

## **1. SCOPE OF VALIDITY**

- 1.1. These General Conditions of Business apply only to entrepreneurs as defined by Article 14 of the German Civil Code (BGB).
- 1.2. The deliveries and services of Dallmeier electronic GmbH & Co. KG, Cranachweg 1, 93051 Regensburg – hereinafter referred to as Dallmeier – are furnished exclusively under the General Conditions of Business outlined below and the regulations in the relevant price list, unless otherwise agreed in writing.
- 1.3. Dallmeier electronic does not recognize the customer's contrary conditions or those that deviate from Dallmeier's General Conditions of Business unless Dallmeier electronic has agreed expressly and in writing that they shall apply. The conditions of business shall also apply exclusively when Dallmeier electronic furnishes services without reservation and with knowledge of contrary or different conditions of the customer.
- 1.4. If the General Conditions of Business of Dallmeier were not sent to the customer with the quotation or if the customer did not receive them separately, they shall still apply if the customer was given corresponding notice of the General Conditions of Business of Dallmeier electronic in the contract documents or in any other appropriate form. We are willing to send the customer the General Conditions of Business on request at any time.
- 1.5. For repair within the scope of the Service Plus package a separate contract is concluded, which is completely independent from the purchasing contract of the respective device.

## **2. QUOTATION**

- 2.1. Quotations from Dallmeier electronic are subject to change and are non-binding. They are subject to Dallmeier electronic receiving its own orders from its suppliers. A contract shall not come into force until written confirmation of the order by Dallmeier, but no later than when the delivery is accepted by the customer.
- 2.2. We reserve the right to make technical and design changes to details in brochures, catalogs and written documents that are reasonable for the customer, and also model, design and material changes in the context of technical advancement and foreseeable development, provided that they do not impair usability for the customer and without any rights against Dallmeier electronic arising from such changes.

## **3. PRICES**

- 3.1. All prices are "ex works" in accordance with INCOTERMS 2000. Agreements to the contrary must be confirmed in writing. All prices are in Euros, exclusive of freight, packing, insurance and the respective valid rate of VAT.
- 3.2. All prices indicated are not eligible for rebates.

## **4. DELIVERY AND PERFORMANCE TIME**

- 4.1. The dates and deadlines quoted by Dallmeier electronic are non-binding unless there has been a written agreement to the contrary.
- 4.2. All delivery dates are subject to Dallmeier's suppliers delivering correctly and on time. The customer will be immediately notified of any delays. In such a case the performance time is delayed by a corresponding period of time. Also, in such a case, Dallmeier may withdraw from the contract regarding the undelivered items, given that, due to the incorrect or late delivery by its suppliers, the performance time is extended by more than one month. As far as allowed by competition law Dallmeier will cede to the customer possible claims arising from the non-contractual delivery against the supplier. Further claims for compensation or claims for reimbursement of expenses by the customer are excluded.
- 4.3. Unforeseen circumstances and problems which are attributable to factors beyond the control of Dallmeier and could not be prevented even though reasonable care was exercised will correspondently extend the delivery time. This particularly applies to acts of God such as war, fire and natural disasters etc. Such factors extend the delivery time even if they occur during an existing delay. Any period of grace set by the customer will also be extended by the duration of the unforeseen event. These regulations also particularly apply to government measures, denial of official approvals, labour disputes, sabotage etc. The same applies if such hindrances and circumstances occur at our suppliers or their sub-suppliers. Such a delay of the delivery and the performance shall entitle Dallmeier to partly or completely withdraw from the contract due to the unfulfilled part. Dallmeier shall only be entitled to do so if the delay exceeds one month. Any claim for compensation by the customer due to a

delayed delivery or a withdrawal from the contract based on the above-mentioned reasons is excluded.

- 4.4. Dallmeier explicitly reserves the right to carry out and invoice reasonable partial deliveries.
- 4.5. In the event of a delivery delay, the customer can withdraw from the contract following an appropriate but fruitless period of grace. In the event that it is impossible for us to perform, the customer shall also have this right without the need to observe a period of grace. Claims for damages (including any consequential damage) shall not be possible irrespective of Item 4.5 and Item 7, which are not intended to reverse the burden of proof. The same applies to the reimbursement of expenses.
- 4.6. If business for a fixed date was agreed, Dallmeier shall be liable in accordance with the legal stipulations. The same shall apply if the customer can claim due to the delay for which we are responsible that he no longer has an interest in fulfilling the contract.

