

General Terms and Conditions
of ABGS GmbH Aehnelt & Braune Gaswarn- und Systemtechnik (as of January 2020)

I. General provisions and conclusion of the contract

1. For the legal relations between ABGS GmbH Aehnelt & Braune Gaswarn- und Systemtechnik (hereinafter referred to as "ABGS") and a customer in connection with the deliveries and/or services of ABGS (hereinafter also only referred to as "Deliveries") these General Terms and Conditions (hereinafter also only referred to as "GTC") apply exclusively. General Terms and Conditions of the customer apply only to the extent that ABGS has agreed to them expressly in writing. In particular it is not considered as agreement if ABGS in the knowledge of opposing or from these GTC deviating conditions of the customer renders services without reservation. For the extent of the deliveries, the mutual corresponding written declarations are decisive.

2. At cost estimates, drawings and other documents (hereinafter referred to as "documents,") ABGS reserves itself property and copyright exploitation rights without reservation. The documents may be made accessible to third parties only after previous agreement of ABGS and, if the order is not given to ABGS, shall be returned immediately on demand. The sentences 1 and 2 apply accordingly to documents of the customer; these may be made accessible, however, to such third parties to whom ABGS has transferred deliveries permissibly.

3. At standard software and firmware, the customer has the non-exclusive usage right with the agreed performance characteristics in unchanged form on the agreed devices. The customer may make a backup copy of the standard software without express agreement.

4. Partial deliveries are permissible, provided they are reasonable for the customer.

5. The term "claims for damages" in these GTC also includes compensation claims for wasted expenses.

6. Cost estimates (offers) of ABGS are no binding contract offers. The prices stated in the cost estimates (offers) remain valid for three months from the date of the cost estimate (offer date.) The customer is bound to his order four weeks upon the receipt by ABGS. A contract between ABGS and customer shall only be valid with explicit written confirmation (fax, email, and letter) from ABGS.

II. Prices, terms of payment, and set-off

1. The prices shall be ex-works and include packaging and shipping plus the statutory value-added tax applicable at the time. For standard deliveries within Germany (without islands) below 1,000 EUR net order value (per individual order), the customer shall pay a packaging and shipping flat rate of 15 EUR, and/or for express deliveries (e.g. Next Day) within Germany (without islands) a packaging and shipping flat rate of 60 EUR and/or for hazardous goods transport (e.g. pressure cells, lithium batteries) a packaging and shipping flat rate of 60 EUR. If the actual costs for express deliveries/the transport of dangerous goods exceed the aforementioned flat rate, the actual costs shall be reimbursed. Packaging and shipping costs outside of Germany are shown separately in the offer.

2. If ABGS has taken over the installation or assembly and if nothing else has been agreed upon, the customer bears all necessary additional costs such as travel and transport costs as well as allowances in addition to the agreed remuneration.

3. Agreed equipment rental rates refer to the expected rental period stated by the customer. Renting is carried out on a weekly basis, i.e. even for a week or part thereof, a weekly rental rate has to be paid. A reduction of the rental period by the customer is only possible with a subsequent increase in the weekly rental. The renting period begins at the time at which the equipment is handed over by ABGS to the customer or because of the dispatch to the customer to a transport enterprise, and it ends with the handing over of the equipment at the ABGS registered office.

4. Payments shall be made ex paying agents of ABGS. Unless otherwise agreed, payment for deliveries/services shall be made 14 days after the invoice date with a 2% discount and 30 days after the invoice date net without deduction. Promised discounts only apply if the customer is not in arrears with payments for earlier deliveries/services. For learning services and rentals, payment is made 14 days net after the invoice date without discount.

5. ABGS can raise the agreed fees if and as far as fee increases are made by their suppliers and the contractual services are not to be delivered or rendered within four months after the conclusion of the contract or can only be delivered or rendered after four months after default of the customer.

6. The customer may only offset against such claims which are undisputed or have been legally established.

III. Title retention

1. The objects of the deliveries (reserved goods) remain property of ABGS up to the fulfilment of all claims to which he is entitled to the customer from the business relationship. As far as the value of all security rights, to which ABGS is entitled, exceeds the height of all secured claims by more than 20%, ABGS will release a corresponding part of the security rights on request of the customer; ABGS is entitled to the choice with the release between different security rights.

