

General Terms and Conditions of Service (ALB)

of the Condev-Automation GmbH

V-ALB-AI-0719-0 Status as of July 01, 2019

§ 1 Scope of application

1. These General Terms and Conditions shall apply to all business transactions between Condev and the customer in addition to the other contractual agreements.

We do not accept any other terms and conditions of the Customer - even in the case of unconditional performance or acceptance of remuneration for work - unless we expressly agree to their validity in writing.

This shall also apply to general and special terms and conditions of business outside the General Terms and Conditions of Purchase of the Customer, in particular, but not limited to, development conditions of the Customer, unless the provisions therein have been negotiated with Condev.

2. These General Terms and Conditions shall only apply to business transactions with companies as defined by § 14 BGB (German Civil Code); they shall also apply to all future business relations without renewed inclusion until new General Terms and Conditions have been issued by Condev.

3. All agreements made between Condev and the customer in the course of the contract negotiations shall be set out in writing and confirmed by both parties.

§ 2 Subject matter

Condev develops, designs and manufactures hardware and software components for the Customer on the basis of the specification sheet jointly prepared with the Customer or the Condev specification sheet signed by the Customer and the acceptance specification.

§ 3 Conclusion of contract

1. Condev shall accept the order within 10 working days, unless another acceptance period has been agreed upon.

2. Public service descriptions, e.g. on the Internet, can only be of a general nature; if the Customer wishes to derive binding agreements on the quality or suitability for use of the application intended by him, he must refer to this in the order.

3. The order must contain all information necessary for the execution of the order.

Missing, incorrect or incomplete information shall be deemed not to have been expressly agreed and shall not constitute any obligations on the part of Condev, neither in terms of performance and warranty nor in terms of claims for damages.

4. If the order placed by the Customer differs from Condev's offer, the Customer shall indicate the differences separately.

5. Orders shall be placed in writing or electronically (EDI); orders placed verbally or by telephone shall be executed at the risk of the Customer.

6. If the customer withdraws an order accepted by Condev, we shall be entitled, without prejudice to the possibility of claiming higher actual damages, to charge 10% of the price of the service for the costs incurred in processing the order and for loss of profit. The customer reserves the right to prove that the actual damage is lower.

7. If the success of Condev's services cannot be achieved with certainty, e.g. in the case of trial services and prototypes, the contract shall be deemed to be a service contract.

§ 4 Contract performance

1. The execution of the order is carried out in accordance with the agreed project execution procedure.

2. At the beginning of the development Condev and the customer agree on a realization plan.

3. The customer and Condev are aware that developments are regularly subject to time pressure and that the object of development is not always clear in all details at the beginning.

Condev and the Client are therefore entitled to request at any time in writing changes and/or additions to the originally agreed scope of the order. Condev shall prepare a preliminary cost estimate to determine the additional or reduced expenditure caused by such changes and shall hand it over to the Customer. After approval by the customer Condev will start with the necessary additional work, unless otherwise agreed.

Unilateral changes of the subject matter of the contract by the Customer as well as any other effects resulting in a change of the subject matter of the contract shall require Condev's written confirmation and shall be invoiced separately on a time and material basis according to the cost structure valid at the time of performance.

4. The scheduling of the individual project phases shall be in accordance with the agreed time schedule. It shall be adjusted by mutual agreement in accordance with the requirements changed or supplemented in the course of the project and shall be marked as binding in this respect.

5. The specification of the computing time required for the development and the tools to be used are subject of the specifications. The customer shall provide computing time or tools free of charge.

6. Condev shall periodically prepare project status reports based on the planning and development progress. If the customer does not object to the reports within 14 days after receipt, the contents of the report shall be deemed accepted.

§ 5 Subcontractor

Condev reserves the right to have the order processed or manufactured by a sub planner or subcontractor at no additional cost to the Customer.

§ 6 Obligation to cooperate

1. The Customer shall provide Condev free of charge with all information, materials, equipment, documents and approvals necessary for the execution of the order. The customer shall inform Condev of any risks and dangers associated with the performance of the contract. The customer shall cooperate in the necessary manner in the performance of the services. Failure to cooperate or incorrect cooperation shall be the responsibility of the customer.

