

## General Terms and Conditions for the Supply and Assembly

### I. General terms and conditions

1. Any and all deliveries and services by Funkwerk video systeme GmbH (hereinafter referred to as Funkwerk) towards the customer of Funkwerk (hereinafter referred to as Customer) shall be made exclusively on the basis of these General Terms and Conditions for the Supply and Assembly of Products of Funkwerk (hereinafter referred to as General Conditions) and, if any, the contractual agreements specifically agreed upon. These General Conditions shall also govern likewise all future business relations which applies even in case that their application is not specifically agreed upon thereto. The General Conditions, however, shall not apply if and insofar as mandatory law provides deviating provisions.
2. Unless explicitly acknowledged by Funkwerk, any and all conditions of the Customer shall not be applicable, which applies even in case that Funkwerk does not expressly object against such conditions. The General Conditions shall also apply exclusively where Funkwerk despite its knowledge of any conditions of the Customer performs deliveries or services without any reservation.
3. All offers made by Funkwerk shall be non-binding and be subject to confirmation by Funkwerk unless explicitly determined by Funkwerk in writing as binding.
4. Funkwerk shall be entitled to accept any offer by Customer constituting an offer for conclusion of a contract (§ 145 BGB/German Civil Code) by, within a two weeks period, either the transmittal of an order confirmation or the execution of the delivery or services.
5. Any estimate of costs submitted by Funkwerk shall be non-binding and shall be made on the Customer's expenses, unless otherwise agreed upon.

### II. Subject matter of contract; scope of delivery and services; rights and titles

1. The scope of the delivery and service obligations of Funkwerk is exclusively defined by the written contract concluded with the Customer. In absence of such contract, the scope shall be determined by the written order confirmation by Funkwerk.
2. In case of any modifications of the products due to and in the course of the steadily technical advances after submittal of the offer, Funkwerk shall be entitled to deliver also such technically modified product versions; in this respect, Funkwerk shall be entitled to deviate in particular from illustrations, drawings, descriptions and specifications for colour, measure, weight and quality and other specifications whatsoever provided, howev-

er, that such modification is reasonable to the Customer taking by this the interests of both sides into account. When placing an order, the Customer is obliged to advise Funkwerk of any strict adherence to under no circumstances deviate from the specification and requirements.

3. Any and all permissions required for the performance and operation of the deliveries and services shall be arranged for by the Customer on his own account. In case of any assistance rendered by Funkwerk, Customer shall reimburse Funkwerk for any costs and expenses incurred by Funkwerk by such assistance.
4. Funkwerk fully reserves any and all property rights and copyrights on any estimation of costs, drawings and other documentation. Such documentation may not be made available to third parties without the prior written approval of Funkwerk and have to be immediately returned to Funkwerk upon its request in case that no order is placed by Customer.
5. As far as the deliveries and services contain software Funkwerk hereby grants to the Customer the non-exclusive right to make use of the delivered software including the relevant documentation for the contractual purpose, limited, however, on the application to the deliveries and services to which the software is assigned; furthermore, Customer is granted the right to produce a back-up copy. Any and all other rights with respect to the software and the documentation shall vest with Funkwerk respectively the supplier of the software. Furthermore, Customer shall not be entitled to make any further use of the software than granted beforehand, in particular, to grant any sublicenses.

### III. Prices

1. Unless otherwise agreed upon in writing, all prices shall be net prices EXW (Incoterms 2010) Nuremberg (Germany) excluding packaging and VAT.
2. Funkwerk reserves the right to adjust the prices appropriately in case of any cost reductions or increases after the conclusion of the agreement especially due to changes of labour costs, e.g. due to collective agreements, or changes of material prices. Upon Customer's request Funkwerk will prove the requirement of such changes.
3. Unless covered by warranty obligations of Funkwerk, Funkwerk shall be entitled to charge a reasonable flat-rate fee for the dispatching and packaging for any return consignment of repaired products or delivery of spare parts in addition to the price for the delivery as such.

