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## **GENERAL TERMS AND CONDITIONS FOR GOODS, SOFTWARE, PERSONALISED PRODUCTS AND SERVICES PROVIDED BY EPI GmbH**

### **1. Scope**

1.1. All contractual relationships which EPI GmbH has entered into as a Contractor shall be exclusively subject to the following General Terms and Conditions (GTC).

The contract partner - the Principal - acknowledges the present GTC by confirmation, by signing the contract or order, by placement of an order, or by uncontested acceptance of these terms and conditions, but at the latest by uncontested acceptance of goods or services (contract execution), which also applies to any follow-up business deals. The general terms and conditions or general conditions of purchase of the Principal shall be expressly objected to herewith, and these will under no circumstances become part of the contract. EPI GmbH shall not be bound by such GTC, not even if EPI GmbH fails to repeat its objections to such GTC upon concluding the contract. The transmission of an order confirmation or the execution of an order shall not be considered an acknowledgement of the Principal's terms and conditions either. EPI GmbH will exclusively accept to be bound by such GTC if it declares so explicitly and in writing.

1.2. Changes of or collateral agreements related to these GTC shall only be valid upon written agreement and only with respect to the individual business case. All declarations to be made between the parties under this contract shall also require the written form (e.g. complaints, cancellation etc.). The requirement of the written form is deemed fulfilled if written documents are transmitted from one contracting party to the other by email or fax.

1.3. If any of the provisions of these GTC is or becomes partially or wholly invalid or unenforceable, the validity of other provisions of the contract shall not be affected. An invalid provision is deemed replaced by a valid provision that comes closest to the economic purpose of the invalid provision. The same applies in the event that these GTC contain a legal loophole. Individual provisions set out in the GTC of the Principal will, even in such cases, not become a part of the contract.

1.4. In addition to these GTC, an order confirmation and its content also form an integral part of the contract, and in case of deviating regulations will have priority over these GTC.

1.5. The Contractor may generally assume that the Principal's employees are authorised to place orders or pick up products on behalf of the Principal.

1.6. The application of sections 9 and 10 of the E-Commerce Act (ECG) shall be excluded.

1.7. To the extent that commercial provisions are used, their interpretation shall - unless agreed otherwise - be based on the Incoterms 2010 in their current version.

1.8. The Principal shall not be authorised to transfer any rights and duties resulting under this contract to third parties without the prior written consent of EPI GmbH. EPI GmbH executes the order by means of an automated data processing system. The Principal expressly consents to the processing of data which have been disclosed to EPI GmbH in the framework of the contractual relations and which are needed for

processing the order.

## **2. Offers and contract conclusions**

### **2.1. General**

EPI GmbH shall only be legally bound by contracts, orders and agreements if they are signed by employees of EPI GmbH who are authorised to sign, and shall only be bound to the extent indicated. Offers submitted by EPI GmbH are principally non-binding until the order is confirmed. Orders, to the extent that they are received by distribution staff of EPI GmbH, shall become legally binding upon EPI GmbH only with a written order confirmation of EPI GmbH (by email or by post) or by rendering of the service on behalf of the Principal. Staff of EPI GmbH are not authorised to make commitments that deviate from these GTC and/or from the order confirmation.

### **2.2. Offers**

Offers provided by EPI GmbH are transmitted by electronic mail or post. The term of validity is indicated in the offer. Order confirmations or other declarations on the part of the Principal that deviate from the offers submitted by EPI GmbH in any form whatsoever need to be explicitly confirmed by EPI GmbH. Unless objections regarding a deviation of the content of the order confirmation from the written order are raised by the Principal immediately, at any rate within two work days after receipt of the order confirmation, the content of the order confirmation of EPI GmbH shall be regarded as authoritative. EPI GmbH shall be entitled to refuse to accept an offer without giving reasons. The submission of an offer does not guarantee that a contract can be concluded.

Documentations, technical drawings, quotes and other documents, which may also be a part of the offer submitted by EPI GmbH, as well as specimen, catalogues, folders, images etc., permanently remain the intellectual property of EPI GmbH. Any use, reproduction, distribution and disclosure to third parties, announcement or demonstration shall require the explicit written consent of EPI GmbH. The Principal is obliged to take appropriate measures to prevent unauthorised third parties from accessing these data. In case of failure to fulfil this obligation, the Principal shall be liable to EPI GmbH for any damage resulting therefrom.

