

# **General Business Terms and Conditions**

## **For Research, Development and Consulting Orders of**

### **IPH – Institut für Integrierte Produktion Hannover gGmbH**

#### **I. Area of Applicability**

(1.) The following terms and conditions shall apply for all offers and agreements with entrepreneurs in the course of ongoing and future business relationships of IPH, also in conjunction with the future follow-up orders of the Customer.

Entrepreneurs in accordance with the business terms and conditions are natural or juridical persons or partnerships having a legal capacity, with whom a business relationship is undertaken and who are involved in commercial or independent professional activities. Included among these are also research companies. It is irrelevant whether they are for-profit or non-profit organizations.

(2.) Any deviating agreements or collateral agreements, conflicting or supplemental general business terms and conditions shall, even if they are acknowledged by the other party, not be considered to be a contractual component unless their validity is expressly approved.

#### **II. Contractual Conclusion**

(1.) Offers of IPH are non-binding. The right to make technical or other modifications shall be retained to the extent that this is reasonable.

(2.) With the order, the contractual partner shall declare its contractual offer with binding validity. At the same time, the contractual partner shall waive its right to the receipt of the acceptance of the contractual offer.

(3.) In the event that IPH does not wish to accept the contractual offer specified in the order, it shall reject the offer within 5 working days after receiving such an offer.

(4.) If IPH does not respond, then the contractual offer specified in the order shall be considered to be accepted after 5 working days from the receipt of such an offer by IPH.

(5.) The services to be rendered shall be specified in the order confirmation or in a confirmation letter.

#### **III. Methods of Remuneration and Payment**

(1.) The agreed-upon remuneration shall be considered to be in addition to the statutory value-added tax.

(2.) The amounts invoiced by IPH must be paid by the Customer no later than 14 days after the receipt of the invoice with no deductions. After the expiration of this time period, the Customer shall enter into payment default.

(3.) IPH shall be entitled to present individual components of the project (partial projects or work packages) to the Customer for partial acceptance. The Customer shall be obliged to make partial acceptance if these components comply with the agreement. Thereupon, the Customer must make payment for this partial performance after a special partial invoicing has been made.

(4.) The Customer shall have a right to offset only if its counterclaims are legally established in a court of law or acknowledged by IPH.

(5.) The Customer shall have a right to retention only if its counterclaim is applicable to the same contractual relationship.

(6.) In any case, a right of the Customer to refuse performance is excluded.

(7.) IPH shall be entitled to charge interest of 8 % above the applicable base lending rate plus any commissions and costs from the due date. The interest charges are to be billed at a higher rate if IPH can document a burden with a higher interest rate.

#### **IV. Project Implementation**

(1.) All work shall be carried out in close collaboration with the Customer. Both IPH as well as the Customer shall designate a respective project manager for the implementation of the project who is the contact person responsible for all project issues and can render and accept binding declarations for his party. The project managers shall, in consultation with each other, ensure that the progress on the project is not impaired through an insufficient exchange of information.

(2.) The processing and delivery time periods specified by IPH shall begin with the respective receipt of the order, nonetheless not before the receipt of any agreed-upon advance payments and the fulfillment of the requirements to be met by the Customer, such as the provision of documents, etc.

(3.) If possible, IPH shall consider any modifications that the Customer feels are necessary. However, the Customer shall have no claim to this. In the event that this consideration should endanger the fulfillment of the striven-for goal or should lead to an exceeding of the anticipated personnel expenditures or timeframes, then IPH shall notify the Customer immediately after it becomes aware of these circumstances. A modification of the order is only then binding after a supplemental written agreement is concluded between the contractual partners regarding the modification of and the compensation for any additional expenditures.

(4.) The Customer shall ensure that IPH – without its being particularly required to request this – is provided in a timely manner with all documents required for the execution of the order and that IPH is notified of all circumstances that are of significance for the execution of the order.

(5.) If project work must be carried out on the Customer's premises, then the Customer shall provide the corresponding work requirements. The Customer shall ensure that the employees of IPH as well as any possible suppliers and subcontractors receive unrestricted access to these premises. The building rules and regulations must be followed.

#### **V. Project Results**

The project results shall be concurrently turned over to the Customer after the completion of the project in accordance with the offer against the payment of the agreed-upon project fee. IPH shall retain a non-exclusive right of use that is free of charge for research purposes.

#### **VI. Industrial Property Rights**

(1.) The "old proprietary rights" of IPH shall not be affected by the agreement. Regardless of the use of these proprietary rights for the carrying out of the development work, this agreement shall not affect the legal situation of these proprietary rights. In particular, these proprietary rights shall remain the exclusive property of IPH.

(2.) Inventions, which the employees of IPH create during the contractual work in the contractual developmental work area ("new proprietary rights"), shall only be claimed by IPH if IPH declares such claim to the Customer within one month after making notification of the invention to the Customer. If a declaration of the claim is not made within one month after the notification of the invention is made to the Customer, then IPH waives its proprietary rights to the inventions. After the expiration of the one-month period, the Customer shall be at liberty to apply for a patent for the invention in its own name.