## **5. DISPATCH AND TRANSFER OF RISK**

- 5.1. Dispatch shall be at the customer's risk.
- 5.2. Unless an obligation to be performed at the place of the debtor (delivery ex works) was agreed, the transfer of risk to the customer takes place no later than at the handing over of the contractual item to the carrier, his representative or any other person named by Dallmeier.
- 5.3. Unless an obligation to be performed at the place of the debtor (delivery ex works) was agreed and provided that the delivery is delayed or becomes impossible without the fault of Dallmeier, the risk is transferred to the customer once he is informed that the goods are ready for delivery.
- 5.4. Unless expressly disallowed by the customer, Dallmeier electronic shall arrange transport damage insurance for the goods being sent to the customer. This insurance shall be obtained on behalf of and at the expense of the customer with an insurance company to be selected by Dallmeier electronic. Dallmeier electronic shall be freed of liability for transport damage as soon as this insurance has been concluded.
- 5.5. The customer must lodge complaints about transport damage with the transport company immediately and in writing, and must also forward a copy to Dallmeier electronic without delay.

## **6. WARRANTY FOR PROPER QUALITY AND WARRANTY OF TITLE; REPAIRS AFTER EXPIRY OF THE WARRANTY**

- 6.1. Dallmeier electronic shall provide advice based on its experience. Statements and information about suitability and use of the contract object are non-binding if they are not expressly a contractually agreed property. However, the customer is in all cases obliged to perform his own tests. Any remaining liability shall be based on Item 7.
- 6.2. In the case of deliveries, Dallmeier electronic shall be liable for defects as follows, with the exclusion of further claims:
  - a) The customer is obliged to conscientiously examine the subject of the contract immediately (but no later than within 3 days) upon receipt. Visible damage must be reported immediately, specifically and in writing after the subject of the contract arrives and before it is used.
  - b) If such a complaint is not lodged, the subject of the contract shall be deemed to have been delivered in good condition and in full, unless a fault is involved that was not recognizable upon inspection. In this case too, the fault must be reported in writing without delay, but no later than within 3 days as from when the fault was identified. If this is not done, the subject of the contract shall be deemed approved accordingly.
  - c) Dallmeier provides a warranty commencing with the acceptance as indicated in the overview "**Important notes on GSTC, price validity, warranty periods and warranty conditions**" or according to the warranty respites indicated in the order confirmation (Dallmeier will send the customer the overview on request at any time). Agreements which do not comply with this regulation (e.g. for longer warranty periods) are to be made in writing. A prerequisite for any claims within the extended warranty period this is that the product is delivered to the Dallmeier repair center in Regensburg in its original or at least in equivalent packing. The product must in any case be packed appropriately and according to the ESD regulations. Any services performed on site are subject to a charge. They are not included in the scope of services and have to be stipulated separately. Faults shall be remedied by rework. At the same time, Dallmeier reserves the right to assign this work to a third party. The

customer must give Dallmeier electronic sufficient time and opportunity to remedy the fault. If the product is delivered in a condition not as described above, warranty claims of any type can be made against Dallmeier electronic to the extent stated in law, for example if transport damage occurs.

d) Dallmeier shall only be liable in cases of significant defects.

In case that the rework is impossible or be unsuccessful, the customer has the right to chose to either lower the work compensation accordingly (reduction) or to withdraw from the contract in accordance with the legal stipulations. This particularly applies in the case of a culpable delay or a refusal of the subsequent performance, and also if the subsequent performance fails for a second time.

e) We shall bear the costs required for the purpose of subsequent performance, in particular transport, delivery, labour and material costs; assumption of costs shall be excluded when the additional costs occur through the transfer of the product to another place than the place of performance.

f) An unjustified request for rectification – i.e. examination of the product has proved that there is no defect which lies within our responsibilities – constitutes a breach of contract through the customer (Article 280, paragraph 1 German Civil Code – BGB) and entitles us to compensation. In such cases we are entitled to charge a processing fee for each unjustified request for rectification.

g) The obligation of Dallmeier electronic to provide a warranty shall not apply if faults in or changes to the supplied goods are attributable to incorrect action or installation by the customer or a third party of spare parts not authorized by Dallmeier electronic. This applies especially in the case that components intended for use as removable media are replaced by or upgraded with replacement parts which have not been authorized by Dallmeier electronic. There shall also be no obligation to provide a warranty to cover normal wear or incorrect use of the goods. This shall apply particularly to the normal wear of hardware components or similar parts that are subject to natural wear during contractual use.

h) In the event that the customer withdraws from the contract for work and services, Dallmeier electronic reserves the right before making a reimbursement to offset against the work compensation an appropriate expense allowance in accordance with the legal regulations.

