

**A.**  
**General Terms and Conditions**  
**for Deliveries and Services**

**(“General T&Cs Deliveries”) status 09/2022**

**1. Scope / Customer’s differing terms and conditions / Additional terms and conditions for installation, construction and assembly**

1.1 These General Terms and Conditions for Deliveries and Services (hereinafter referred to as **General T&Cs Deliveries**) apply to SPIE Deutschland & Zentraleuropa GmbH, Balcke-Dürr-Allee 7, 40882 Ratingen, and all its affiliated companies within the meaning of Sections 15 et seq. AktG [German Stock Corporation Act] (the company respectively concluding the contract is hereinafter referred to as **“we”/“us”/ourselves”**).

1.2 These General T&Cs Deliveries apply exclusively to companies within the meaning of Section 14 *Bürgerliches Gesetzbuch (BGB)* [German Civil Code] (hereinafter referred to as **“Customer”**) i.e. natural persons or legal entities which, when concluding a legal transaction, are acting in the performance of their commercial or independent professional activities.

1.3 Business relations with our Customers concerning deliveries and services as well as related information and advice shall be governed exclusively by our General Terms and Conditions and any individual contractual agreements made with the Customer. Differing General Terms and Conditions of the Customer, especially General Terms and Conditions of Purchase, shall only apply if and to the extent that we expressly recognise them in writing. Our silence regarding such differing General Terms and Conditions shall not be deemed to be recognition or consent, and this shall also apply to future contracts. Where our General Terms and Conditions are implemented in business with the Customer, they shall also apply to all further business relations of the same kind between the Customer and ourselves, unless otherwise expressly agreed in writing.

1.4 Our General T&Cs Deliveries shall apply in place of any General Terms and Conditions of the Customer, also where, according to such Terms and Conditions, acceptance of an order is deemed to be the unconditional recognition of the General Terms and Conditions or we deliver or perform after the Customer has indicated the validity of the Customer’s General Terms and Conditions, unless we have expressly waived the validity of our General T&Cs Deliveries in writing.

1.5 *Where and insofar as the object of our deliveries and services is also installation, construction and/or assembly, the **“Additional Terms and Conditions for Installation, Construction and Assembly”** printed under B. at the end of these General T&Cs shall additionally apply.*

**2. Properties of the deliveries or services**

2.1 Reference to standards, similar technical regulations and technical information, descriptions and illustrations of the goods/services to be supplied in quotations and brochures and our advertising shall not constitute a property of our deliveries and services, unless otherwise specified.

2.2 We shall only be deemed to have given a guarantee if we have designated a property and/or contractual performance in writing as *“guaranteed by law”*.

2.3 The Customer is responsible for verifying whether our deliveries or services are suitable for the purpose intended by the Customer. We shall provide binding advice only if we have agreed this in writing with the Customer, based on a separate consultancy engagement.

2.4 We shall retain title and copyrights to illustrations, drawings, indications of weight and dimension, performance and other property specifications, estimates of cost and other documents about our deliveries or services. The Customer undertakes not to make the documents specified in the foregoing sentence accessible to third parties, unless we give our express written consent.

**3. Conclusion of the contract / Scope of delivery / Procurement risk**

3.1 Our quotations are subject to change and not binding, unless they were identified as binding. If the Customer places an order based on quotations subject to change, a contract shall be concluded, also in day-to-day business, only by our written order confirmation (sufficient also by email or telefax), if the Customer requests such confirmation. In all other cases, the contract shall be concluded by execution of the delivery/service. If an order confirmation is provided by us, this alone shall govern the content of the contract, in particular the scope of the deliveries and services and the delivery time.

3.2 We shall only be obliged to deliver from our own stock.

3.3 We shall assume a procurement risk only by virtue of a separate written agreement, stating *“we assume the procurement risk...”*. Assumption of a procurement risk is not established in particular solely by the fact that we are obliged to deliver an article which is defined solely by its class.

**4. Delivery and service times / Default**

4.1 Binding delivery and service dates must be agreed expressly and in writing as binding. A fixed-date transaction shall only exist if we have expressly confirmed such transaction in writing or the legal requirements for a fixed-date transaction are met.

4.2 Delivery and/or service periods shall not begin before all details about the execution of the order have been clarified and all other requirements to be fulfilled by the Customer are met, in particular agreed advance payments or securities have been made respectively provided in full. This shall apply to delivery and/or service dates. If the Customer has requested changes after placing the order, a new, reasonable delivery and/or service period shall begin upon our confirmation of the change.

4.3 The Customer’s interest in our delivery/service shall not apply in the event of default in delivery or service in the absence of other written agreement only if we fail to deliver material parts or deliver with delay. We shall not be in default as long as the Customer is in default in fulfilling

obligations towards ourselves; this shall also include obligations under other contracts.