2. During the existence of the title retention the customer is forbidden a pledge or a transfer by way of security and the resale is permitted only to resellers in the usual course of business and only under the condition that the reseller receives payment from his customer or makes the reservation that the property is transferred to the customer only if he has fulfilled his payment obligations.

3. If the customer resells reserved goods, he already now assigns his future claims from the resale against his customers with all ancillary rights - including possible balance claims - to ABGS by way of security, without further special declarations being necessary. If the reserved goods are resold together with other objects, without an individual price being agreed for the reservation goods, then the customer assigns that part of the total price claim to ABGS, which corresponds to the price of the reservation goods invoiced by ABGS.

4. The customer is allowed to process the reservation goods or to mix or connect it with other objects. The processing occurs for ABGS. The customer keeps the new thing developing, thereby for ABGS with due care and the diligence as a prudent businessman. The new object is regarded as a reservation good.

a) ABGS and customer are already now agreed upon that with connection or mixture with other, not ABGS belonging objects ABGS is entitled to co-ownership of the new object in each case at height of the portion, which results from the relationship of the value of the connected or mixed reservation good to the value of the remaining commodity at the time of the connection or mixture. The new object is regarded in this respect as a reservation good.

b) The provision on the assignment of claims according to no. 3 shall also apply to the new object. However, the assignment is only valid up to the amount which corresponds to the value of the processed, connected or mixed reserved goods invoiced by ABGS.

c) If the customer connects the reservation good with properties or movable objects, he also assigns without further special explanations his demand entitled to him as a remuneration for the connection, with all secondary rights for safety's sake amounting to the relation of the value of the connected reservation good to the remaining connected goods at the time of the connection to ABGS.

5. Until revoked, the customer is authorised to collect assigned claims from the resale. In the presence of an important reason, in particular with the delay of payment, cessation of payment, the opening of an insolvency procedure, bill protest or justified reference points for an over-indebtedness or threatening insolvency of the customer, ABGS is entitled to revoke the power of collection transferred to the customer. In addition, ABGS can disclose the assignment for security after a previous threat under observance of an adequate period of time, use the assigned claims and demand the disclosure of the assignment of security by the customer to the client.

6. With seizures, confiscations, or other orders or interventions by third parties, the customer shall inform ABGS immediately. With substantiation of a justified interest, the customer shall provide ABGS immediately with the information necessary for the assertion of his rights against the client and to hand over the necessary documents.

7. With duty injuries of the customer, in particular with the delay of payment, ABGS is entitled after unsuccessful expiry of an adequate term set to the customer for the achievement besides the taking back also to the resignation; the legal regulations about the dispensability of setting a deadline remain unaffected. The customer is obliged to return. The redemption or the assertion of the title retention or the seizure of the reservation good by ABGS doesn't represent a withdrawal from the contract.

IV. Delivery deadlines; Delay

1. The observance of deadlines for deliveries/services is subject to the timely receipt of all documents to be supplied by the customer, necessary permits and releases, in particular of plans, and the observance of the agreed terms of payment and other obligations by the customer. If these prerequisites are not fulfilled in time, the deadlines are extended appropriately; this does not apply if ABGS is responsible for the delay.

2. If the non-observance of the terms has been put down to

a) force majeure, e.g. mobilisation, war, terrorist acts, riot or similar events (e.g. strike, lockout),

b) Virus and other attacks of third parties on the IT system of ABGS, as far as these were carried out in spite of the observance of the care usual with protective measures,,

c) Obstacles due to German, US-American as well as other applicable national, EU or international regulations of the foreign trade law or due to other circumstances which ABGS is not responsible for, or

d) not timely or proper delivery to ABGS, the deadlines are extended appropriately.

3. The occurrence of a default in delivery is basically determined according to the legal regulations, but deviating from this, it requires a reminder from the customer in any case.

4. Both claims for damages of the customer because of a default in delivery as well as claims for damages instead of the service are excluded in all cases of delayed delivery/service, also after expiration of a period set to ABGS for delivery/service. This does not apply, as far as the exclusion of liability of ABGS after Art. XIII. is limited.

5. The customer can withdraw from the contract in the context of the legal regulations only, as far as the delay in delivery depends of ABGS. A change of the burden of proof to the disadvantage of the customer is not connected with the preceding regulations.