2. if the Customer fails to comply with his obligation to cooperate after setting a reasonable period of grace to make up for his failure to do so under threat of termination of the contract, we shall be entitled to terminate the contract with effect from the expiry of such period. In case of termination of the contract we are entitled to demand a part of the remuneration corresponding to the work performed and reimbursement of expenses not included in the remuneration.

§ 7 Provision of materials

1. the customer must provide all necessary information on delivery of the provided materials, which serve to identify the provided materials and their careful damage-preventive treatment.
2. Condev will inspect the delivered provisions for externally visible damage. We are not obliged to carry out further checks. Any defects found will be notified to the customer within 5 working days after discovery of the defect.
3. If the provided materials prove to be unusable, Condev shall be reimbursed for the processing costs incurred. The customer shall be obliged to compensate Condev for any damage caused by the provision of unusable provisions.
4. We shall not be responsible for accidental loss or deterioration of the supplies provided by the customer.

§ 8 Time limits for performance

1. If a performance period has been agreed, it shall not commence until all details of the order have been completely clarified and the customer has duly fulfilled all his obligations to cooperate; the same shall apply to delivery or performance dates.
2. In the event of amicable changes to the object of performance, deadlines and dates shall be newly agreed. This shall also apply if the subject matter of the order has been renegotiated after conclusion of the contract without any changes being made to the subject matter of the order.

Deadlines and dates shall be subject to the reservation of fault-free and timely advance delivery and unforeseeable production disruptions.

§ 9 Acceptance

1. After each partial acceptance, the contracting parties shall prepare an acceptance report. After successful acceptance, defects shall be subject to the warranty regulations; the subject matter of the contract shall be deemed to have been accepted in this respect.
2. The customer is obliged to accept as soon as he has been notified by Condev that the services ordered have been completed. Acceptance cannot be refused on the grounds of minor defects. A work shall also be deemed accepted if we have set a reasonable deadline for acceptance by Customer after completion of the work and Customer has not refused acceptance within this deadline.

If the client accepts a defective work in the knowledge of the defect, he shall only be entitled to the statutory rights in respect of defects if he reserves his rights in respect of the defect upon acceptance.

3. A protocol to be signed by both parties shall be drawn up at the time of acceptance, confirming compliance with the agreed performance specification. Commissioning or use of the work or parts of the work shall be deemed acceptance.
4. The risk of destruction, loss or damage shall pass to the customer upon acceptance of the work performance. If shipment has been agreed, the risk shall pass to the client upon dispatch of the goods or their handover to the transport company.
5. If the client is in default of acceptance, the risk shall pass to the client at the time of default. A transfer of risk also exists if the service is interrupted for reasons for which the client is responsible and we have amicably handed over the services rendered up to that point into the custody of the client.

6. If the object of the contract has been lost, deteriorated or has become unfeasible before acceptance as a result of a defect in the material supplied by the client or as a result of an instruction given by the client for execution, without any circumstance for which we are responsible having played a part, we may demand a part of the remuneration corresponding to the work performed and reimbursement of the expenses not included in the remuneration. Any further liability of the client due to fault remains unaffected.

7. If the nature of the work precludes acceptance, the completion of the work shall take the place of acceptance. If the customer does not accept the service on the agreed date due to circumstances for which he is responsible, we shall be entitled to compensation for the additional expenses incurred as a result.

§ 10 Force majeure

1. In cases of force majeure Condev's delivery and performance deadlines shall be extended by the duration of the disturbance, plus a reasonable start-up period. Force majeure shall also include, but not be limited to, circumstances beyond the control of Condev, such as fire damage, strikes, lockouts, traffic disruptions, difficulties in obtaining necessary governmental permits, governmental orders, business interruptions, or major operational disruptions, such as lack of material or energy at Condev, subcontractors or suppliers. This shall also apply to the extent that we were in default when these circumstances occurred.

2. We shall inform the customer immediately of the beginning and end of such hindrances. If such events make it significantly more difficult or impossible for Condev to perform and the hindrance is not only of temporary duration, we shall be entitled to withdraw from the contract.