4.4 If we default in delivery or service, the Customer must first set us a reasonable grace period of at least 14 working days ("working days" are understood to mean Monday - Friday) for the delivery/service, unless this is unreasonable in the individual case. If this elapses without result, damage claims for breach of duty, for whatever reason, shall exist only as stipulated in paragraph 10.

## 5. Delivery subject to own receipt of delivery / Force majeure and other obstructions

5.1 If we do not receive deliveries or services from our suppliers required to provide the delivery or service which is due from us under the contract, despite due and sufficient stocking prior to conclusion of the contract with the Customer, for reasons for which we are not responsible, or they are incorrect or not in due time or events of force majeure occur, we shall notify our Customer in due time in writing or text form. In such case, we shall have the right to postpone the delivery/service for the duration of the obstruction or to rescind the contract in whole or in part for the part not yet fulfilled if we have met our foregoing duty to provide information and have not assumed a procurement risk. Events of force majeure are: strikes, lockouts, war, official intervention, epidemics and pandemics and their unforeseeable effects, energy shortages and shortages of raw materials, cyber attacks, transport bottlenecks through no fault of our own, company obstructions through no fault of our own, e.g. due to fire, water and damage to machinery, and any other obstructions which, when considered objectively, were not culpably caused by us.

5.2 If a delivery or service date is agreed with binding force and the agreed delivery or service date is exceeded by more than 2 months due to events according to paragraph 5.1, the Customer shall have the right, after a reasonable grace period has elapsed without result, to rescind the contract for the part not yet fulfilled, if the Customer cannot be objectively expected to adhere further to the contract. Further claims of the Customer, especially damage claims, shall be excluded in such case.

5.3 The above provision pursuant to paragraph 5.2 shall apply accordingly if a customary delivery period was exceeded for the reasons stated in paragraph 5.1, even without contractual agreement of a fixed delivery date.

## 6. Shipment / INCOTERMS / Passing of risk / Packaging

6.1 Unless otherwise agreed in writing, shipment shall be made by us uninsured at the Customer's risk and expense and ex our site/works specified in the order confirmation (INCOTERM EXW 2020).

6.2 If shipment of the goods is delayed at the Customer's request or for reasons for which the Customer is responsible, notice that the goods are ready for shipment shall be equivalent to shipment and the risk of accidental loss shall pass to the Customer (passing of risk). In such case, we shall also have the right, beginning upon expiry of the period set in the written notice of readiness for shipment, to store the goods and to invoice the costs incurred for this at 0.5% of the net price of the stored deliveries or services

for each full month or part thereof but not more than 5% of the net price. The assertion of further rights shall remain unaffected. The right is reserved for the Customer to prove that no costs or substantially lower costs were incurred. Furthermore, we shall have the right, after the period expires, to dispose of the contractual deliveries or services otherwise, and to supply the Customer again after a reasonable period.

6.3 The risk of accidental loss or accidental deterioration shall pass to the Customer upon the deliveries or services to be supplied being handed over to the Customer, the forwarding agent, carrier or firms otherwise entrusted to carry out the shipment but at the latest upon leaving our works.

6.4 If the shipment is delayed because we assert our right of retention due to the Customer's default in payment in whole or in part or due to another reason, for which the Customer is responsible, the risk shall pass to the Customer at the latest as of the date of notification of readiness for shipment.

6.5 If there is a statutory obligation to take back transport packaging and the Customer requests us to take back transport packaging, the Customer undertakes to have return deliveries processed free domicile or order the return delivery.

## 7. Notice of defects / Breach of duty / Warranty

7.1 The Customer shall give us written notice of recognisable material defects immediately but at the latest 7 days after collection in the case of delivery ex works, otherwise after delivery. The Customer shall give us notice of hidden material defects immediately after their detection but at the latest within the warranty period according to paragraph 7.7. Material defects recognisable upon delivery must also be notified to the transport operator immediately upon delivery and the recording of the defects arranged by the transport operator. A notice of defects that fails to comply with requirements of form and/or time shall exclude any claim by the Customer for material defects. This shall not apply in the case of an intentional or a fraudulent act on our part, the assumption of a guarantee for the absence of defects by us or in the case of liability under the *Produkthaftungsgesetz* [German Product Liability Act].

7.2 If a defect exists, supplementary performance shall be provided at our option by remedying the defect (rectification) or supplying new goods (new delivery). If remedy of the defect fails even within the grace period, the Customer can rescind the customer contract or reduce the remuneration, unless the defect is only insignificant.

7.3 Place of rectification is the place to which we have delivered as agreed. If the costs of supplementary performance increase due to the fact that the Customer has transferred the goods to a place other than the place of our delivery/service, the costs incurred as a result shall be borne by the Customer.