#### **IV. Time of delivery and services; delays**

1. Lead times for deliveries and services shall be non-binding unless expressly agreed upon in writing as binding.
2. Such binding lead times must only be observed by Funkwerk if any and all documentation, necessary permits and releases, especially with respect to plans, owed by Customer are received by Funkwerk in time and if the agreed terms of payment and all other obligations of the Customer are fulfilled in time. Unless the conditions are fulfilled, any such lead time set shall be prolonged appropriately.
3. In case of deliveries without erection or assembly, the set lead times shall be deemed as have been complied with if the products are dispatched or collected in the agreed lead time. In case of a delayed dispatch or collecting caused by the Customer, the set lead time shall be deemed to be complied with if readiness for the dispatch or the collection has been announced within the agreed lead time.
4. If the non-compliance of the set lead time is due to force majeure such as mobilisation, war or rebellion, or similar events, e.g. strike or lock-out, the lead time shall be prolonged appropriately.
5. In case of a delay or an impossibility of the delivery or service due to, and caused by fault of, Funkwerk for whatsoever reason, any and all claims thereof for whatsoever damages, loss and other harm by Customer shall be limited to claims and titles as stipulated in Sec. XII of these General Conditions.
6. In case of any delay of Funkwerk with a delivery or service, Customer shall at the request of Funkwerk declare within an appropriate period of time whether or not Customer continues to demand the performance of the delivery or service, or wishes to cancel the respective contract.
7. Funkwerk shall be entitled to perform the deliveries and services as well as the corresponding invoicing in portions, unless such partial performances are unreasonable to the Customer.

#### **V. Delivery; packaging; storage; transfer of risk upon Customer's delay**

1. Unless otherwise expressly agreed upon, deliveries shall be made EXW (Incoterms 2010) Nuremberg (Germany).
2. At the Customer's request and expenses, Funkwerk will arrange insurance coverage for the deliveries against the usual risks of transport.
3. Funkwerk shall not to have take-back transport and other packaging material as per the statutory regulation on packaging ("Verpackungsverordnung"), except pallets. Accordingly, the Customer shall arrange for the disposal of the packaging material at his own responsibility and expenses.

4. In case of any delay of more than one month of the dispatch or the collection due to the Customer's request or fault, such period starting with the announcement for readiness, and that Funkwerk has arranged for a storage of these products, Funkwerk shall be entitled to claim storage charges of 0.5 % of the purchase price of the delivery for every commenced month from Customer, limited, however, to a total of 5.00 % of the purchase price. However, parties by this are not bound to assert higher or lower storage charges.
5. Any storage as per Sec. V.4 is arranged by Funkwerk at the sole and exclusive risk of Customer, such transfer of risk taking place already upon the announcement of readiness for the dispatch or collection as per Sec. IV.3 second phrase.

#### **VI. Take-back/disposal of WEEE equipment**

1. Unless otherwise compulsorily stipulated by the Directive 2002/96/EC on Waste Electrical and Electronic Equipment ("WEEE Directive") and its transposition into applicable national law, the Customer hereby accepts responsibility and costs for the take-back and disposal of the end-of-life Funkwerk products, thereby indemnifying Funkwerk from its obligations in accordance with Sec. 10 (2) of the German Electrical and Electronic Equipment Act ("ElektroG") and from any third-party claims arising out of or in connection therewith.
2. The Customer shall contractually commit third parties, to whom he distributes Funkwerk products, to duly dispose of those products at the end of their life in accordance with the legal provisions at the third parties' own expense and to ensure that similar obligations will be imposed by such third parties on the respective follow-up customer in case the products are re-distributed again. If the Customer fails to contractually commit third parties to whom he distributes Funkwerk products to accept the obligations for their disposal and to commit follow-up customers in the distribution chain, the obligation for the take-back and disposal of the end-of-life products according to the legal provisions shall remain with, and be fulfilled by, the Customer.
3. Funkwerk's claim to have its obligations under the WEEE regulations and applicable national law taken over/assumed by the Customer shall expire at the earliest two years after the respective product has finally put out of service. The two-year term for expiry suspension shall start, at the earliest, upon receipt by Funkwerk of a written statement from the Customer that the respective product has reached its end of life.

## VII. Customer's obligation to take delivery and services

The Customer may not refuse acceptance and receipt of deliveries and services on account of minor defects.

