

## **1.1. Scope of application**

**1.1** Deliveries and services as well as other legal transactions in the entire business operations of ICS Business Group, consisting of ICS for automotive GmbH, ICS tooling GmbH including its subsidiary ICS-tooling solutions Hungary Kft. – in the following simplified referred to as „ICS“ – are affected exclusively according to the following General Terms and Conditions of Business in the respective valid version and are considered as part of the contract, unless agreed otherwise in writing in an individual agreement between ICS and the contractual partner and/or client.

The contractual partner's general terms and conditions is expressively excluded from the contract. This also applies, if ICS performs the services in knowledge of conflicting or deviating terms and conditions or if ICS signs customer orders.

**1.2** These terms and conditions shall be considered to have been accepted upon arrival of the goods at ICS or start of work on the service, at the latest. They also remain valid if they are not mentioned in later contracts or services.

**1.3.** Modifications and amendments to a contract must be made in written form.

**1.4** All offers of ICS are subject to alteration and non-binding, unless expressly agreed otherwise.

**1.5** ICS is entitled to withdraw from contracts, if facts occur, which show that the other party to the contract is not creditworthy.

## **2. Deliveries and Services**

**2.1.1** Orders which are not based on an offer from ourselves, or which deviate – even partially – from our offers, require our written order confirmation. Automatically produced order confirmations satisfy this formal requirement.

**2.1.2** Orders shall only become binding, when we confirm them in writing (conclusion of contract) or when we begin production or when services are provided on-site. In case of doubt, our written order confirmation is binding. The contracting party is obliged to immediately contradict our order confirmation in case of actual or alleged deviations from the order.

**2.2** Drawings, illustrations, dimensions, weights or other performance data are only binding if this has been expressly agreed in writing. ICS reserves the right of ownership and copyright of these as well as calculations, cost estimates and other documents. These may not be forwarded, published or duplicated or used for other purposes than the agreed purpose without prior written approval by ICS. Reasonable technical and design deviations from written documents as well as model, construction and material changes in the context of technical progress and further development are reserved, without deriving rights against ICS from this.

**2.3** The date of delivery or service respectively the period of delivery or service – in the following simplified as „delivery period“ – is agreed according to the expected performance capacity of ICS and is non-binding and subject to unforeseen circumstances and obstacles, irrespective of whether these occur at ICS or its suppliers. Events such as force majeure, governmental measures, non-permission, labour disputes of any kind, sabotage, lack of raw materials, delayed deliveries of materials through no fault of ICS or a delayed start of the services to be performed due to these events extend the delivery period. ICS will inform its contractual partners about a possible delay on becoming aware of it in an early stage.

**2.4** Adherence to the agreed delivery period requires the timely receipt of all documents to be supplied by the customer, required permissions, permits and releases, in particular also of plans, as well as compliance with the agreed terms of payment and other obligations by the customer. If these conditions are not fulfilled in time, the delivery period shall be extended appropriately, unless ICS is responsible for the delay.

**2.5** The delivery period shall be met when the readiness for dispatch of the delivery item has been notified. In the case of services, within the scope of timely acceptance by the contractual partner.

**2.6** ICS explicitly reserves the right to reasonable partial deliveries/partial services and their invoicing.

**2.7.1** The contractual partner may request ICS in writing to deliver or perform, six weeks after exceeding a non-binding delivery period. Upon receipt of the request, ICS is in default. In the event that the contractual partner is entitled to compensation for damages caused by delay, this is limited to a maximum of 5% of the agreed remuneration in case of slight negligence on the part of ICS. If the contractual partner withdraws from the contract in addition to the assertion of claims for damages caused by delay or if he claims damages instead of performance, he must set ICS a reasonable deadline for delivery/service after expiry of the reasonable deadline of six weeks. A liability of ICS is excluded, however, if the damage would also have occurred in case of compliance with the delivery date. If a binding agreed delivery date is exceeded, a request by the contractual partner is not necessary to put ICS in default. The rights of the contractual partner are subject to the above regulations.

**2.7.2** In case of delay of acceptance, ICS has the right to choose a new delivery or service date or to withdraw from the contract in addition to the right to payment. In case of non-acceptance, ICS is entitled to claim damages amounting to 15% of the contractual remuneration without proof. The contractual partner has the right to prove that no damage at all or not in the mentioned amount has occurred. ICS reserves the right to assert a higher proven damage.

**2.8** ICS reserves the right to withdraw from the contract, if the delay in delivery/service caused by one of the above-mentioned events lasts longer than six weeks and ICS is not responsible for this.