3. If performance is delayed by more than six weeks, both the customer and we shall be entitled to withdraw from the contract within the scope of the scope of performance affected by the impediment. The parties to the contract are not entitled to compensation in this respect.

4. If the performance is interrupted due to force majeure for an expected longer period of time without the performance becoming permanently impossible or if the performance wholly or partly performed is damaged or destroyed by force majeure before acceptance, we shall be entitled to invoice the performed services according to the contract prices and to claim compensation for costs already incurred by Condev which are included in the contract prices of the part of the performance not performed.

§ 11 Terms of payment

1. Unless otherwise agreed, the prices are in Euro net plus the statutory value added tax at the time of invoicing. Additional costs, especially travel expenses, will be charged separately. We shall be entitled to make reasonable changes to the agreed price if changes occur before or during the execution of the order because the information and documents provided by the customer were incorrect or if the customer wishes to make other changes.

2. We shall be entitled to demand an advance payment from the Customer in the amount of the value of the services provided by Condev. The services shall be documented.

3. Unless otherwise agreed, invoices are due immediately after acceptance and are payable within 30 days without deductions. In case of non-payment the customer shall be in default without further reminder. Discounts and rebates will only be granted by separate agreement. Part payments require a separate written agreement.

4. If Condev has several outstanding claims against the Customer and if payments by the Customer are not made on a specific claim, we shall be entitled to determine on which of the outstanding claims the payment was made.

5. In the event of late payment, deferment of payment or partial payment, we shall be entitled to demand interest on arrears at the rate customary in banking, but at least 10 percentage points p.a. above the respective base interest rate, and to withhold further services until all due invoices have been settled. We reserve the right to prove higher damages.

6. If justified doubts arise as to the solvency or creditworthiness of the customer, e.g. due to a sluggish mode of payment, delayed payment or cheque protest, we shall be entitled to demand security or cash payment concurrently with our performance. If the customer does not comply with this request within a reasonable period of time set by us, we are entitled to withdraw from the unfulfilled part of the contract or to suspend deliveries until payments have been received. The period of grace is not necessary if the customer is obviously not able to provide security.

7. The assignment of claims against Condev requires our consent.

8. If value added tax is not included in Condev's invoice, in particular because we are not aware of an "intra-community supply" in the sense of § 4 No. 1 b i. 6 a UStG and we are subsequently charged VAT (§ 6 a IV UStG), the Customer shall be obliged to pay the amount charged to us to Condev. This obligation shall apply irrespective of whether we are required to pay value added tax, import turnover tax or comparable taxes in Germany or abroad.

§ 12 Place of Performance

1. Place of performance for the services and payments ordered is the registered office of Condev.

2. In case of damage or loss of the goods in transit the customer shall immediately arrange for an inventory and notify Condev thereof. Any claims arising from damage in transit must be made immediately to the carrier by the customer.

§ 13 Incoming goods inspection and notification of defects

1. If no acceptance of the subject matter of the contract has been agreed, § 377 of the German Commercial Code (HGB) shall apply accordingly to Condev's services. In this case the customer's claims for defects require that the customer inspects the subject matter of the contract for defects in accordance with § 377 HGB and notifies Condev immediately in writing or in text form of any defects discovered, specifying the specific defect. Otherwise the subject matter of the Contract shall be deemed to be approved as free of defects. The burden of proof that a hidden defect exists shall be borne by the Customer.

2. The further use of defective deliveries or services is not permitted. If a defect could not be discovered in the incoming goods or during the performance of the service, any further use of the object of delivery or service must be stopped immediately after discovery.

3. The notification of defects does not release the client from the obligation to meet his payment obligations.

§ 14 Warranty

1. If a defect is present, we are entitled at our own discretion to rectify the defect or to provide replacement within a reasonable period of time.

2. Claims for the purpose of subsequent performance, in particular transport, travel, labour, material and exchange costs are excluded if the expenses increase because the object of performance was subsequently taken to a place other than the customer's branch office, unless the transfer corresponds to its intended use.