7.4 When processing, treating, combining or mixing with other items begins, the deliveries or services supplied shall be deemed, in the case of recognisable material defects, approved by the Customer according to the contract. This shall apply if they are shipped on from their original destination. Before any of the above activities begin, it shall

- be incumbent upon the Customer to clarify, through inspections that are appropriate in terms of method and scope, whether the supplied deliveries or services are suitable for the processing purposes, process purposes and other purposes intended by the Customer.
- 7.5 The Customer must give notice in writing immediately of other breach of duty, setting a reasonable period for remedy, before asserting further rights.
- 7.6 If, by way of exception, breach of duty does not relate to a service performed on our part, rescission shall be excluded if our breach of duty is insignificant.
- 7.7 We shall provide a warranty for material defects for a period of one year, calculated from the date of the passing of risk (see paragraph 6). This shall not apply if we are culpable of fraudulent intent, intent or gross negligence and in the cases pursuant to paragraph 10.2 (a) - (f) below. The periods of limitation arising from Sections 438 (1) No 2, 445b (1) and 634a (1) No 2 *BGB* shall remain unaffected.
- 7.8 Further claims by the Customer for or in connection with defects or consequential damage caused by a defect, for whatever reason, shall exist only subject to the provisions of paragraph 10, unless these are damage claims resulting from a guarantee which is intended to cover the Customer against the risk of any defects. In this case too, however, we shall be liable only for typical and foreseeable damage.
- 7.9 If the Customer or a third party makes an incorrect rectification, unauthorised changes are made to the deliveries or services, parts are exchanged or consumables used, which do not comply with our specifications for consumables that can be used, or our operating or maintenance instructions are not complied with, we shall not be liable for the resulting consequences. This shall not apply, however, if the warranty claim cannot be proved to be due to one of the above-mentioned reasons for exclusion.
- 7.10 Our warranty and liability arising therefrom shall likewise be excluded if defects and damages connected therewith cannot be proved to be due to defective material or defective execution or defective instructions on use. In particular, warranty and liability arising therefrom shall be excluded with respect to the consequences of incorrect use, excessive use or inappropriate storage conditions, for example the consequences of chemical, electromagnetic, mechanical or electrolytic influences that do not correspond to the envisaged, average standard influences. This shall not apply in the case of fraudulent or intentional conduct on our part or injury to life, limb or health or liability according to the *Produkthaftungsgesetz*.
- 7.11 Claims based on defects shall not exist in the case of only an insignificant deviation from the agreed or customary quality or usability.
- 7.12 Recognition of breach of duty, especially in the form of material defects, shall only be valid when given in writing.
- 8. Prices / Payment terms**
- 8.1 All our prices are in principle quoted in EUROS and exclude packaging, freight and value added tax which shall be borne by the Customer at the respective legally valid rate.
- 8.2 We shall have the right at our reasonably exercised discretion (Section 315 *BGB*, subject to judicial review according to Section 315 (3) *BGB*) to increase the prices for our deliveries and services unilaterally where production costs, material costs and/or procurement costs, wage and ancillary wage costs, social security contributions as well as energy costs and costs due to legal requirements, environmental charges, currency regulations, changes in customs duties and/or other public charges increase if these have a direct or indirect impact on the costs of our contractually agreed deliveries and services and increase by more than 5% and if more than 2 months elapse between conclusion of the contract and delivery/service. An increase as mentioned above shall be excluded if the increase in costs for individual or all of the above-mentioned factors is set off by a reduction in costs for other of the above-mentioned factors with respect to the overall cost burden for the delivery/service (cost balancing). If above-mentioned cost factors are reduced, without the reduction in costs being set off by the increase in cost factors other than those mentioned above, the reduction in costs shall be passed on to the Customer through a price reduction. If the new price based on our right to adjust prices as stated above is 25% or higher than the original price, the Customer shall have the right to rescind contracts not yet executed in full with respect to the part of the contract not yet fulfilled. The Customer can, however, assert this right only immediately after notification of the increased remuneration.
- 8.3 Our invoices are payable within 10 days of provision of the deliveries or services and receipt of the invoice without any deduction (e.g. cash discount), unless otherwise agreed in writing. The date payment is received by us or credited to our account shall be deemed the payment date.
- 8.4 The Customer shall have a right of retention or right of set-off only with respect to those counterclaims that are not disputed or have been recognised by declaratory judgment. The Customer can exercise a right of retention only if the Customer's counterclaim is based on the same contractual relationship.
- 9. Retention of title**
- 9.1 We retain title to all goods delivered by us (hereinafter referred to as a whole as "Goods Subject to Retention of Title") until all our claims under the business relationship with the Customer, including claims arising in the future from contracts concluded at a later date, are paid. This shall also apply to any balance in our favour when any or all claims are incorporated by us in a current account and the balance has been established.
- 9.2 The Customer must insure Goods Subject to Retention of Title adequately, in particular against fire and theft. Claims against the insurance arising from a case of damage relating to Goods Subject to Retention of Title are herewith assigned to us in the value of the Goods Subject to Retention of Title.
- 9.3 The Customer is authorised to resell the deliveries or services supplied in the normal course of business. The Customer is not permitted to make other disposals, especially pledging or granting of equitable lien. If Goods Subject to Retention of Title are not paid for immediately by

third-party purchasers when resold, the Customer shall be obliged to resell under retention of title only. Authorisation to resell Goods Subject to Retention of Title shall cease to apply at once if the Customer suspends its payment or defaults in payment to us.