(3.) If IPH declares its claim to the invention within the one-month period, then IPH shall claim the invention in an unrestricted fashion and shall apply for a patent in the name of IPH. Thereupon, IPH shall have exclusive entitlement to such proprietary rights.

(4.) In the event that inventions in the contractual area should be created jointly by the employees of IPH and the employees of the Customer during the duration of the agreement (joint inventions), then IPH shall declare a partial claim to the invention to the Customer within a period of one month after the invention is created if it wishes to claim partial proprietary rights. If no declaration is made, IPH waives its partial proprietary rights to such inventions.

(5.) If the declaration regarding the joint invention is made by IPH, the joint invention shall first of all be claimed in unrestricted fashion vis-à-vis the employees and then be applied for patent protection jointly in the name of IPH and the Customer. Thereupon, the contractual partners shall immediately brief each other regarding this and agree upon the respective inventor shares and record the results of this agreement in writing as a supplement to the agreement. The contractual partners shall then be jointly entitled to such proprietary rights. The preparation and carrying out of these applications for patent protection shall be made by IPH. The contractual partners shall, no later than 3 months before the expiration of the priority time period, consult with each other and reach agreement regarding in which countries corresponding foreign patent protection should be applied for.

(6.) When the joint application is made, IPH shall immediately provide the Customer with copies of the official correspondence with the patent offices regarding these joint patents in accordance with VI (4.) of this agreement. With respect to any patent rights created in accordance with VI (2.) of this agreement, IPH must provide the Customer exclusively with a copy of the respective patent application with the respective patent office for its information.

(7.) In the event that IPH should submit patent applications, then it shall bear the costs for such applications. If the joint inventions are submitted for patent protection, then the costs incurred shall be assumed by the contractual partners in accordance with their inventor shares. However, those costs in accordance with VI (5.) Clause 5 of this agreement shall be assumed by the contractual partner who has the sole interest in corresponding foreign patent rights.

#### **VII. Renouncing of Industrial Property Rights**

(1.) If IPH does not intend to continue to hold or maintain a patent that has been applied for in accordance with VI (2.), then it shall be obliged to inform the Customer of this intention in a timely manner in writing and offer it the patent rights free of charge. If the Customer declares the written acceptance of this offer to take over the patent rights within 4 weeks after the receipt of such notification, then it must assume the costs of the transferal as well as the continuation and maintenance of this patent; otherwise, IPH shall be entitled, with no further notification being required, to carry out the intended renouncing

of the patent rights. In the event of the transferal of such patent rights by mutual agreement, the contractual partners shall undertake all actions that are required and reasonable and render declarations.

(2.) In the event that a contractual partner should wish to apply for patent protection in accordance with VI (5.) Clause 5 in a country, for which the other contractual partner intends to assume no rights, then all rights to the invention shall be transferred to the contractual partner free of charge through this corresponding foreign patent. Otherwise, VII (1.) of this agreement shall apply.

(3.) In the event that a contractual partner does not wish to submit an invention for patent protection or does not wish to continue with a patent application in accordance with VI, VII, then the contractual partner assuming the invention or patent application shall replace the other contractual partner with respect to the rights and obligations of the Customer of the inventor upon the basis of the legal directives regarding employee inventions, provided that the respective employee approves this; if the employee does not approve this, the assuming contractual partner shall release the other contractual partner from all rights and obligations in this respect.

#### VIII. Use of the Industrial Property Rights

(1.) IPH shall grant the Customer a non-exclusive, non-transferable right of use to the old patent rights, provided that they concern the inventions of the developmental results that form their basis.

The contractual partners shall reach agreement in a timely manner, before the use of these old proprietary rights, regarding the conclusion of a licensing agreement at appropriate conditions that are customary for this line of business. In the event of a dispute, the contractual partners shall jointly designate a third party expert in accordance with § 317 BGB [German Commercial Code]. This third-party expert shall decide regarding what conditions are appropriate and customary for the line of business. In the event that the contractual partners are unable to agree upon a joint expert within 4 weeks, the President of the Chamber of Industry and Commerce in Hanover is to designate a neutral expert upon the request of a contractual partner.

(2.) The contractual partners shall grant each other, free of charge, a non-exclusive, non-transferable right of use to any possible joint inventions in accordance with VI for any applications for industrial property right protection.

(3.) IPH shall grant the Customer, free of charge, an exclusive, non-transferable right of use to the new patent rights in accordance with VI. Compensation for the granting of this right of use shall be made through the overall fee in accordance with III. The exclusivity granted shall automatically be converted into a non-exclusive right of use at unamended conditions after the passage of 3 years from the termination of this agreement.