## **7. WITHDRAWAL FROM THE CONTRACT AND LIABILITY**

- 7.1. The customer's legal right to withdraw should be neither excluded nor restricted. Likewise, Dallmeier electronic's legal or contractual rights and claims should also not be excluded or restricted. Dallmeier only assumes unlimited liability in cases of intent or gross negligence (including our legal representatives and vicarious agents) as well as for in cases of injury to life, body and health. Dallmeier also unlimited liability in regard to making guarantees and warranties, if a defect covered by either of those causes the liability. There is also no limitation regarding strict liability (particularly in accordance with Product Liability Law).
- 7.2. Regarding any other culpable violation of essential contractual duties (cardinal duties) the remaining liability of Dallmeier is limited to the direct losses foreseeable and typical of the type of contract.
- 7.3. Apart from that Dallmeier's liability, irrespective of the legal basis (particularly claims from the violation of primary and secondary contractual duties, unlawful acts or other tort liability) is excluded.
- 7.4. The same (exclusions, limitations and exceptions thereof) applies to claims arising from fault at conclusion of the contract.
- 7.5. In the case of reimbursement for expenses (with the exception of reimbursement according to Article 635 II of the German Civil Code (BGB) paragraph 9 of this contract applies correspondingly).
- 7.6. An exclusion or limitation of Dallmeier's liability also applies to its legal representatives and vicarious agents.
- 7.7. A reversal of the burden of proof is not intended. Cardinal duties are essential contractual obligations i.e. duties which define the character of the contract and in which the contractual partner may trust. Therefore, they constitute the essential rights and duties which form the basis for the fulfillment of the contract and which are indispensable for realising the purpose of the contract.

**8. RESERVATION OF PROPERTY**

- 8.1. Dallmeier electronic reserves ownership of the exchange parts and the replacement parts that are installed as part of the repair until it has received full payment for all accounts receivable from the customer and any future claims against the customer, irrespective of their legal basis.
- 8.2. Processing or modification shall in all cases be on behalf of Dallmeier electronic as the manufacturer. The reservation of ownership also extends to the processing or modification of products created from the goods up to their full value. If, when third-party goods are processed or modified, their right of ownership remains in force, the client shall grant him co-ownership in relation to the objective values of these goods (invoice value). For such cases it is hereby already agreed that the client shall keep the goods on his behalf free of charge and with care. If our reserved goods are combined with other movable items to form a uniform whole, or if they are inseparably mixed and if the other object is then regarded as the main object, the client shall transfer to the contractor proportional co-ownership, provided that the main object belongs to him. The client shall maintain custody of the resulting (co-)ownership on his behalf. For objects created in this way, the same incidentally applies to goods delivered under reservation of ownership.
- 8.3. The customer shall at all times be revocably entitled to process and sell the reserved goods in the course of normal business, provided that he is not in arrears. Pledges or assignments as security are not permissible. As a safety measure, the customer shall now already assign in full to Dallmeier electronic the claims relating to the reserved goods arising from resale or from another legal basis. Subject to revocation at any time, Dallmeier electronic authorizes the customer to collect the claims assigned to the customer for its invoices in its own name. When requested to do so, the customer must disclose the assignment and also provide and present the necessary information and documents.
- 8.4. The customer is entitled to resell process or mix the delivered goods in the regular course of business. However, the customer hereby cedes to Dallmeier all claims arising from the resale, the processing, and the intermixture or any other legal grounds (particularly from insurances or unlawful acts) in the amount of the agreed sum of the invoice. The customer also cedes any subsidiary rights to Dallmeier. If, due to the reservation of property, the delivered goods are subject to the co-ownership, the cession of claims is made in proportion to the share of joint title. If the goods delivered are sold together with third-party goods, which are not owned by the customer, the resulting claims will be ceded to Dallmeier in the proportion that equals the invoice sum of the delivered goods against the sum of the invoice for the third-party goods. After the cession the customer remains entitled to collect the claims, whereby the right of Dallmeier to collect the claims itself remains unaffected. However, Dallmeier obliges not to collect the claims as long as the customer complies with his payment obligations, is not in arrears, no application to open insolvency proceedings has been made and no default is on hand. If such is the case, however, the customer is obliged to disclose to Dallmeier in request the ceded claims and the names of the debtors. The customer is also obliged to give all information necessary for the collection, hand over the corresponding documents and inform the debtors (third party) about the cession. Paragraph 8.4 also applies if the customer violates the contract by reselling, processing or mixing the work.
- 8.5. The customer will also cede to Dallmeier the claims meant to secure the claims against him, which arise against a third party from the combination of the delivery items with a property. The cession to Dallmeier is made with priority before the rest.
- 8.6. In the case of third-party access to the goods subject to retention of title, particularly with garnishment and insolvency, the customer is obliged to point out the ownership of Dallmeier and notify Dallmeier immediately. Any costs incurred are at the customer's expense.
- 8.7. In the case of a violation of the contract on part of the, particularly in the case of payment delays, Dallmeier is entitled to take back the reserved goods at the customer's expense or, if applicable, demand the cession of the claim for surrender that the buyer has against third parties. The taking back or the garnishment of the reserved goods by Dallmeier does not constitute a withdrawal from the contract. The mere retraction can only be seen as a withdrawal if a respite set by Dallmeier has passed fruitlessly and the withdrawal has explicitly been declared. Dallmeier is further entitled to prohibit the customer to make any resale, processing, combination or intermixture of the goods delivered under reservation of property and to revoke the direct debit authority (paragraph 8.4).