- 9.4 The Customer herewith already assigns to us all claims including securities and ancillary rights that accrue to the Customer against the final customer or third parties from or in connection with the resale of Goods Subject to Retention of Title, also within the scope of current account relationships. The Customer may not reach an agreement with its customers that excludes or impairs our rights in any way or nullifies the assignment of the claim in advance. If Goods Subject to Retention of Title are sold with other items, the claim against the third-party customer amounting to the delivery price agreed between ourselves and the Customer shall be deemed assigned, unless the amounts applicable to the individual goods can be determined from the invoice.
- 9.5 The Customer shall have the right to collect the claim assigned to us until revoked by us, revocation being admissible at any time. At our request, the Customer shall be obliged to give us the information and documents in full required to collect assigned claims and, unless we do so ourselves, notify its customers immediately of the assignment to us.
- 9.6 The Customer must notify us immediately if the Customer has already assigned claims to third parties arising from the resale of deliveries or services supplied or to be supplied by us, especially due to real or unreal factoring, or made other agreements which can impair our current or future security interests pursuant to this paragraph 9. In the case of unreal factoring, we shall have the right to rescind the contract and request the surrender of deliveries or services already supplied. This shall also apply to real factoring if, according to the contract with the factor, the Customer cannot freely dispose of the purchase price of the claim.
- 9.7 In the event of conduct by the Customer in breach of the contract through the Customer's fault, especially in the case of default in payment, we shall have the right, without previously having to rescind the contract, to take back all Goods Subject to Retention of Title. The Customer shall be obliged in such case to surrender the goods at once. We may at any time during normal business hours enter the Customer's business premises to determine the stock of the goods delivered by us. The Customer must notify us immediately in writing of any third-party attachment of Goods Subject to Retention of Title or claim assigned to us.
- 9.8 If the value of the securities existing for us according to the foregoing provisions exceeds the secured claims as a whole by more than 10%, we shall be obliged, at the Customer's request, to release securities at our option.
- 9.9 We treat and process Goods Subject to Retention of Title as manufacturer within the meaning of Section 950 *BGB* but without obligation on our part. If Goods Subject to Retention of Title are processed or combined inseparably with other items that do not belong to us, we shall acquire co-ownership in the new item in the ratio of the invoice value for our goods to the invoice values for the other processed or combined items. If our goods are combined with other

movable items into a uniform item that is deemed the principal item, the Customer shall herewith already assign co-ownership thereof to us in the same ratio. The Customer shall maintain ownership or co-ownership free of charge on our behalf. Rights of co-ownership accordingly arising shall be deemed Goods Subject to Retention of Title. At our request, the Customer shall be obliged at any time to provide us with the information required to pursue our ownership or co-ownership rights.

## 10. Liability / Exclusion and limitation of liability

- 10.1 Subject to the exceptions specified below, we shall not be liable in the case of breach of duty arising from the contractual obligation, in particular not for claims by the Customer for damages or reimbursement of expenses, for whatever legal reason.
- 10.2 The above exclusion of liability pursuant to paragraph 10.1 shall not apply
- a) in the case of own intentional or grossly negligent breach of duty and intentional or grossly negligent breach of duty by legal representatives or vicarious agents;
  - b) in the case of violation of material contractual obligations; "material contractual obligations" are obligations, the fulfilment of which defines the contract, and on which the Customer may rely;
  - c) in the event of injury to life, limb and health, also caused by legal representatives or vicarious agents;
  - d) in the case of default if a fixed-date delivery and/or fixed-date service was agreed;
  - e) where we have assumed a guarantee for the quality of our goods or the existence of a contractual performance or a procurement risk within the meaning of Section 276 *BGB*;
  - f) in the case of liability under the *Produkthaftungsgesetz* or other mandatory statutory liability.
- 10.3 If we or our vicarious agents are responsible only for slight negligence and none of the cases specified in bullet points c), e) and f) of paragraph 10.2 above exist, we shall be liable, in the case of violation of material contractual obligations as well, only for damage typical for the contract and for foreseeable damage.
- 10.4 Exclusion resp. limitation of liability pursuant to paragraph 10.1 to 10.3 above shall apply to the same extent for the benefit of our bodies, our executive and non-executive employees and other vicarious agents as well as our subcontractors.
- 10.5 Claims of the Customer according to the foregoing paragraphs shall become statute-barred within one year of the passing of risk (see paragraph 6). Paragraph 10.2 of these General T&Cs Deliveries shall apply accordingly. The periods of limitation arising from Sections 438 (1) No 2, 445b (1) and 634a (1) No 2 *BGB* shall remain unaffected.
- 10.6 There is no connection between the reversal of the burden of proof and the foregoing provisions.