#### IX. Industrial Property Rights of Third Parties

(1.) The Customer assures that it endeavors to not violate third-party proprietary rights through the developmental results obtained. However, it cannot guarantee this. Through these efforts, IPH shall investigate with its customary due care as to whether German patent rights are potentially being violated. IPH shall inform the Customer of the results of this investigation. IPH cannot assume liability extending beyond this obligation. IPH shall immediately notify the Customer if it becomes aware of any third-party proprietary rights that could be violated through the use of the project results. IPH and the Customer shall decide by mutual consent whether and in what manner rights of third parties, of which they become aware, must be taken into consideration in the carrying out of the work.

#### X. Warranty

(1.) IPH shall guarantee the application of technical state of the art as well as the adherence to accepted technical principles. However, it shall not guarantee the attainment of a goal derived from research, developmental or consultation results.

(2.) In the event of defective deliveries/performances, IPH shall provide subsequent performance within an appropriate timeframe, that is to say, either to provide rectification of the defects or to replace the defective deliveries or parts with new ones. IPH shall have this right to render subsequent performance at least twice per warranty event. After the unsuccessful expiration of the second subsequent performance period, the Customer may demand the termination of the agreement or the reduction of the fee. The Customer itself shall not be allowed to render subsequent performance unless IPH has granted its approval in writing.

(3.) IPH shall not be liable for more substantial damages or consequential damages or for such damages that do not concern the developmental object unless IPH has committed intentional wrongdoing or gross negligence. Excluded from the warranty shall be parts that have deteriorated through normal wear-and-tear as well as parts that are subject to operations-related deterioration. Otherwise, XI of this agreement shall correspondingly apply.

(4.) The warranty shall not apply to an event if defects that appear are due to unclear task descriptions or erroneous or insufficient information provided by the Customer. If the examination produces a notification of defects in which the warranty does not apply to the event, then the Customer shall be billed for the costs of the analysis.

#### XI. Liability

(1.) IPH shall be liable only in the event of intentional wrongdoing and gross negligence. Any liability for indirect and/or consequential damages, particularly due to lost profits or production disruptions is expressly excluded.

(2.) If legal claims are asserted against IPH, its employees or vicarious agents by third parties that involve torts or product liability – regardless of the grounds – the Customer must indemnify IPH from or provide compensation to IPH for such damage compensation claims upon its initial request; this shall not apply in the event of intentional wrongdoing or gross negligence upon the part of IPH or its employees or its vicarious agents.

#### XII. Statute of Limitations

The rights of the Customer due to defects shall become statute-barred within one year of the acceptance of the project results. The short statute of limitations period shall not apply if IPH has committed gross negligence, as well as in the event of physical injury and damage to health attributable to the Contractor or in the event of the loss of life of the Customer. A liability of the Contractor in accordance with the Product Liability Act shall likewise remain unaffected.

#### XIII. Confidentiality

(1.) IPH and the Customer shall not make the information of a technical or commercial nature, which has been reciprocally disclosed and designated as confidential, available to third parties for the duration and after the termination of the contractual relationship. This shall not apply for information which is generally available or for which IPH or the Customer has waived its confidential treatment in writing.

(2.) The contractual partners shall be obliged to maintain the strictest secrecy regarding any inventions created and patent applications submitted until the date of their disclosure. IPH shall be obliged to obligate its contractors and freelance workers to secrecy in writing in accordance with the aforementioned provisions. Furthermore, IPH shall be obliged to obligate its employees to secrecy in writing and to point out that this obligation to maintain secrecy shall continue to apply even after the termination of the employment relationship.

#### XIV. Publications, Advertising

(1.) Upon receiving the prior approval of IPH, the Customer shall be entitled to publish the project findings while naming the author. The approval is supposed to be granted taking into consideration that, for example, dissertations, masters' theses or patent applications are not adversely affected.

(2.) IPH shall be entitled to produce research publications regarding the findings obtained due to the order, provided that they have general technical knowledge as their subject matter. Publications of IPH that concern applications shall require the timely approval of the Customer.

#### XV. Termination

(1.) If IPH is delayed in its performance, in whole or in part, due to reasons for which it is responsible, then the Customer must grant it an appropriate extension period for the rendering of the performance. If the performance is not rendered within this extension period, the Customer may terminate the contractual relationship with immediate validity.

(2.) Regardless of the aforementioned provisions, this agreement may be terminated due to good cause by the contractual partners without being required to provide notice. Good cause for an extraordinary termination by IPH shall particularly exist if the Customer does not render its payments or does not render such payments in a timely manner, bankruptcy proceedings are commenced or the Customer enters into bad financial circumstances.

(3.) Each termination must be made in writing by means of a registered letter.

#### XVI. Final Provisions

(1.) Hanover shall be the place of performance and the exclusive legal venue for deliveries and payments, legal actions involving dishonored bills of exchange or other negotiable instruments as well as for all more substantial disputes derived from the contractual relationship between the parties, provided that the Customer is a fully qualified merchant under the German Commercial Code, a juridical person under public law or a special fund under public law.

(2.) The legal relationships between IPH and the Customer shall be subject to exclusively the law of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods shall not apply.

(3.) In the event that individual provisions of these terms and conditions or individual provisions in another agreement should be or become legally invalid, then the validity of the remaining provisions shall not be affected.