- 8.8. The customer undertakes to inform Dallmeier electronic immediately if the customer or third parties lodge a claim for insolvency. In this instance, the customer particularly undertakes to immediately provide information about the condition and location of the reserved goods.
- 8.9. If the value of the total security provided for Dallmeier electronic from the business relationship exceeds the latter's claims by over 50%, the securities are automatically freed at the customer's request. The choice of the securities to be transferred back shall be made by Dallmeier electronic. The nominal values shall be used as the basis of assessment.
- 8.10. As far as the validity of the reservation of property in the country of destination is tied to special requirements or formalities, the customer is responsible for ensuring that they are adhered to.

## **9. PAYMENT**

- 9.1. Unless otherwise agreed, invoices are payable immediately and without a discount.
- 9.2. Payments received shall be used at the discretion of Dallmeier to settle the oldest or least secured liabilities.
- 9.3. Payments shall not be deemed to have been made until Dallmeier finally has the amount at its disposal. Bill and check payments are only accepted as conditional payment and by separate agreement. Check fees shall be paid by the customer.
- 9.4. If the customer falls into arrears, Dallmeier shall from that point in time be entitled to demand the statutory rate of interest on arrears in order to cover any damages caused by delayed payment. This rate is currently 8 per cent above the respective basic interest rate in accordance with Article 247 of the German Civil Code (BGB). Thereby, a higher interest loss can be claimed at any time and be invoiced. Further claims remain unaffected.
- 9.5. If the buyer does not meet his payment obligations in accordance with the contract or if he ceases payments, or if Dallmeier becomes aware of circumstances that put into question the customer's creditworthiness, Dallmeier electronic shall be entitled to declare due the entire amount remaining and to demand prepayments or securities. In the case of delays in payment Dallmeier is also entitled to revoke any agreed rebates, early payment discounts and other benefits.
- 9.6. The customer shall only be entitled to offset if his counter-claims have been legally determined, are undisputed or have explicitly been recognised by Dallmeier. The customer only has a right of retention concerning counter-claims arising from the same contractual relationship. Independently, a right of retention can also be claimed if the claims used to offset are undisputed, legally determined or recognised.