### **2.3. Conclusion of contract in the online shop**

Such contracts shall be exclusively bound by the General Terms and Conditions for Online Shops as announced by EPI GmbH in the relevant online shops.

### **2.4. Framework contracts/framework agreements**

In the event that a framework agreement or framework contract has been concluded between the Principal and EPI GmbH, the following shall apply: Release orders by the Principal, to the extent that they are received by distribution staff of EPI GmbH, shall become legally binding upon EPI GmbH only by a written order confirmation of EPI GmbH (by email or by post), delivery of the product or rendering of the service. Order confirmations or other declarations on the part of the contract partner that deviate from the offers submitted by EPI GmbH in any form whatsoever need to be explicitly confirmed by EPI GmbH also in connection with release orders within a framework agreement or framework contract. Any objections regarding a deviation of the content of the order confirmation from the written order or from the release order within the framework agreement or framework contract have to be raised by the Principal in due course, but at any rate within two work days after receipt of the order confirmation;

otherwise the content of the order confirmation of EPI GmbH shall be regarded as authoritative.

### **3. Specifications**

#### **3.1. General**

3.1.1 Not only these GTC, but also the offer submitted by EPI GmbH and the specifications elaborated by EPI GmbH on the basis of the documents and information provided by the Principal, as well as the order confirmation issued by EPI GmbH, shall serve as the basis for orders. The accuracy and completeness of the offer and the specifications have to be verified by the Principal prior to the confirmation of the order, the delivery of the goods, or the rendering of the service. Any later requests for changes or modifications by the Principal may delay delivery without resulting in any negative legal consequences for EPI GmbH, and EPI GmbH shall be authorised to invoice the resulting extra burden separately.

3.1.2. By placing an order, the Principal declares that he has evaluated the contractual offer and the specifications and that the products and services contained therein fully comply with his requirements.

3.1.3. Services which are rendered prior to a thorough definition of the service to be rendered by EPI GmbH, without or beyond such definition, as well as services which in the offer or specifications are marked as “at cost”, shall be invoiced based on actual time spent and material used.

3.1.4. Any volume scales announced by EPI GmbH are at any rate deemed to be amounts no less than the number of items offered or requested.

3.1.5. Advertising material, brochures, product information and other manifestations made by EPI GmbH or its staff are basically of a non-binding nature.

3.1.6. EPI GmbH explicitly advises that a flawless development of software programmes or installation of web services cannot be guaranteed by modern standards. EPI GmbH therefore only guarantees and accepts liability - in particular with a view to the provisions made under items 13 and 14 - that the software and web service products it develops will properly execute the programme instructions if the workmanship of the sensors as well as the hardware and system configurations provided by the Principal fully comply with the recommendations of EPI GmbH and if any occurring defects are identifiable and continuously reproducible by modern standards.

#### **3.2. Personalised products**

3.2.1. The customisation and further processing of personalised products such as direct mailings, transaction and transpromo printing etc. takes place in separate buildings. These may only be entered by authorised personnel. This is guaranteed by a keycard locking mechanism which is linked to the time recording system, thereby allowing to determine at any time who enters the secured areas and when these areas are entered.

3.2.2. Personalised wastes are defaced or destroyed under supervision. Personalised products leave the premises of affiliated companies of EPI GmbH fully packed and are handed over to the forwarding agent.

3.2.3. EPI GmbH and its employees shall observe the provisions relating to data protection.

## **4. Installation/delivery and commissioning**

### **4.1. Installation/commissioning of software and services**

4.1.1. In the event that software developed by EPI GmbH is installed, the Principal shall ensure at his own expense that at the time of installation all necessary technical, legal and actual precautions have been taken and requirements have been met to facilitate a seamless installation by EPI GmbH. Any costs and expenses arising from the Principal's failure to meet his obligation, which are not included in the offer or the order confirmation, shall be paid by the Principal separately.

4.1.2. The commissioning of the delivered software and documents or services is effected by a functional demonstration of the software or service by EPI GmbH. Delivery is deemed effected if the software or service complies with the requirements of the order or the specifications in a test run.

4.1.3. Slight defects which do not impair the usability of the delivered product in accordance with the properties set out in the offer or in the specifications shall not authorise the Principal to refuse acceptance or commissioning.

4.1.4. If the commissioning of the software or service fails to be executed within a period of 14 days following delivery for reasons falling into the responsibility of the Principal, the software is deemed commissioned upon expiry of this period.

4.1.5. Upon the commissioning of the software and any other relevant services by the Principal, the risk is ultimately transferred to the latter.