## 11. Export control / Intra-Community trade in goods

11.1 In the absence of other written agreement, our deliveries and services are intended at all times to remain and for use and sale in the first country of delivery agreed with the Customer. We are not obliged to provide the Customer with appendices or documents relating to:

- non-preferential origin of goods (e.g. certificate of origin)
- preferential origin of goods, especially proof of preferential treatment status and (long-term) supplier's declarations
- customs tariff number
- German AL [export list] number
- Export Control Classification Number pursuant to Annex I and IV of Council Regulation (EC) 428/2009
- Export Control Classification Number pursuant to the U.S. Commerce Control List.

If we provide the Customer with related information in an individual case, this shall be without liability as to the accuracy of the information. The Customer shall not as a result acquire any right to receive such information from us for future business transactions.

11.2 The export of certain goods may be subject to authorisation e.g. because of their nature or intended purpose or final destination. This shall apply in particular to so-called dual-use goods. The Customer shall be obliged to comply strictly with the relevant export regulations and embargos for these goods (deliveries or services, products, software, technology), especially of the European Union (EU), Germany resp. other EU Member States and, if applicable, the USA.

11.3 The Customer shall in particular check and ensure that

- a) the deliveries or services provided are not intended for use in armaments, nuclear facilities or weapon technology;
- b) no companies and persons specified on the US Denied Persons List (DPL) are supplied with original US goods, US software and US technology;
- c) no companies and persons specified on the US Warning List, US Entity List or US Specially Designated Nationals List are supplied with original US products without relevant authorisation;
- d) no companies and persons are supplied who are specified on the List of Specially Designated Terrorists, Foreign Terrorist Organisations, Specially Designated Global Terrorists or the EU Terrorist List;
- e) the early-warning indications of the competent German or national authorities of the respective country of origin of the delivery are complied with.

The Customer undertakes to forward to us immediately upon request but at the latest within 10 days the corresponding original end-use certificates in the form specified by the *Bundesamt für Wirtschaft und Ausfuhrkontrolle* [German Federal Office for Economic Affairs and Export Control].

11.4 Our deliveries and services may be accessed and used only if they comply with the above checks and assurances; otherwise we are not obliged to perform.

11.5 Where deliveries and services are passed on, the Customer undertakes to oblige other recipients in the same way and to notify them of the need to comply with such legal provisions.

11.6 The Customer undertakes to indemnify us against all damages incurred by us arising from culpable violation of the foregoing obligations pursuant to paragraphs 11.1 to 11.5. The extent of the damages to be compensated also includes reimbursement of all necessary and adequate expenses that we incur or have incurred, especially the costs and expenses of any legal defence as well as any administrative fines or fines.

11.7 In the case of a culpable violation of the foregoing obligations pursuant to paragraphs 11.1 to 11.5 by the Customer, we shall have the right to rescind the contract with the Customer.

11.8 The Customer confirms the correctness of the Customer's VAT identification number, which the Customer shall give us, without being requested to do so, immediately after the contract is concluded. The Customer undertakes to notify us and the domestic tax authority competent for the Customer immediately of any change of name, address, company name and VAT identification number. If a delivery is treated as subject to taxation due to errors in specifying the name, company name, address or VAT identification number, the Customer shall reimburse the tax to be paid by us as a result.

11.9 In the case of double taxation - purchase tax in the customer country, VAT in Germany - the Customer shall pay the overpaid VAT - i.e. the VAT not owed due to the purchase tax liability - to us, waiving the defence of disenrichment.

## 12. Third-party property rights

12.1 We shall only be obliged to supply the deliveries or services free from third-party rights or claims which are based on industrial property rights or other intellectual property and which we were aware of when the contract was concluded or were not aware of due to gross negligence, provided that the right or claim is based on industrial property rights or other intellectual property

- a) according to the law of the Federal Republic of Germany, if our Customer has its registered office or branch there; or
- b) according to the law of a foreign state, if the Customer has its registered office or branch there; or
- c) according to the law of a third country only if we have expressly agreed in writing the use or sale of our deliveries or services in that third country with the Customer.

12.2 If a third party makes justified claims against our Customers in respect of our deliveries or services pursuant to paragraph 12.1 above, we shall take the following measures to remedy the situation within the period determined in paragraph 7.7:

- a) We shall at our option first try at our expense to obtain either a right of use for the relevant deliveries or modify the deliveries or services in such a way that the

property right is not infringed or exchange them. If we cannot do so on reasonable conditions, the Customer shall be entitled to its statutory rights which shall, however, be governed by these General T&Cs Deliveries.