## VIII. Terms of payment

1. Unless otherwise agreed upon, the Customer has to make the payment of the total price as determined in the contract or the written order confirmation in instalments as follows:
  - 30 % upon conclusion of the contract or, if applicable, the submittal of the order confirmation by Funkwerk
  - 30 % upon the performance of the delivery/service
  - 30 % upon coming into operation
  - 10 % upon final acceptance by Customer.
2. Unless otherwise agreed upon, payment shall be made within a period of 14 days, this period starting with the date of issuance of the invoice; however, Funkwerk reserves the right to perform the supplies and services subject to concurrent condition with respect to the payment or subject to an advance payment.  
The Customer shall not be entitled to a cash discount.
3. Unless otherwise agreed upon, all payments shall be made in €(EUR).
4. The Customer is only entitled to offset or make use of his right of retention if the respective counterclaims are uncontested or legally established with final effect.

## IX. Retention of title

1. Funkwerk retains ownership on any products delivered until each and every account and claim against the Customer to which Funkwerk is entitled under the business relationship has been duly satisfied (such product hereinafter: product subject to retention of title). The Customer shall be obliged to treat the products subject to retention of title carefully and shall undertake to effect a reinstatement value insurance for the products against damages caused by fire, water or theft at his own expense.
2. The Customer shall be entitled to resell and to use the products subject to retention of title within the normal course of Customer's business, provided that the Customer is not in default of payment; furthermore, Customer for the duration of the retention of title may not pledge said products or assign them as a security. The Customer hereby assigns to Funkwerk as security any and all claims arising from the resale of or any other legal basis connected to the products (including, but not limited to claims arising from insurance contracts or on grounds of tortuous

acts); Funkwerk hereby accepts the assignment which shall also include any balance claims of current accounts.

Funkwerk hereby revocably authorizes the Customer to collect any of such assigned claims on the Customer's own behalf and for his own account; Funkwerk reserves the right to revoke this authorization which applies in particular if the Customer does not fulfil his payment obligations.

The Customer shall not be entitled to assign such claims, including an assignment for the purpose of collecting the claims by way of factoring.

3. Any processing and/or transforming of the products subject to retention of title shall take place on the sole behalf of Funkwerk. If said products are processed so as to form a new product together with goods or items which do not belong to Funkwerk, Funkwerk shall acquire joint ownership in such new products in proportion of the value of the products subject to retention of title (amount of invoice including VAT) to the total value of the other items used (the point of time at which the event occurred is decisive here). The terms under this entire Sec. IX applicable to the products subject to retention of title shall apply analogously to the items arising from such processing.
4. If the products subject to retention of title have been intermixed or mingled with other items which do not belong to Funkwerk, Funkwerk shall acquire joint ownership in such new products in proportion of the value of the retained goods (amount of invoice including VAT) to the total value of the other items used at the time of intermixing or mingling. If the products subject to retention of title have been combined in such a way, that the item belonging to the Customer is regarded as the main constituent it shall be agreed that the Customer shall assign to Funkwerk the proportionate ownership.
5. It shall be the Customer's secondary contractual duty to store the products underlying Funkwerk's ownership or joint ownership free of any costs and charges for Funkwerk.
6. Claims against third parties arising from a combination of the products subject to retention of title with a plot of land shall be also assigned to Funkwerk as security for Funkwerk's claims mentioned in Sec. IX.1.
7. On Funkwerk's request, the Customer shall inform Funkwerk immediately to whom the Customer sold the products underlying Funkwerk's ownership or joint ownership and which claims may result from the resale, as well as provide Funkwerk at his own expense with an officially authenticated document stipulating the assignment of the claims.
8. The Customer shall be not allowed to dispose otherwise of the products subject to retention of

title or products underlying Funkwerk's joint ownership. The Customer shall inform Funkwerk forthwith of any seizure or other act of intervention by third parties. The Customer shall be obliged to reimburse Funkwerk for all costs related to the recovery by third parties of the products subject to retention of title and the claims.