### **4.2. Acceptance of goods**

The product/work shall be examined by the Principal immediately upon acceptance in accordance with sections 377 and 378 of the Austrian Commercial Code (UGB). Any identifiable defects shall be indicated on the delivery note, acceptance certificate or consignment note. If such inspection cannot be performed immediately, the defects shall be reported in a registered letter of complaint within eight days following receipt. If an inspection cannot be performed immediately, this shall be indicated on the delivery note, the acceptance certificate or the consignment note.

### **4.3. Delivery**

4.3.1. Deliveries are ex works.

4.3.2. EPI GmbH shall be entitled to make partial deliveries, which have to be accepted and paid by the Principal; if the latter fails to do so, he shall be in default of acceptance.

4.3.3. In case an on-call delivery service has been arranged, the risk will already be passed on when readiness for dispatch is indicated.

### **4.4. Personalised products**

For direct mailings, transaction printing and comparable jobs, the delivery date shall be the postmarking date, and the duties of EPI GmbH under this contract are deemed fulfilled by postmarking as the company has no control over the postal service. EPI GmbH accepts no liability for any damage for which the delivery service is to be held accountable. The Principal shall make any advance payments into the indicated bank

account timely, so that EPI GmbH has the money available at least two days prior to the arranged posting date. In the event that this payment is not credited to the account of EPI GmbH on time, EPI GmbH is under no obligation to render its services. The goods will in any case only be posted after the postage cost has been credited to the account of EPI GmbH. In the event that the ordered goods shall no longer be dispatched according to the Principal's instructions, the Principal is obliged to pay all services rendered by EPI GmbH up to the time when such instructions are given.

## **5. Software maintenance and support and services**

5.1. Maintenance is defined by the contracting parties as the obligation of EPI GmbH to keep the software and/or service in the same functional condition in which it was upon acceptance. EPI GmbH shall comply with this obligation by keeping the software operational during the term of contract against payment upon the Principal's placement of the order.

5.2. Within the framework of maintenance, EPI GmbH reserves the right to change, advance, improve or replace the software or service by a new development with equivalent functions. EPI GmbH ensures the further processing of data created by earlier programme versions and provides the software or instructions required for this purpose.

5.3. The Principal is obliged to acquire and implement the programme versions developed during maintenance. In the event that the Principal refuses to acquire and use the programme versions provided during maintenance, he shall still be obliged to fully pay all relevant utilisation fees, but waives the right to benefit from future troubleshooting and other programme maintenance services.

5.4. The Principal acknowledges that due to the restrictions of the hardware configuration he uses, the changes in the programme versions effected during maintenance may result in his inability to use the new programme versions or may impair the full operability of the system. In this case, the Principal is not obliged to accept the programme version handed over to him and shall be authorised to terminate the present contract as of the end of the month, by giving one month's notice.

5.5. In the framework of the present contract and during the term of contract, EPI GmbH shall be obliged to provide the following assistance:

- - to assist the Principal by email with any questions regarding software operation and administration;
- - to eliminate reconstructable programme errors;
- - to give information as well as provide and install new programme versions;
- - it is agreed that the time to respond to questions will be a maximum of 3 hours following receipt of the question during office hours.

EPI GmbH shall provide its maintenance and support services as soon as possible during office hours. Office hours (except public holidays): Monday – Thursday 8.00 a.m. – 4.30 p.m., Friday 8.00 a.m. - 12 noon.

### **Duties of the Principal:**

The Principal is obliged to observe and comply with the following:

- Queries are exclusively sent by email to [info@epi-tec.com](mailto:info@epi-tec.com).
- All relevant record data, screenshots etc. are always attached to the respective query.

- All relevant information about the respective (affected) system configuration, which is the subject of the query, is always attached.  
In case of queries regarding client systems, the following operating data are needed:
  - a) operating system (name, version, service pack if applicable)
  - b) browser (name, version, service pack if applicable)
- Allocated reference numbers always have to be specified.

5.6. The following services shall be excluded from the maintenance and support services under this contract:

- Troubleshooting operations and repair of damage resulting from improper treatment or other impacts for which EPI GmbH cannot be held responsible. Such troubleshooting and repair services provided by EPI GmbH will be invoiced separately at the applicable rates charged by EPI GmbH.
- If the Principal or a third party interferes with the software or with the data processed by the software (to the extent that they are part of the programme), EPI GmbH shall no longer be bound by its duty to provide maintenance and support services.