**2.9** The agreement on the postponement of delivery or service dates must be in writing.

### **3. Verification and transfer of risk**

**3.1** Upon delivery, the contractual partner must check the goods immediately after receipt for completeness and conformity with the delivery note and/or invoice. If no written complaint is made, received by ICS within six calendar days after receipt, the goods are considered to have been delivered correctly and completely, unless it is a hidden defect. The return of delivered goods without a prior written consent of ICS is not accepted, even if the goods are defective. Transport costs and risk are borne by the contractual partner.

**3.2** Minor defects that do not impair the functionality of the delivery item or service do not entitle the contractual partner to refuse acceptance.

**3.3** The risk is transferred to the contractual partner with the handover of the contractual delivery item to the carrier, his agent or other persons named by ICS. As far as the dispatch is delayed or becomes impossible through no fault of ICS, the risk is transferred to the contractual partner upon notification of readiness for dispatch. If the contractual partner has not issued a shipping instruction in writing, ICS determines the means of transport, the transport route and the transport insurance, without being responsible for choosing the fastest or cheapest possibility.

The Incoterms (ICC) in the version valid at the time of conclusion of the contract shall apply, unless these General Terms and Conditions of Business contain different regulations or other contractual agreements have been made.

### **4. Prices and Terms of payment**

**4.1** Unless otherwise expressly agreed, our prices are in EURO per unit or fixed prices ex works. The statutory value-added tax and other charges in the country of delivery as well as packaging, transport costs, transport insurance, environmental and handling charges are noted separately on the day of invoicing.

**4.2** ICS reserves the right to increase the price appropriately, if after conclusion of the contract, cost increases occur at ICS – especially due to price increases concerning material and labour costs, customs duties, tax charges or exchange rate fluctuations.

**4.3** Unless otherwise agreed in writing, all invoices are payable within 14 days after receipt of invoice without deduction. Invoices are issued upon delivery/service. Payments are to be made free of costs and expenses to the bank accounts of ICS stated in the invoice.

**4.4** The contractual partner is only entitled to set off counterclaims against claims of ICS, if these are undisputed or legally binding; a right of retention may only be asserted, if it is based on claims from the contract from which ICS is entitled to the demand.

**4.5** In case of default of the contractual partners, ICS is entitled to demand default interest of at least 9% above the respective base rate (§ 288 para. 2 BGB). ICS reserves the right to provide evidence of higher damages.

**4.6** If the contractual partner is more than 30 days in delay with a payment or if his financial circumstances deteriorate, all claims of ICS against him become due immediately.

## **5. Reservation of title**

**5.1** The delivery item remains the property of ICS until all claims against the contractual partner arising from the business relationship have been fulfilled. This also applies, if the purchase price for certain deliveries/services designated by the contractual partner has been paid. Any kind of disposal of the delivery item subject to reservation of title by the contractual partner is only permitted in the regular business transactions of the contractual partner. Under no circumstances, however, may the goods be transferred to third parties as security within the scope of regular business transactions.

**5.2** In case of sale of the delivery item or the new goods the contractual partner hereby assigns his claim from the resale against his customer with all ancillary rights to ICS by way of security, without the need for further special declarations. The assignment is valid including possible balance claims. However, the assignment is only valid to the amount corresponding to the price of the delivery item invoiced by ICS. The part of the claim assigned to ICS has to be satisfied with priority.

**5.3** During the existence of the reservation of title, the contractual partner is prohibited from pledging or transferring ownership by way of security. The contractual partner must inform ICS immediately in case of pledging, confiscation or other dispositions or interventions of third parties. If a justified interest is substantiated, the contractual partner must provide ICS with the information necessary to assert its rights against the customers and hand over the necessary documents.

**5.4** The contractual partner must notify ICS by the fastest possible means and object immediately, if goods subject to retention of title or other objects or demands to which ICS is entitled, are seized by third parties or if any other impairment is to be feared. The notification must be accompanied by the necessary documents. Costs incurred by ICS due to such incidents must be reimbursed by the contractual partner.

## **6. Warranty**

**6.1** Warranty rights of the contractual partner require that the contractual partner has properly fulfilled its obligations to inspect the goods and make a complaint in accordance with § 377 HGB (German Commercial Code).

**6.2** If the contractual partner asserts warranty claims, he must notify ICS of defects immediately after their discovery and do everything possible to minimise any damage caused by a defect. If no immediate notification is made, the warranty claims shall expire.

**6.3** Warranty claims shall become time-barred 12 months after delivery of the goods by ICS or acceptance of the service by our contractual partners in a timely manner. The statutory period of limitation applies to claims for damages in the case of intent and gross negligence and in the case of injury to life, body and health which are based on an intentional or grossly negligent violation of duties by the user. Our consent must be obtained before any return of the goods.