6. The customer is obliged to explain on demand of ABGS within an adequate period whether he withdraws from the contract because of the delay in delivery or insists on delivery.

7. If dispatch or delivery is delayed at the request of the customer by more than one month after notification of readiness for dispatch, the customer can be charged storage fees for each additional month or part thereof in the amount of 0.5% of the price of the objects of the deliveries, but no more than a total of 5%. The contracting parties are at liberty to prove higher or lower storage costs.

V. Risk transfer

1. The risk is transferred to the customer as follows, even in the case of freight-paid delivery:

a) in the case of delivery without installation or assembly when it has been brought to dispatch or picked-up. At the request and expense of the customer, ABGS will insure the delivery against the usual transport risks. This also applies to the return after servicing mobile devices as well as to the rental of devices.

b) in case of delivery with installation or assembly on the day of taking over in its own facility or, if agreed, after successful commissioning.

2. If dispatch, delivery, the start, performance of assembly or installation, the taking over in the own facility or the commissioning is delayed for reasons for which the customer is responsible or if the customer is in default in accepting for other reasons, the risk shall pass to the customer.

VI. Assembly, installation, and service - obligations of the customer

Unless otherwise agreed in writing, the following provisions apply to assembly, installation, and service provision:

1. The customer shall take over at his own expense and provide in a timely manner:

- a)** all earthwork, construction work and other ancillary work outside the industry, including the necessary skilled and unskilled labour, building materials and tools,
 - b)** design documentation, equipment arrangement drawings,
 - c)** the consumer goods and materials required for assembly, commissioning, and service, such as scaffolding, lifting gear, and other devices (e.g. for work at room heights of more than 3 metres), fuels and lubricants, special angles, covers, brackets, and other small assembly materials,
 - d)** energy and water at the point of use, including connections, heating, and lighting,
 - e)** sufficiently large, suitable, dry and lockable rooms of sufficient size at the assembly site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the assembly personnel, including sanitary facilities appropriate to the circumstances; in addition, the customer shall take the same measures to protect the possessions of ABGS and the assembly personnel on the site as it would take to protect its own possessions,
 - f)** protective clothing and protective devices that are required due to special circumstances at the installation site. Prior to commencement of the assembly work, the customer shall provide the necessary information on the location of concealed power, gas, and water lines or similar installations as well as the necessary structural data unsolicited,
 - g)** Assembly and cabling; the labelling of all wire and cable ends on both sides according to the valid cable list.
- 2.** Before the start of assembly or installation, the materials and equipment necessary for the work to start must be available on the site of assembly or installation, and any preparatory work must have advanced to such a degree that assembly or installation can be started as agreed and carried out without interruption. Access roads and the installation or assembly site must be level and clear.
 - 3.** If the installation, assembly, or commissioning is delayed due to circumstances for which ABGS is not responsible, then the customer has to bear the waiting time costs and additionally required travel expenses of ABGS or the assembly personnel to a reasonable extent.
 - 4.** The customer has to register weekly the duration of the working hours of the assembly personnel as well as the completion of the installation, assembly, or commissioning and notify ABGS immediately.
 - 5.** If ABGS demands the acceptance of the delivery, after completion, then the customer has to carry it out within two weeks. It is equal to the acceptance if the customer allows the two-week period to expire or if the delivery, if necessary after completion of an agreed test phase, has been taken into use.
 - 6.** Service work can only be carried out if the system or device has been installed professionally and if perfect operating conditions are available.
 - 7.** Prior to the service, the factory calibration certificates are to be handed over to ABGS in a timely manner and all necessary passwords, software, and plant-type-specific programming or operating devices are to be made available to ABGS.

8. Mobile measuring instruments are to be handed over by the customer to ABGS at the registered office of ABGS for the execution of services.

9. Clearing up malfunctions are not included in the regular services if they occurred due to

- a)** improper handling by the customer or third parties,
- b)** force majeure,
- c)** environmental conditions at the place of installation or use,
- d)** the supply facilities,
- e)** accessories or parts which do not meet the specifications of the factory or the manufacturer.

10. The delivery of operating resources, consumables, accessories as well as wear parts shall not be a liability of ABGS and is to be ordered and paid separately if necessary.

11. Changes of the system or devices use (e.g. extent, location, means used) are to be communicated immediately, at the latest four weeks before the service to ABGS.