## **6. Prices, taxes, charges**

6.1. Unless specifically noted, all prices are indicated in euros excluding value-added tax. They shall only apply to the individual contract. Any deviating price arrangements shall be concluded in writing in order to be deemed effective. The indicated prices are ex works. Any applicable contract fees are invoiced separately.

6.2. If the type of contract so requires, prices also include the cost of ordinary packaging. If the Principal requests any additional packaging (crates, boxes etc.) or secured transport, the Principal shall also bear the associated costs. EPI GmbH will not accept any returned packaging, except reusable packaging.

### **6.3. Price changes**

6.3.1. Prices indicated in order confirmations of EPI GmbH are binding up to the “valid until” date in the relevant order confirmation. After that date, EPI GmbH shall be authorised to pass on price increases or increases in other costs (such as labour and material costs) to the Principal.

6.3.2. In connection with services, EPI GmbH will notify the Principal of any changes in hourly service rates one month before they become effective. The Principal shall accept such increases in advance if they do not exceed 10% p.a.

6.3.3. Services provided by EPI GmbH upon the Principal's request or order which exceed the scope agreed upon will be calculated at the hourly rates of EPI GmbH valid at the time of performance and will be invoiced monthly along with a record of the services rendered. Such services are rendered during the normal work hours of EPI GmbH. If services are exceptionally rendered outside of normal work hours upon the Principal's request, the extra costs incurred will be invoiced separately. The detailed rules are defined in the order or in the specifications.

6.3.4. The deliveries and/or other services agreed upon under the contract will be invoiced by EPI GmbH upon completion. Services will be invoiced on a monthly basis and the relevant prices are adjusted to the consumer price index 2010 annually as per January 1<sup>st</sup>. Annual usage fees for software are to be paid at

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the beginning of each calendar year and will be adjusted to the consumer price index 2010 annually as per January 1<sup>st</sup>. In case of orders which can be subdivided into units, EPI GmbH shall be authorised to execute partial deliveries and submit partial invoices.

#### **6.4. Travel costs**

Travel costs, daily allowances and overnight expenses shall be invoiced to the Principal separately. The detailed rules are defined in the order or in the specifications.

#### **6.5. Special costs**

Draft and test production costs are basically invoiced separately and are not included in the quoted prices. If the Principal cancels an order, he will be invoiced the arising work and material costs as well as 20% of the order amount exceeding these costs.

### **7. Terms of payment**

#### **7.1. General**

Unless otherwise agreed, invoices submitted by EPI GmbH shall be payable within 30 days following the date of invoice, including VAT, without deductions and free of charges. The same conditions apply for partial invoices.

#### **7.2. Default in payment**

7.2.1. Adherence to the payment targets agreed upon is an essential condition for the execution and maintenance of delivery and the fulfilment of the contract by EPI GmbH. Failure to adhere to the payment targets agreed upon authorises EPI GmbH to discontinue its ongoing activities or services within one week following written notice and to terminate the contract. All associated costs as well as the loss of profit have to be covered by the Principal.

7.2.2. In case of delayed payment, default of acceptance and failure to meet deadlines, a statutory default interest in accordance with section 456 of the Austrian Commercial Code shall be charged. In case of default, the Principal has to pay the statutory default interest as well as all judicial and extrajudicial enforcement costs, and also has to compensate for the entire damage incurred as a result of late payment.

7.2.3. If payment conditions fail to be observed or circumstances become known which, according to the commercial discretion of EPI GmbH, have the potential to impair the creditworthiness of the Principal, EPI GmbH is authorised to claim advance payment for outstanding deliveries.

7.2.4. Payments with a debt-discharging effect may only be made by bank transfer to the accounts indicated in the invoice submitted by EPI GmbH. Cash payment is by no means permissible. In the event of arrears in payment, any incoming payments effected by the Principal shall first be credited to the Principal's earliest outstanding claim irrespective of the dedication of payment. Incoming payments shall first be credited to costs, then to interests, and finally to the principal claim, with the earliest claim being settled first and then the next in order of precedence.

#### **7.3. Right of offset**

The Principal shall only have the right to offset receivables which are either explicitly acknowledged by EPI GmbH in writing or recognised by a court ruling.

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## **8. Schedules, deadlines and right of rescission**

8.1. EPI GmbH seeks to meet all completion deadlines agreed upon as closely as possible.

8.2. The intended delivery deadlines can only be met as long as the Principal completely and correctly provides all relevant preparations, documents and data carriers, in particular the specifications and elaborations approved by him, within the deadlines indicated by EPI GmbH and fulfils his collaboration duties as required.

