however, at the earliest upon expiry of the ACCEPTANCE PERIOD).

1.3. The contractual partners can expressly or implicitly agree the partial acceptance of individual parts of the SERVICES. In such a case, any defects of the partially accepted SERVICES cannot be asserted as defects of SERVICES accepted at a later date.

1.4. The CLIENT does not have any rescission rights for accepted SERVICES.

1.5. The SERVICE is deemed accepted if it is paid for, put into operation or used by the CLIENT.

### 2. Warranty (Gewährleistung) and third-party INDUSTRIAL PROPERTY RIGHTS

2.1. Without prejudice to clause I.2.5, this clause 2 applies exclusively to SERVICES which are to be considered services for work based on mandatory law or on express contractual agreement.

2.2. Claims based on breaches of duty in the form of defects in quality and/or defects in title of the SERVICES in accordance with clause II.2, unless expressly agreed otherwise in writing, become statute-barred after a period of twelve (12) months. The limitation period commences in the case of unjustified refusal of acceptance at the point in time when notice of availability for acceptance is given; in all other cases, the limitation period commences upon acceptance. This does not apply to claims for damages based on any guarantee, the assumption of any procurement risk within the meaning of Section 276 German Civil Code, claims in accordance with clauses I.12.1. (a) to (c) or in the cases provided for in Sections 445a, 445b, 478 German Civil Code (recourse in the supply chain), Section 438 (1) No. 2 German Civil Code (erection of buildings and delivery of things for buildings), Section 634a (1) No. 2 German Civil Code (building defects) or if any other longer limitation period is mandatorily required by law. Nothing of the foregoing shall be construed as a reversal of the burden of proof.

2.3. If any defect in quality and/or defect in title exists, PHOENIX CONTACT will at its discretion repair or replace the SERVICE affected within an appropriate period, provided the defect already existed at the time risk passed. The owed quality of the SERVICE is set forth exclusively in these General Terms and Conditions and the relevant INDIVIDUAL CONTRACT and/or SPECIFICATIONS.

2.4. The CLIENT must notify the CONTRACTOR about defects in writing and describe the error symptoms in detail without undue delay, but no later than within five (5) WORKING DAYS. The CLIENT reimburses the CONTRACTOR all additional expenses resulting from any late notification, unless the CLIENT is not responsible for the delay.

2.5. Unless agreed otherwise between the contractual partners, PHOENIX CONTACT is obliged only to provide the SERVICE in the country of the delivery location without infringing THIRD-PARTY RIGHTS that adversely affect the use of the CONTRACT PRODUCTS in accordance with the contract.

2.6. If third parties assert claims against the CLIENT due to the infringement of INDUSTRIAL PROPERTY RIGHTS before expiry of the warranty period, the CONTRACTOR may at its discretion eliminate this defect by (i) acquiring the required rights for the CUSTOMER so that the SERVICES no longer infringe any third-party rights or (ii) change the SERVICES such that with comparable usability for the CLIENT in consideration of the SPECIFICATIONS no third party rights are infringed.

2.7. The CUSTOMER will inform PHOENIX CONTACT in WRITTEN FORM or in TEXT FORM without undue delay about the assertion of claims by third parties due to any alleged infringement of third-party INDUSTRIAL PROPERTY RIGHTS.

- 2.8. The CUSTOMER will not acknowledge the claimed infringement of rights without prior agreement with PHOENIX CONTACT and leave any dispute including any out-of-court arrangements either to PHOENIX CONTACT or conduct such only in agreement with PHOENIX CONTACT.
- 2.9. If the CUSTOMER discontinues using the SERVICE as a result of the claimed infringement of rights without any court or official order, the CUSTOMER is obliged to advise the claimant asserting the alleged infringement of rights that discontinuing use is not to be understood as any acknowledgment of the breach of third-party INDUSTRIAL PROPERTY RIGHTS.
- 2.10. The CLIENT is only then entitled to remedy defects itself or have such remedied by third parties if the CONTRACTOR seriously or conclusively refuses to remedy the defects or does not take any appropriate steps to remedy the defects after expiry of an appropriate grace period.
- 2.11. Irrespective of the above provisions, claims against PHOENIX CONTACT for defects are excluded if PHOENIX CONTACT has provided the SERVICE in accordance with CUSTOMER INFORMATION.
- 2.12. Clause II.2 conclusively describes the scope in which any warranty obligation of the CONTRACTOR exists.

**III. Special provision for construction and planning services**

**1. Construction services**

If construction services within the meaning of section 650a (1) sentence 1 German Civil Code are

the subject of the INDIVIDUAL CONTRACT, in addition to the provisions of sections I and II of these General Terms and Conditions of Business, the provisions of Parts B and C of German Construction Contract Procedures (*Vergabe- und Vertragsordnung für Bauleistungen – VOB/B and VOB/C*) in the version as amended when the INDIVIDUAL CONTRACT is concluded apply, unless agreed otherwise in the INDIVIDUAL CONTRACT.

**2. Planning services**

If planning services (architectural and engineering services within the meaning of sec. 650p (1) German Civil Code) are the subject of the INDIVIDUAL CONTRACT, in addition to the provisions of sections I and II of these General Terms and Conditions of Business, the provisions of the German Fee Scale for Services of Architects and Engineers (*Honorarordnung für Architekten und Ingenieure – HOAI*) in the version as amended when the INDIVIDUAL CONTRACT is concluded apply, unless agreed otherwise in the INDIVIDUAL CONTRACT. The mandatory fee provisions of the HOAI apply, if and to the extent relevant for the INDIVIDUAL CONTRACT, with precedence before the remuneration provisions of these General Terms and Conditions of Business.

**Last modified: April 2018**