- b) The Customer shall be obliged to notify us immediately in writing of claims asserted by third parties, not to admit any infringement and to reserve all defensive measures and settlement negotiations for us. If the Customer ceases using the deliveries or services for reasons of mitigation or other good cause, the Customer shall be obliged to advise the third party that cessation of use is not deemed to be an acknowledgement of an infringement of property rights. If an action for infringement of property rights is brought against the Customer by third parties resulting from the use of deliveries or services supplied by us, the Customer undertakes to notify us of this immediately and to give us the opportunity to participate in any legal action. The Customer shall support us in every respect in conducting such legal action. The Customer shall not take any action which could impair our legal position.

12.3 Our obligation according to paragraphs 12.1 and 12.2 shall not cover cases where

- a) the infringement of property rights results from the fact that, in producing the deliveries or services, we acted on information or other data that were provided or specified to us by the Customer; or
- b) the infringement of property rights is due to an application of the Customer which we could not foresee or is caused by the fact that the deliveries or services were modified by the Customer or mixed or used together with deliveries or services not supplied by us.

12.4 Our liability according to paragraph 10 shall remain unaffected.

### 13. Customer's obligations to cooperate

13.1 The Customer shall specify a contact person to us, who can make binding decisions, also in relation to any installation and assembly services, for the Customer during the execution of the contract and shall be available to exchange necessary information. Necessary decisions of the Customer are to be brought about by the contact person without delay and documented by the parties jointly in writing, if possible immediately thereafter.

13.2 The Customer shall support us, if necessary, in providing our deliveries/services, in particular shall create all conditions in the Customer's operating sphere which are necessary for the proper execution of the contract and shall help to ensure that we can begin the deliveries/services on time in each case and perform them without obstruction and interruption.

13.3 In particular, the Customer shall make available to us, if required for the delivery or provision of the service, free of charge and in due time: full access to the place of delivery/provision of the service, provide the current plans, operating data, safety instructions, functioning transmission and communication equipment as well as other necessary

information and documents relating to performance; auxiliary equipment not provided by us and necessary for the delivery/provision of the service; electricity, water, sanitary facilities, parking facilities; authorisations and other permits required for performance and not expressly due from us. In the case of stored program systems, the Customer shall be obliged in particular to notify user data with binding effect in due time prior to delivery/commencement of the service. If the deliveries/services are also provided at the Customer's premises, the Customer shall provide us with suitable workplaces and, after consultation, work equipment for use in execution of the contract.

13.4 The cooperation to be provided by the Customer constitutes real obligations and not only mere incidental obligations. If and insofar as the Customer does not provide the services owed by the Customer, not in due time or not as agreed and this impacts on our delivery/service, we shall be released from the obligation to provide the delivery/service concerned. The corresponding delivery periods shall be postponed by an appropriate period of time. Additional expenses incurred by us as a result shall be borne by the Customer, without prejudice to further rights.

### 14. Confidentiality / Data protection

14.1 The Customer undertakes to keep confidential such facts, documents and knowledge, which the Customer becomes aware of in the course of performing the business relations with ourselves and which contain technical, financial, business or market-related information about our company, if we have designated the respective information as subject to confidentiality or we have an obvious interest in its confidentiality (hereinafter collectively referred to as confidential information). The Customer shall use the confidential information solely for the purpose of implementing and performing the contractual relationship with ourselves according to the contract and the individual contracts based thereon.

14.2 Disclosure of confidential information to third parties by the Customer shall require our express and prior written consent.

14.3 There shall be no obligation to maintain confidentiality pursuant to paragraph 14.1 if it is proved that the respective confidential information:

- a) is or becomes generally known without any action on the part of the Customer; or
- b) was already known to the Customer or is disclosed by a third party authorised to do so; or
- c) is developed by the Customer without any action on our part and without exploitation of other information or knowledge acquired through the contractual contact; or
- d) must be disclosed due to mandatory statutory provisions or orders by a court or official authority.

14.4 The parties process personal data in compliance with the respectively applicable provisions on data protection, especially Regulation (EU) 2016/679 (General Data Protection Regulation).

14.5 In respect of the Customer's personal data, we shall observe the relevant statutory data protection regulations. Personal data of the Customer shall be collected, stored, processed and used by us if, when and as long as this is necessary to establish, perform or terminate the contract with the Customer. Further collection, storage, processing and use of the Customer's personal data shall only take place if legislation requires or permits this or the Customer has consented to this. The Customer is aware that the collection, processing and use of the contact data of the Customer's contact partners (name, e-mail addresses etc.) based on Art. 6 (1) b) GDPR is necessary to implement measures prior to entering into a contract and to fulfil the contract with the Customer. We have the right in particular to transfer the data to third parties if and when this is necessary to take measures prior to entering into a contract and to fulfil the contract (e.g. for delivery, invoicing or customer service) pursuant to Art. 6 (1) b) GDPR or to fulfil a legal obligation within the meaning of Art. 6 (1) c) GDPR. Furthermore, we shall also forward such data to third parties (e.g. debt collection agencies), if necessary, for the purpose of enforcing claims according to Art. 6 (1) b) and/or f) GDPR.