8.3. Under the conditions set out above, the delivery period begins on the day of receipt of the order by EPI GmbH, unless otherwise noted in the order confirmation, and ends on the day when the delivery leaves the premises of EPI GmbH. The delivery dates agreed upon are basically approximate dates, unless they have been expressly confirmed as fixed dates in the order confirmation. The delivery period shall be interrupted for the time necessary to review the transmitted proofs and test prints.

8.4. Delivery delays and cost increases resulting from inaccurate, incomplete or subsequently changed information as well as documents/data carriers made available shall not be the responsibility of EPI GmbH and cannot lead to a default on the part of EPI GmbH. Any resulting extra costs shall be paid by the Principal.

8.5. The Principal is obliged to retain copies of the documents and data carriers provided. EPI GmbH is authorised to request free copies if necessary. Should the Principal fail to fulfil these obligations, he shall forfeit every right to claim damages from EPI GmbH.

8.6. The deadlines agreed upon shall begin upon receipt of all relevant data and documents by EPI GmbH.

8.7. Any unforeseen or unexpected events, such as force majeure events, labour disputes, strikes or environmental disasters, excuse EPI GmbH from any delivery obligation, regardless of whether these circumstances occur on the premises of EPI GmbH or on the premises of its suppliers. In such a case, the Principal shall not have the right to terminate the contract or hold EPI GmbH liable for any consequential damage. The contracting parties will make their best effort to mutually agree on new delivery dates.

8.8. EPI GmbH shall not be liable for delivery delays beyond its control. In such cases, the Principal shall waive the right to cancel the contract and to claim damages resulting therefrom.

8.9. In the event that the delivery period agreed upon is exceeded for reasons solely due to EPI GmbH, the Principal shall be authorised to terminate the contract by giving reasonable notice - but at least 14 days' notice - by registered letter, on condition that EPI GmbH fails to perform essential parts of the delivery or service agreed upon also during the grace period. The right of the Principal to cancel partial deliveries and services that have already been executed shall be excluded.

## **9. Retention of title**

9.1. All goods delivered by EPI GmbH shall remain the property of EPI GmbH until the arranged price or the invoiced costs have been fully paid. The sale of goods of which EPI GmbH retains ownership is only permissible upon express written consent by EPI GmbH.

9.2. If the Principal is in default of payment, EPI GmbH shall be entitled to claim retention of title and



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retrieve the goods. The act of retrieving and securing the goods shall not be deemed a cancellation of the contract. The Principal's obligations, in particular the payment of the purchase price, shall remain unchanged.

## **10. Property rights**

10.1. The auxiliary work tools produced by EPI GmbH shall remain the unalienable property of EPI GmbH, even though the principal has paid a compensation for their value.

10.2. Intellectual property rights which are established in the framework of the contract shall reside exclusively with the party that has established them. Unless otherwise stated in the contract, the latter may freely dispose of and freely use these intellectual property rights.

In the event that intellectual property rights are jointly established by various parties working together, and cannot be separated, these shall be jointly owned by the parties on a pro-rata basis depending on their contribution. All aspects regarding the utilisation, use, registration (if applicable), maintenance and defence of such intellectual property rights as well as the associated costs and revenues shall be regulated in a separate document. Until such a document is concluded, the co-owners shall be entitled to a reasonable remuneration (e.g. division of net license fees, ownership of license in proportion to project interest) which is proportionate to the parties' contribution to the invention for any commercial use of such a joint intellectual property right.

## **11. Prohibition of assignment**

Outstanding debts which EPI GmbH owes to the Principal may only be assigned to others in consultation with EPI GmbH. This agreement shall be made in writing.

## **12. Transfer of risk**

The risk of accidental destruction or accidental deterioration is transferred to the Principal upon delivery. The delivery shall remain unaffected by the Principal being in default of acceptance.

## **13. Liability**

13.1. EPI GmbH accepts no liability for a special quality, productivity and suitability of the delivery and/or service under the contract that exceeds the quality, productivity and suitability set out in the order confirmation or in the specifications. The Principal declares that he is fully informed about the subject matter of the contract and waives the right to contest the contract due to error.

13.2. EPI GmbH only assumes liability in accordance with the statutory regulations for any damage caused by its employees or representatives deliberately or by gross negligence. Liability for damage caused by slight negligence is expressly excluded. Compensation for consequential damage and property damage, unrealised savings, loss of interest and damage incurred through claims from third parties against the Principal shall be excluded by EPI GmbH, unless they have been caused by EPI GmbH, its employees or representatives intentionally or by gross negligence.