VII. Renting of devices - duties of the customer

1. The customer is obliged to examine the rental object at the takeover according to § 377 of the German Commercial Code (HGB) and to inform ABGS immediately in writing of any defect discovered. The same applies to deficiencies discovered during the rental period.

2. The customer bears the risk of accidental loss and deterioration of the rental property. In the event of damage, loss, or theft of the rental object, the customer has to procure replacement at own expense.

3. The customer shall carry out necessary repair of the rental object in a professional manner at his own expense.

4. A deterioration or the break-up of the rental object through no fault of ABGS does not entitle the customer to refuse the rental payments.

5. The customer is not entitled to rent the rental object to third parties.

6. The customer has to inform ABGS immediately in writing of levies of execution against the rental object.

7. After termination of the lease agreement, the customer is obliged to return or send the rental object expense to ABGS on its own. The rental object has to be returned in complete, perfect, functional, and re-rentable condition.

VIII. Material defects

ABGS is liable for material defects (except in the case of rental) as follows:

1. Parts or services are to be repaired free of charge, to be delivered again or to be rendered again at the choice of ABGS if they show a material defect whose cause already existed at the time of the risk transfer.

2. Claims for supplementary performance lapse in 24 months from the legal beginning of the limitation period; the same applies to withdrawal and reduction in fees. This period shall not apply if longer periods are prescribed by law in accordance with §§ 438 para. 1 No. 2 (buildings and structures), 478 para. 1 (right of recourse) and 634a para. 1 No. 2 (building defects) of the German Civil Code (BGB), in the case of intent, fraudulent concealment of the defect and failure to comply with a guarantee of quality. The statute

utory provisions on suspension of the statute of limitations, suspension and restart of the periods remain unaffected.

3. Notices of defects must be made by the customer immediately in writing.

4. In the event of notices of defects, payments by the customer may be withheld to the extent that is in reasonable proportion to the material defects that have occurred. The customer may only withhold payments if a notice of defect is asserted, the justification of which is beyond doubt. The customer shall have no retention right if its claims for defects have lapsed. If the notice of defect was unjustified, ABGS is entitled to require the expenses resulted to him from the customer to substitute.

5. ABGS shall be granted an opportunity to the subsequent performance within adequate period.

6. If the subsequent performance fails, the customer can withdraw from the contract or reduce the remuneration - without prejudice to any claims for damages according to no. 10.

7. Claims for defects shall not exist in the case of only insignificant deviation from the agreed quality, in the case of only insignificant impairment of usability, in the case of natural wear and tear or damage arising after the transfer of risk as a result of incorrect or negligent handling, excessive strain, unsuitable operating materials, defective building material or which arise due to particular external influences which are not provided for under the contract, as well as in the case of non-reproducible software errors. If the customer or third parties carry out improper modifications or repair work, no claims for defects shall exist for these and the consequences thereof.

8. Claims of the customer for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour and material costs shall be excluded to the extent that expenses increase because the subject-matter of the delivery has subsequently been brought to another location than the customer's branch office unless doing so complies with its intended use.

9. Recourse claims of the customer against ABGS in accordance with § 478 of the German Civil Code (recourse of the entrepreneur) exist only insofar as the customer has not made any agreements with his customer that go beyond the statutory claims for defects. For the extent of the recourse claim of the customer against ABGS according to § 478 para. 2 of the German Civil Code (BGB), no. 8 applies accordingly.

10. Claims for damages by the customer due to a material defect are excluded. This does not apply with malicious concealment of the defect, with disregard of a condition warranty, with injury to life, limb, or harm to health and with an intentional or roughly negligent breach of duty by ABGS. A change of the burden of proof to the disadvantage of the customer is not connected with the preceding regulations. Further or other than in this Art. VIII regulated claims of the customer due to a material defect are excluded.