14.6 Our privacy policy is available at: <https://spie.de/footer-dt/datenschutzhinweise-fuer-kunden-geschaeftpartner-und-interessenten>.

## **15. Place of performance / Place of jurisdiction / Applicable law**

15.1 Place of performance for all contractual obligations is our company's registered office except where an obligation to be performed at the Customer's place of business is assumed.

15.2 We have the right at any time to transfer the rights and obligations hereunder in part or in their entirety to affiliated companies within the meaning of Sections 15 et seq. *AktG*.

15.3 All agreements, collateral agreements, assurances and contract amendments shall only be valid when given in writing. This shall also apply to waiver of the written form requirement. If these General T&Cs Deliveries require the written form, this shall also be maintained by transmissions using telefax or email, digital/electronic signatures and signatures (e.g. DocuSign). The precedence of an individual agreement (Section 305b *BGB*) shall remain unaffected.

15.4 Any disputes shall be settled exclusively before a competent court of law at the location of our registered office. We shall also have the right, however, to bring an action against the Customer at the Customer's place of general jurisdiction.

15.5 The law of the Federal Republic of Germany shall apply exclusively to all legal relations between the Customer and ourselves, to the exclusion of the UN Sales Convention (CISG).

**SPIE Deutschland & Zentraleuropa GmbH**

**B.**  
**Additional Terms and Conditions  
for Installation, Construction and Assembly**

**1. Scope**

These Additional Terms and Conditions for Installation, Construction and Assembly (hereinafter referred to as “**Additional Terms and Conditions**”) apply in addition to the foregoing General T&Cs Deliveries if, according to our quotation or our order confirmation, the installation, construction and/or assembly (hereinafter referred to as “**Installation and Assembly Services**”) are also due in relation to our deliveries or services.

**2. Scope of services / Service times / Remuneration**

2.1 The scope and remuneration of Installation and Assembly Services to be provided by us follow conclusively from our quotation/our order confirmation.

2.2 Unless otherwise agreed, we shall be obliged to perform the respectively commissioned Installation and Assembly Services only during normal business hours (Mon-Fri, except on national holidays and on 24.12. and 31.12., 08:00-18:00). Installation and Assembly Services performed outside normal business hours, shall be remunerated plus appropriate supplements for extra work, night work and work at weekends and on public holidays, per hour or part thereof, per employee. Appropriateness is to be assumed in particular if the corresponding supplements result from provisions of collective agreements or other applicable company regulations, which we, if recourse is made to collectively agreed or otherwise company-regulated rates, shall have to prove to the Customer in a suitable form on request.

2.3 Consumables, spare and wear parts are not covered by the agreed remuneration, unless otherwise agreed in the quotation or our order confirmation.

2.4 Installation and Assembly Services performed by us without authority or in unauthorised derogation from authority shall be remunerated if the Customer subsequently recognises the Installation and Assembly Services or if these were necessary to fulfil the order and corresponded to the presumed intent of the Customer. Statutory provisions on agency without authority and unjust enrichment shall remain unaffected.

**3. Occupational health and safety**

3.1 When performing our Installation and Assembly Services, we shall observe and comply with statutory regulations applicable at the place of performance of the Installation and Assembly Services. Should statutory regulations change between conclusion of the contract and performance of the Installation and Assembly Services, the Customer must inform us as far as possible. If statutory changes impact on the expenditure or scheduling of the Installation and Assembly Services, we shall have the right to invoice any additional expenses and make a postponement of the schedules which is appropriate to the statutory changes.

3.2 The Customer is obliged to inform us in writing or text form of other safety regulations sufficiently in advance prior to commencement of the Installation and Assembly Services. If necessary, the Customer shall inform and instruct our personnel performing the Installation and Assembly Services prior to commencement of the work on site and provide any information, documents and work material required.

3.3 If the Customer establishes any own violations or violations of safety regulations by our personnel performing the Installation and Assembly Services, the Customer must inform us of this immediately in writing or text form.

3.4 If we establish that safety regulations are not met or complied with at the place where the Installation and Assembly Services are performed, we shall have the right, after setting a reasonable grace period or, in the case of imminent danger, even without a deadline, to cease or interrupt performance of the Installation and Assembly Services at the Customer’s expense until remedy of the situation and compliance with the safety regulations. We shall also have the right, after prior notice in writing or text form, to withdraw our personnel from the place of performance of the Installation and Assembly Services or not to send them there. If there is danger to life or limb or the Customer repeatedly violates safety regulations to be complied with, we shall also have the right to terminate the contract with the Customer without notice.