The limitation period cannot be restarted, except in cases of intent or gross negligence.

**6.4** If, despite all due care and attention, the delivered goods show a defect that already existed at the time of the transfer of risk, ICS will, subject to notification of defects in due time, either repair the goods or deliver replacement goods at our option. ICS shall always be given first the opportunity to resolve the defect afterward within an appropriate time. Claims of recourse remain unaffected by the above provision without restriction.

In the case of provision of services, ICS bears exclusively the risk of the work to be performed. If the provided parts or tools prove to be unusable due to material defects, the processing costs incurred by us are to be reimbursed by the customer.

The same applies to defects in workpieces and tools to be manufactured, processed or inspected/ tested. No liability shall be assumed, if the defect is due to defects in the goods (workpieces/tools) provided by the contractual partner. The contractual partner's right to subsequent performance and withdrawal from the contract remains unaffected by this. In the case of subsequent performance, this shall take place after the contractual partner has provided new raw materials.

## **7. Limitation of liability**

**7.1** Liability of ICS is only given in case of violation of essential contractual duties and limited to the typical damage foreseeable at the time of conclusion of the contract. The above limitation does not apply in case of damage to life, body or health. If the damage is covered by a product liability insurance taken out by the contractual partner, ICS is only liable for the disadvantages suffered by the contractual partner with the settlement of the damage, such as higher insurance premium or interest-rate disadvantages.

The liability for damages to tools and equipment as well as in case of possible interruption of business is limited to the scope of the own liability reinsurance of ICS.

**7.2** The consequences of a delay in delivery are conclusively regulated in item 2 of these conditions. Events which are specifically listed under item 2.3 are beyond our sphere of influence. In the case of a possible event, this does not automatically lead to claims for damages, reimbursement of expenses or the right to terminate the contract unilaterally by invoking force majeure.

Excluded is the personal liability of the managing directors of ICS, of vicarious agents and employees of ICS for damages resulting from ordinary negligence. The liability of ICS remains unaffected, regardless of whether there is a fault, in case of fraudulent concealment of a defect or according to the product liability law.

**7.3** The contractual partner bears the sole responsibility for adequate insurance of the goods handed over for processing (e.g., transport, storage, property insurance including the inclusion of damage by natural forces). The contractual partner has to insure itself against any damage to the correct amount, e.g., in the form of an external insurance policy limited to EURO 500,000.00.

**7.4** Damages in lieu of performance (in the event of non-performance, § 280 III in conjunction with § 281 BGB) and damages caused by delay (§ 280 II in conjunction with § 286 BGB) shall be limited to the negative interest; damages for non-performance or non-performance as owed (§ 282 BGB) shall be limited to the amount of the purchase price. Compensation for damages instead of performance in the exclusion of the obligation to perform (impossibility) is excluded.

**7.5** In any case, the contractual partner has to prove that the defect has already existed at the time of delivery or performance of the service.

## **8. Code of Conduct / „Compliance “**

ICS undertakes to adhere to the valid code of conduct. Furthermore, we also see our contractual partners in the obligation to do so. We proceed in accordance with the social and legal requirements and expect this from our contractual partners.

In the event that a contractual partner repeatedly and/or in spite of a corresponding information behaves illegally and does not prove that the violation of the law has been cured as far as possible and that reasonable precautions have been taken to avoid a future violation of the law, we reserve the right to withdraw from existing contracts or to terminate them without notice.

## **9. General provisions**

**9.1** The contractual partner is not entitled to transfer his claims from the contract without the prior written consent of ICS.

**9.2** Place of Fulfilment for Delivery and Service is Place of Receipt specified by us.

**9.3** Exclusive jurisdiction – insofar as agreed in accordance with the statutory regulations – for all legal disputes arising directly or indirectly out of the contractual relationship is determined to be the court in 88212 Ravensburg.

**9.4** For the legal relationship between ICS and the customer, the substantive law of the Federal Republic of Germany applies exclusively. The application of the uniform international sales law (CISG) is excluded.

**9.5** The order processing takes place within ICS with the help of automatic data handling. The contractual partner hereby gives ICS its explicit consent to the storage and processing of the data made known within the scope of contractual relations and necessary for order processing within the scope of the legal limits on data protection.

**9.6** If one or more provisions of these general terms and conditions are or become ineffective or if this contract text contains a loophole, the contracting parties shall replace or supplement the ineffective or incomplete regulations with appropriate effective regulations that correspond to the economic purpose of the intended regulation. The effectiveness of the remaining terms and conditions shall remain unaffected.