13.3. The obligation of EPI GmbH to compensate the Principal for any damage shall at any rate be limited to the partial contract value or, in case of services, to the usage fee agreed upon for a term of one year under the contract.

13.4. In the event that EPI GmbH, in its own name and on its own account, obtains goods and services from suppliers that were suggested to EPI GmbH by the Principal in order to meet its contractual obligation vis-à-vis the Principal, EPI GmbH shall not be held liable for any defects in these goods and services. EPI GmbH hereby assigns any claims against such suppliers to the Principal. In the event that such goods and services are offered to EPI GmbH in an online shop set up for the Principal, the Principal agrees to indemnify and compensate EPI GmbH for any claims asserted by third parties.

13.5. The right of recourse in accordance with section 12 of the Product Liability Act is expressly excluded. Should a claim be filed against the Principal by a third party under the Product Liability Act, the Principal shall not be entitled to file a recourse claim against EPI GmbH.

#### **14. Warranty**

EPI GmbH accepts warranty for the services it provides only within the framework of the following terms. In any case, the Principal waives the right to assert claims for any consequential damage. Principally, EPI assumes liability for any defects only to the minimum extent required by law. We explicitly refer to the provisions outlined under items 14.2.1. and 14.3., which are basically agreed upon.

##### **14.1. regarding software, software maintenance and web services**

14.1.1. EPI GmbH guarantees that the delivered software remains functional for a period of 6 months following its commissioning, or that the service remains functional throughout the period of utilisation agreed upon, as described in the order or in the specifications. A relevant defect of the software or service provided is deemed to exist if the function of the software or service materially deviates from the one described in the order or in the specifications, and if this defect may be reproduced by the Principal. The Principal is obliged to give notification of a defect within 8 days following the occurrence of such defect; otherwise he forfeits his right to claim compensation.

14.1.2. EPI GmbH shall choose the method of remedying the defect in accordance with the technical requirements, either on the Principal's premises, or at the site of software application, or at EPI GmbH. EPI GmbH may choose to remedy these defects individually without charge, or supply an improved programme version, or give advice on how to rectify the defects or bypass the impacts of such defects.

14.1.3 The Principal assures to grant EPI GmbH the resources in terms of man hours provided by his employees and the opportunity necessary to rectify the defects without charge. To this end, and in consultation with EPI GmbH, the Principal provides the computing systems and peripheral devices in sufficient quantity and free of charge. Travel costs and expenses of EPI GmbH have to be paid by the Principal if the place of performance is abroad, or if the principal explicitly requests that the defect be rectified within the country at the site of software application even though EPI GmbH believes that there is no technical need to do so.

14.1.4. If the principal refuses to assist EPI GmbH in the rectification of the defect, EPI GmbH shall be exempted from its obligation to rectify such defect. The right to perform substitute measures is expressly excluded.

14.1.5. EPI GmbH is in no way obliged to disclose source or machine codes to the Principal or to third parties. In the event that EPI GmbH is dissolved, the source or machine code will be passed on to DPI Holding GmbH, FN 369163m, Leopoldauerstraße 179, 1210 Vienna. Should DPI Holding GmbH also be dissolved, the source and machine code will be held in escrow by a notary public in Vienna and may only be disclosed to those persons who can verify their identity as authorised users to the notary public.

14.1.6. EPI GmbH shall also be exempted from its obligation to rectify defects that are caused by the Principal or by third parties as a result of manipulation of the software or service or operating errors, unless the Principal is able to prove that such manipulation is not the cause of the defect or was initiated by EPI GmbH. If EPI GmbH is able to prove that there was no software or service deficiency, the Principal shall have to pay all costs arising from troubleshooting and defect rectification.

14.1.7. If the defect cannot be rectified (modification or replacement delivery), the Principal shall be authorised to claim a lower usage fee or terminate the contract with immediate effect.

#### **14.2. Other deliveries and/or services**

14.2.1. EPI GmbH shall be notified in written form of any complaints in due course, but within 5 work days at the latest. The commodity shall be inspected immediately upon receipt and any defects shall be indicated on the acceptance certificate. Any later complaints due to transport damage or incomplete delivery cannot be accepted. Defects affecting parts of the delivery must not result in a complaint which relates to the entire delivery. Complaints due to hidden defects shall be reported in writing within 3 months following delivery. The used materials shall be subject to the tolerances outlined in the terms and conditions of delivery of EPI GmbH. In case of a justified improvement claim, the Principal shall only be entitled to retain the expenses required for such improvement.