IX. Industrial property rights and copyrights; defects of title

1. Unless otherwise agreed, ABGS is obliged to deliver only in the country of the place of delivery free of industrial

property rights and copyrights of third parties (hereafter referred to as: industrial property rights.) Provided that a third party raises justified claims against the customer because of the infringement of protective rights by deliveries made by ABGS and used according to the contract, ABGS is liable to the customer within the time period specified in Art. VIII no. 2 as follows:

a) ABGS will, according to their choice and costs, either obtain a right of use for the deliveries concerned, change them in such a way that the protective right is not violated, or exchange them. If this is not possible for ABGS under reasonable conditions, the customer is entitled to the legal rights of withdrawal or reduction in fees.

b) The obligation of ABGS to pay any compensation for damages is regulated by Art. XIII.

c) The aforementioned obligations of ABGS exist only, as far as the customer informs ABGS immediately in writing about the claims asserted by the third party, does not recognize an infringement and ABGS all defence measures and settlement negotiations remain reserved. If the customer stops the use of the delivery for damage reduction or other important reasons, he is obliged to point out to the third party that with the cessation of use, no acknowledgement of a violation of property rights is connected.

2. Claims of the customer shall be excluded if he is responsible for the violation of property rights.

3. Claims of the customer are further excluded, as far as the violation of property rights is caused by special specifications of the customer, by an application not foreseeable by the ABGS or by the fact that the delivery is changed by the customer or used together with products not delivered by the ABGS.

4. In the case of infringements of property rights, the provisions of Art. VIII no. 4, 5, and 9 apply accordingly.

5. In the event of other defects of title, the provisions of Art. VIII shall apply accordingly.

6. Further-reaching or different provisions than those in this Art. IX against the ABGS and its vicarious agents due to a defect of the title are excluded.

X. Reservation of performance

1. The contract performance is subject to the reservation that there are no obstacles due to German, US-American, and other applicable national, EU, or international regulations of foreign trade law and no embargoes or other sanctions.

2. The customer is obliged to provide all information and documents required for export, off-site disposal, or import.

XI. Impossibility, contract adjustment

1. As far as the delivery is impossible, the customer is entitled to demand compensation, unless ABGS is not responsible for the impossibility. However, the compensation claim of the customer is limited to 10% of the value of that part of the delivery, which cannot be used for the intended purpose because of the impossibility. This limitation shall not apply in cases of liability for intent, gross negligence, or due to injury to life, limb, or harm to health; this does not imply a change in the burden of proof to the detriment of the customer. The right of the customer to withdraw from the contract remains unaffected.

2. If events within the meaning of Art. IV no. 2 a) to c) substantially change the economic importance or the contents of the delivery or have a substantial effect on the operation of ABGS, the contract shall be adapted in compliance with the principle of good faith. As far as this is not economically justifiable, ABGS has the right to withdraw from the contract. The same applies if necessary export licences are not granted or are not usable. If ABGS wants to make use of this right of withdrawal, it has to inform the customer immediately after having recognized the consequences of the event, even if first with the customer an extension of the delivery time was agreed upon.

XII. Export

The products offered to comply with all regulations applicable in Germany. Due to possibly necessary export restrictions, an intended export of ordered goods must be communicated to ABGS when placing the order. The same applies if it becomes known after placing the order that the product is intended for export. Additional export-related costs will be invoiced separately to the customer. ABGS reserves the right to withdraw from the intended export from the European Community. The settlement in the case of withdrawal is guided by the legal provisions.

XIII. Other claims for damages; limitation period

1. Unless otherwise provided for in these General Terms and Conditions, claims for damages by the customer, irrespective of the legal basis, in particular due to breach of duties arising from the contractual obligation and from unlawful acts, are excluded.

2. This does not apply insofar as liability is assumed as follows:

- a) according to the German Product Liability Act,
- b) with intent,
- c) gross negligence on the part of owners, legal representatives or managers,
- d) with fraudulent intent,
- e) in the event of failure to comply with a guarantee assumed,
- f) due to culpable injury to life, limb, or harm to health, or
- g) due to culpable violation of essential contractual obligations.

However, the claim for damages for the violation of essential contractual obligations shall be limited to the foreseeable damage typical for the contract unless another of the aforementioned cases applies.

3. A change of the burden of proof to the disadvantage of the customer is not connected with the preceding regulations.

XIV. Venue and Applicable Law

1. Sole place of jurisdiction, if the customer is a merchant, for all disputes arising directly or indirectly from the contractual relationship is the registered office of ABGS. ABGS is however, also entitled to complain at the registered office of the customer.

2. This contract, including its interpretation, is subject to German law under exclusion of the UN Convention on the International Sale of Goods (CISG).

XV. The validity of the contract

The contract remains binding in its remaining parts even if individual provisions are legally ineffective. This shall not apply insofar as adherence to the contract does not constitute unreasonable hardship for one party.