## **10. PROPERTY RIGHTS AND COPYRIGHT**

- 10.1. The customer is obligated to inform Dallmeier immediately and in writing if he is made aware of an infringement of commercial property rights and copyrights by a product supplied by Dallmeier. Dallmeier electronic is solely entitled (but not obligated) to defend the customer against claims made by the owners of such rights and to regulate these claims at its own expense if they are attributable to a direct infringement by a product supplied by Dallmeier. The customer must submit or hand to Dallmeier electronic all declarations of intent and documents necessary for this purpose.  
Dallmeier will always make every effort to obtain for the customer the right to use the product. If this is not possible for an economically justifiable outlay, Dallmeier shall be entitled at its own discretion to modify the product in such a way that the property right is not infringed or to take back the product and reimburse the work compensation, minus compensation for the extent to which it has already been used.
- 10.2. If the customer has modified the product supplied by Dallmeier or integrated it into a system, or if Dallmeier has designed the product in accordance with the customer's instructions in such a way that industrial property rights have resulted, the customer shall be obligated to defend and protect Dallmeier against claims made by the holder whose rights have been infringed, as far as the customer is responsible for the infringement.
- 10.3. The software programs provided by Dallmeier and the associated documentation are intended solely for the customer's own use within the framework of a single, non-transferable license, and exclusively on the products supplied by Dallmeier. The customer may not make these programs and this documentation accessible to third parties without the written permission of Dallmeier, including if the hardware is sold on. Copies may only be made for archiving purposes, as replacements or for fault searching. No liability or cost reimbursement

by Dallmeier shall be provided for such copies. If originals carry a notice referring to copyright protection, the customer must also add this to copies.

10.4. Otherwise, the liability of Dallmeier is as stated under Paragraph 7.

#### **11. CUSTOMER DATA**

The customer hereby grants Dallmeier his express approval for the automated electronic processing of the data revealed on the basis of the contractual relationship and necessary to process the order. We save and process all customer data in accordance with the relevant regulations of the Federal data Protection Law (BDSG).

#### **12. EXPORT**

Products and technical know-how supplied by Dallmeier are intended for use in and must remain inside the country of delivery agreed with the customer. Dallmeier accepts no liability for conformity with the relevant national regulations, particularly if supplied products are exported to non-EU countries. Such liability can only be accepted if Dallmeier has previously issued written approval. Irrespective of this, the re-export of contract products – individually or integrated in a system – requires the customer to obtain approval and is always subject to the foreign trade regulations of the Federal Republic of Germany or of the other country of delivery agreed with the customer. The customer is responsible for informing himself about these regulations. He is solely responsible for obtaining any necessary approval from the responsible foreign trade authorities before exporting such products.

#### **13. EU IMPORT TURNOVER TAX**

If the customer is based outside the Federal Republic of Germany, he is obligated to observe the rules covering European Union import turnover tax. This particularly includes notifying Dallmeier of his turnover tax identification number without being specifically requested to do so. The customer is obliged to furnish to Dallmeier on request the necessary information concerning his status as an entrepreneur, the use and transport of the delivered goods and statistical reporting obligations.

#### **14. PLACE OF PERFORMANCE AND PLACE OF JURISDICTION**

14.1. The place of fulfillment and place of jurisdiction is Regensburg.

14.2. The law of the Federal Republic of Germany applies in regard to all claims and rights arising from this contract (Civil Code, Code of Commercial Law). An application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) as well as the conflict of laws of the Introductory Act of the German Civil Code is explicitly excluded. The language of the contract is German.

14.3. The place of jurisdiction is the place of business of Dallmeier, if the contractor is also a merchant, a corporate body under public law or public special property. The same applies if the contractor has no domestic place of general jurisdiction or relocates his place of residence abroad after conclusion of the contract. Dallmeier is entitled to also proceed against the contractor in other admissible places of jurisdiction.

#### **15. FINAL PROVISIONS**

15.1. Should individual terms are or become void, ineffective or contestable, they must then be redrawn or supplemented so that their intended economic purpose is achieved as closely as possible and in a legally permissible way. This shall not affect the remaining terms. The same shall apply if terms are incomplete.

15.2. Dallmeier shall furnish its services observing the current and recognized technical regulations and the legal stipulations applicable to its products at the respective time. Precise details of approvals in standards and certifications are available from the contractor. If it is necessary to observe special rules or the legal regulations laid down in national law, the client must point this out separately with the order.

15.3. Dallmeier has observed the legal regulations for the disposal of electronic parts. Further information about this will be provided as necessary or is available directly from Dallmeier.

15.4. Impermissible reversal of the legal burden of proof is not intended by any term of these General Conditions of Business.

15.5. All terms and provisions in this contract are used ambisexual. Apart from that, they are meant to be free from any discrimination within the meaning of the General Equal Treatment Act.