14.2.2. Typesetting and printing errors are corrected free of charge if they have been caused by EPI GmbH. Any later modifications of the print template will be charged. If EPI GmbH fails to submit a final proof, it shall be liable for any inaccuracies in the execution of printing resulting from its fault. EPI GmbH shall not be liable for any print and execution errors which the Principal has overlooked in the proofs which he has approved for printing. Any requests for changes made by phone or orally need to be confirmed in writing before the printing process is initiated. Typesetting data and/or images provided by the Principal will only be checked for correctness upon the explicit request of the latter. Such a check will be charged. Unless the Principal requests such a check, the data will be processed in their unrevised form. EPI GmbH assumes no liability for errors resulting therefrom. Slight colour deviations in printed images or spot colours shall not warrant a complaint.

#### **14.3. Personalised products**

In addition to the provisions established under items 4.4, 13 and 14 (all items), the following shall apply: The personalised print quality depends on the substrate used. The proof is only of relevance for text and status. The typeface of variable data that need to be printed into forms may deviate from the test print, but they need to be clearly legible. Any claims for damages, guarantee and other claims for personalised products on the part of the principal are limited to the individual product. With the exception of gross negligence and intention, postage costs cannot be reclaimed.

#### **14.4. EPI - PHS**

In addition to the provisions established under items 4.4, 13 and 14 (all items), the following shall apply: The EPI-PHS delivered by EPI have to be installed and assembled by an approved specialised company in

accordance with the EPI Operating Instructions. This company shall also draw up an installation protocol. The system shall be commissioned and put into service in conformity with the EPI Operating Instructions and an inspection record shall be prepared. EPI assumes no liability whatsoever for the planning of PHS installation nor the installation itself, regardless of any legal grounds that might apply. EPI assumes no liability for the damage or functional loss of the EPI-PHS, nor for any damage resulting therefrom including mechanical damage, physical impacts (e.g. excessive exposure to UV light, excessive water intake, excessive heat, incorrect installation, etc.), operating errors, or other influences beyond the control of EPI, regardless of any legal grounds that might apply. Moreover, EPI basically assumes liability in particular for measuring or interpretational errors, data transmission errors, or other errors arising during EPI-PHS operation only in case of gross negligence or wilful misconduct. Any legally justified claims will be settled at EPI's option either through replacement of faulty components, repair, or price reduction. The Principal's right to transformation shall be explicitly waived.

## **15. Storage**

If finished products are stored at affiliate companies of EPI GmbH, the delivery of an initial portion shall equate to the delivery of the entire amount to the Principal. The Principal shall, upon advance notification, have the right to inspect the commodity. If there is explicit agreement on the storage of external print products or materials made available by the Principal at the affiliated companies of EPI GmbH, these companies shall not be held liable for any damage caused during the storage of the products despite all due care and diligence. All materials made available have to be delivered to the affiliated companies of EPI GmbH free of charge (carriage paid). The affiliated companies of EPI GmbH only confirm acceptance, but make no representations about the correctness of the quantities and qualities indicated in the documents, nor about the absence of defects. EPI GmbH will only be able to perform a detailed review during the production process, and shall - in accordance with items 13 and 14 - only be liable for damage caused as a result of its own fault. EPI GmbH is not obliged to take out insurance cover for the risks related to the stored products. After the expiry of the storage period agreed upon or - if no such period has been arranged - after a maximum of one year, delivery is executed or storage costs equating to the forwarder's rates will be charged.

## **16. Provided work documents**

EPI GmbH shall assume liability for manuscripts, drafts, data carriers and other documents within the meaning of item 15 up to a date which lies 4 weeks after the execution of the order. Furthermore, EPI GmbH accepts no liability whatsoever for any non-recovered documents.

## **17. Name and brand label**

17.1. EPI GmbH shall be authorised to imprint its company name, logo or brand name on the products or web services to be executed, even without special consent by the Principal.

17.2. The Principal hereby agrees that EPI GmbH may use the goods produced or services rendered on behalf of the customer for its own purposes free of charge, in particular as reference material in catalogues and mailings. The Principal explicitly declares that in such cases he shall not be entitled to assert claims against EPI GmbH on any legal grounds whatsoever.