**4. Tools and auxiliary material / More general obligations to cooperate**

4.1 Unless otherwise agreed in writing or text form, we shall make all necessary tools and auxiliary material available to our personnel to perform the Installation and Assembly Services.

4.2 The Customer is obliged to make premises available to our personnel free of charge for the dry, safe and proper storage of the tools and auxiliary material for the duration of the Installation and Assembly Services. If damage occurs to the tools and auxiliary material, through no fault of our own, which has been caused by the Customer or the Customer’s employees, the Customer shall be obliged to reimburse damage of that kind.

4.3 The Customer must support our personnel in the performance of the Installation and Assembly Services to an appropriate extent.

4.4 The Customer is obliged to inform us of special statutory and/or official requirements for performance of the Installation and Assembly Services and must ensure that necessary official authorisations are obtained.

4.5 The Customer must comply with statutory and official regulations and requirements and regulations and requirements of the institution for statutory accident insurance and prevention applicable at the place of performance of the Installation and Assembly Services and take measures to prevent accidents and protect our personnel as well as our tools and auxiliary material.



**5. Customer's technical obligations to cooperate**

5.1 For performance of the Installation and Assembly Services, the Customer must grant us unrestricted access to the Customer's business premises and to the place of performance of the Installation and Assembly Services. The Customer shall create the necessary infrastructure at the place of performance of the Installation and Assembly Services and clarify any special working conditions to us.

5.2 Prior to commencement of the assembly work, the Customer must provide, without being requested to do so, the necessary information concerning the location of concealed power, gas, water lines or similar installations as well as the necessary static data.

5.3 In addition, the Customer is obliged to render all necessary technical obligations to cooperate, especially:

a) to provide necessary specialised personnel and contact partners;

b) to carry out all earth works, building and scaffolding work;

c) to provide necessary special equipment and special tools (e.g. scaffolding, crane, lifting platform, compressors, welding equipment etc.);

d) to provide heating, lighting, water, electricity including the necessary connections;

e) to protect and clean the place of performance of the Installation and Assembly Services against harmful influences of any kind;

f) to provide suitable and safe recreation rooms for our personnel;

g) to provide other support services necessary to perform the Installation and Assembly Services, such as parking spaces or storage facilities free of charge.

5.4 The Customer's technical obligations to cooperate must provide and ensure that the performance of the Installation and Assembly Services can be commenced immediately after the arrival of our personnel and performed without interruption and free of interference until completion.

5.5 The obligations to cooperate to be rendered by the Customer according to paragraphs 4 and 5 constitute authentic obligations and not only mere incidental obligations. If and insofar as the Customer does not provide the obligations to cooperate and services due from the Customer, does not do so in due time or not as agreed and this impacts on the performance of our Installation and Assembly Services, we shall be released from the performance of the affected Installation and Assembly Services. The corresponding service periods shall be postponed for a reasonable period. Additional expenses incurred by us and proven shall be remunerated separately, without prejudice to further rights, and any damages shall be borne by the Customer.

**6. Completion and acceptance of the Installation and Assembly Services / Invoicing**

6.1 Acceptance of our Installation and Assembly Services shall be governed by the provisions of the *BGB*, supplemented by the provisions hereinafter set forth.

6.2 If, after completion of our Installation and Assembly Services, we or the Customer require acceptance of the services, acceptance shall be performed within a reasonable period. A written record of acceptance shall be drawn up, which shall also include a time sheet. If acceptance is not necessary or not required by one of the parties, the Customer shall be obliged, after completion of our Installation and Assembly Services, to sign for us our written work report incl. time sheet, containing the Installation and Assembly Services performed.

6.3 At our request, self-contained parts of the Installation and Assembly Services shall be accepted separately.

6.4 If the Customer does not require acceptance, the Installation and Assembly Services shall also be deemed accepted upon expiry of 12 working days after written notification of completion, if we have referred to this consequence in the notification of completion.

6.5 If the Customer does not require acceptance and puts the Installation and Assembly Services or the deliveries/services concerned into use, acceptance shall be deemed to have taken place upon expiry of 6 working days after commencement of use. Section 640 (2) *BGB* shall remain unaffected.

6.6 The time sheets issued by us concerning the Installation and Assembly Services performed shall serve as the basis for invoicing, if invoicing according to hours of work performed has been agreed. Calculation shall take place after completion and acceptance of the Installation and Assembly Services pursuant to this paragraph 6.

**7. Supplementary application of the General T&Cs Deliveries**

Unless otherwise stipulated in these Additional Terms and Conditions, the foregoing General T&Cs Deliveries shall apply in addition. In the event of inconsistencies between the General T&Cs Deliveries and these Additional Terms and Conditions, these Additional Terms and Conditions shall take precedence within the scope of application of these Additional Terms and Conditions pursuant to paragraph 1.

**SPIE Deutschland & Zentraleuropa GmbH**