3. The same warranty conditions apply to replacement services and repairs as to the originally delivered item.

§ 15 Defects of title

Orders in accordance with the client's specifications are executed at the client's risk. If, as a result of the execution of such orders, we encroach on third party industrial property rights, the customer shall indemnify Condev against any claims of such rights holders.

Condev's liability for infringements of property rights in connection with the use of the goods or services or with the connection or use of the goods or services with other products is excluded. In case of such defects of title Condev shall be entitled to obtain the necessary licenses or to remedy the defects by modifying the goods or services to a reasonable extent.

§ 16 Reservation of title, industrial property rights

1. Condev reserves all property rights and copyrights.
2. The transfer of the subject matter of the contract and the related documents including the rights associated with them to the customer shall be made after payment and reimbursement of all costs in accordance with the contract. Unless otherwise agreed, after transfer the Client shall have an exclusive and unlimited right to use the subject matter of the contract, to have it used and to grant third parties any rights of use in the subject matter of the contract.
3. Condev shall be entitled to use know-how acquired in the course of order processing.

§ 17 Liability

1. We are liable for the company's obligations only with the company's assets. In case of simple negligence we are only liable in case of violation of an essential contractual obligation. The liability is limited to the contract-typical, foreseeable damage.
2. Claims for damages for personal injury and claims arising from the Product Liability Act are subject to the statutory provisions.
3. Restrictive liability agreements from the contract also apply to tort claims of the client.
4. Insofar as our liability is limited, this also applies to the personal liability of our employees, workers, staff, representatives, vicarious agents and assistants.
5. As far as our liability is limited, the Customer shall be obliged to indemnify Condev against any claims of third parties. The customer shall inform Condev immediately of any claims of third parties.

§ 18 Statute of Limitations

1. The limitation period for claims and rights due to defects in our services and the resulting damages is 1 year. This does not apply if the law prescribes longer periods. The beginning of the limitation period is based on the statutory provisions.
2. The limitation period according to the preceding number 1, sentence 1 shall furthermore not apply in the case of intent, if we have fraudulently concealed the defect or have assumed a guarantee of quality, in the case of claims for damages due to personal injury or breach of freedom of a person, in the case of claims under the Product Liability Act and in the case of a grossly negligent breach of duty or in the case of a breach of essential contractual obligations.
3. Subsequent performance measures shall neither suspend the limitation period applicable to the original performance of services nor cause the limitation period to start anew.

§ 19 Secrecy

1. The client undertakes to treat all aspects of the business relationship worthy of protection as confidential. In particular, he will treat all commercial and technical details which are not public

knowledge and which become known to him through the business relationship as business secrets. The obligation of secrecy shall not apply to information or aspects of the business relationship which were already publicly known at the time of disclosure, nor to information or aspects of the business relationship which were demonstrably already known to the contracting party before disclosure by Condev. The customer shall ensure that its employees are also bound to secrecy.

2. Any reproduction of the documents provided to the Customer shall only be permitted within the scope of operational requirements and copyright provisions.

3. All documents may not be made available to third parties, neither in whole nor in part, without the written consent of Condev or used outside the purpose for which they were provided to the customer.

4. Any disclosure, even partial, of the business relationship with Condev to third parties shall only be made with the prior written consent of Condev; the Customer shall also impose a confidentiality obligation on the third parties under a similar agreement.

5. The Customer may only advertise the business relationship with Condev with Condev's prior written consent; the Customer shall also be obliged to maintain secrecy after the end of the business relationship.

§ 20 Place of jurisdiction and applicable law

1. The place of jurisdiction is - if the customer is a merchant - at our choice the court responsible for our place of business or the place of business of the customer.

2. For the business relations with the client, the law of the Federal Republic of Germany is exclusively applicable. The applicability of the CISG - "UN Sales Law" is excluded.

3. If individual parts of these ALB should be ineffective, the effectiveness of the remaining provisions shall not be affected thereby.

§ 21 Data protection

We treat all data of the client exclusively for the purpose of business transactions and according to the requirements of the respective valid data protection regulations. Upon written request, the Customer shall also have the right to obtain information about his personal data collected, processed and used by Condev.

§ 22 Contact details

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