## **18. Proprietary rights and right of use**

18.1. Upon full payment of all fees agreed upon, EPI GmbH grants the principal the non-exclusive and non-transferable right to use the software or service indicated and described in detail in the order or in the specifications for the term agreed upon. The Principal shall not be entitled to distribute or pass on the subject matter of the contract to others if he himself is not a reseller. Even though the Principal collaborates in the production of the software under this contract, he shall not acquire any rights beyond the type of use established under this contract.

18.2. All copyrights, rights of use or other rights to the deliveries and/or services agreed upon (analyses, concepts, programmes, services, documentations etc.), in particular the right to the sensor-collected data, exclusively belong to EPI GmbH or its licensors. The Principal shall have the exclusive right to use the software upon payment of the usage fee agreed upon under the contract, only for his own purposes, only with the hardware/operating systems specified under the contract or in the specifications, and only to the extent agreed upon, or to sell the software usage right to third parties as a reseller. Should the Principal be in arrears with his payment under the contract despite two reminders, the Principal has to stop using the software or the service with immediate effect.

18.3. Any infringement of the proprietary rights or other rights of EPI GmbH or the licensor will result in a claim for damages, in the case of which full compensation has to be provided. The principal shall be authorised to make copies for archiving and data backup purposes on condition that the software does not contain an explicit prohibition by the licensor or a third party and that all copyright and proprietary notices of the relevant right holders are transferred to these copies unchanged.

## **19. Data privacy**

### **19.1. General**

19.1.1. The Principal explicitly consents to the automated storage and processing of his personal data by EPI GmbH in conformity with the contractual obligations.

19.1.2. EPI GmbH and its employees are obliged to comply with the provisions of article 2 section 6 of the Data Protection Act. Both parties to the contract agree to hold the content of the contractual agreements and all internal information and data material of the other contract partner disclosed to them in the course of cooperation strictly confidential, and shall not disclose this information to any third party. This also applies unconditionally for the time after the termination of contract.

19.1.3. Any disclosure of work results within the meaning of the Data Protection Act, exceeding the fact of order placement and its crucial parameters (company name and address, rough list of application areas to be covered, approximate number of users etc.), by one of the contract partners requires the verifiable consent of the other contract partner.

### **19.2. Personalised products**

All employees working on personalised products have taken note of their obligation to maintain secrecy and have signed a data protection agreement.

The data carriers provided by the Principal are registered immediately upon receipt and the receipt of the

data is confirmed by email.

In context with the delivery of functional print for the building and industry sectors, EPI GmbH also offers web-based services. Functional print data will be forwarded to EPI GmbH for data provision purposes, where they are collected and processed. The Principal and/or his customers will then be allowed access to a web-based service to download the relevant data. The data - in this case pseudonymised data - are concurrently used by EPI GmbH for statistical purposes. The Principal explicitly agrees that the data generated and collected in this manner may be used and processed exclusively by EPI GmbH in conformity with the provisions relating to data protection, and the Principal is obliged to confer this exclusive right of EPI GmbH to his customers and to obtain their explicit consent. If the Principal passes such deliveries and services provided by EPI GmbH on to resellers, he shall also oblige these resellers to obtain consent from the end user within the meaning of this contractual provision.

## **20. Insolvency of the Principal**

**20.1.** In the event that insolvency proceedings are opened over the Principal's assets, EPI GmbH shall, notwithstanding any other agreements (e.g. order confirmation, conditions of payment) and at its sole discretion, be authorised to make the rendering of services dependent on the advance payment or guarantee of the remuneration agreed upon.

**20.2.** Any requested guarantee shall be provided either in cash or as an abstract bank guarantee. A requested advance payment or guarantee shall be issued within 8 days following such request, otherwise the Principal is in default of payment and EPI GmbH shall be authorised to withdraw from the contract without granting a grace period. The Principal shall incur the costs of advance payments or guarantees.

## **21. Place of performance, governing law and court of jurisdiction**

**21.1.** The place of performance for all goods and/or services supplied by EPI GmbH shall be Vöcklabruck.

**21.2.** Any disputes arising from a contractual relationship between EPI GmbH and the Principal as well as disputes beyond the term of contract shall be subject to the jurisdiction of the technically and locally competent court in Vöcklabruck. EPI GmbH may also exercise its right to take the Principal to court at the places of jurisdiction possible and permissible for him.

**21.3.** All contractual relationships or other legal relationships between EPI GmbH and the Principal shall be subject to the exclusive use of material and formal Austrian law with the explicit exclusion of the UN Convention on Contracts for the International Sale of Goods and the rules of Private International Law.