9. In the event of the Customer's delay with payment or of culpable breach of essential contractual obligations, Funkwerk reserves the right to claim restitution of the products underlying Funkwerk's sole or joint ownership. The assertion of such claim shall only be considered rescission of the contract if this is expressly declared by Funkwerk.
10. In case of a court order to institute bankruptcy proceedings, the refusal of a court to institute such proceedings due to lack of sufficient assets or a justified petition in bankruptcy, Funkwerk shall be entitled to rescind the contract and to demand instant restitution of its products and deliveries.
11. If the combined value of Funkwerk's security interest exceeds the value of all secured claims by more than 10 %, Funkwerk shall release a corresponding article or item of the security interest if so requested by the Customer.

**X. Costs and arrangements on erection, assembly and maintenance**

1. Unless otherwise agreed upon, Funkwerk shall charge time exposures for the erection, assembly and maintenance on the basis of its established valid rates. Travelling or idle times will be charged as working time.

Travelling costs and daily allowances incurred by Funkwerk will be charged separately. Funkwerk will calculate travelling costs on the basis of costs for public transport. However, Funkwerk shall be also entitled to in its discretion arrange the transport also by way of company cars; in this case, Funkwerk will charge 0.75 € per passed kilometre. Expenditures for transport and storage of luggage and tools as well as communication and messenger services and mailing etc. will be charged separately in accordance to the costs incurred.

The regular working hours of Funkwerk (working days only) are as follows:

- Monday - Thursday: 8.00 a.m. until 5.00 p.m.
- Friday: 8.00 a.m. until 1.00 p.m.

The following general rates per hour apply:

- Network consulting	175,00 €
- System engineer for network, support and training	146.00 €
- Project / design engineer	98.00 €
- Network system technician	98.00 €
- Service system technician	89.00 €
- Assembly technician	79.00 €

Overtime, night work and weekend and public holiday working will be additionally charged as follows:

- Overtime (all times outside of regular working time on working days): 50 % surcharge;
- night work on working days between between 8.00 p.m. until 6.00 a.m.(where applicable, in lieu of the overtime surcharge): 60 % surcharge;
- work on Saturdays and Sundays: 60 % surcharge;
- work on public holidays or on days which are public holidays at the branch office of Funkwerk being in charge of the business, and on the 24th December and 31st December (for all such days from 0.00 a.m. until 24.00 p.m.): 100 % surcharge.

Furthermore, in case of works to be performed under substantial impact of dust, grime, fumes, vapour, heat and noise not caused by an at least negligent act or omission by Funkwerk, Funkwerk shall be entitled to, in addition to any other surcharges, charge: 15 % surcharge.

2. The daily allowance for every accrued and full calendar day shall be 26.50 € Abroad the daily allowance shall apply on the basis of BMF (Federal Ministry of Finance). In addition to this daily allowance, Funkwerk will charge the costs incurred for accommodation (without breakfast). The accommodation shall be in a single room of an adequate hotel or in a private lodging. Costs for the material used for erection, assembly and maintenance will be charged by Funkwerk according to costs accrued by consumption of such material.
3. The Customer shall attest the personal of Funkwerk the times for work and travel as well as the idle times, and the performance of the works by way of the records submitted by Funkwerk. In case that the Customer refuses such attesting or in case that Funkwerk is unable to receive such attests for other reasons, any and all invoicing shall be made on the basis of the records of Funkwerk.
4. Unless otherwise agreed upon, the Customer shall arrange for and make available respectively deliver at his expense and in due time the following: The required back staff, in particular but not limited to bricklayers, carpenters, locksmiths and other skilled staff for the erection and assembly, all in proper time and quantity; any and all earth, construction, bedding and scaffolding works; the required relocation of pipes and cable fanning with respect, in particular, but not limited to the erection and assembly to be performed by Funkwerk; the relocation of high-power lines to the control panel or the single device installed by Funkwerk; ancillary equipment for the transport of heavy objects; back staff, ladders, scaffolding and storage space in sufficient quantity and quality; in due time before the beginning of the erection.

tion and assembly works the required information about the electricity and telecommunication lines and pipes for gas and water or the alike, and all relevant static information thereto; heating, lighting, energy and water including the required ports; the required dry, lockable and theft-proved rooms for the safe keeping of the tools as well as lounges for the staff of Funkwerk; the protection of the site and material against any harmful effect; information on any dangers (e.g. danger of fire in rooms or of materials) which in particular can appear in connection with cutting, welding and soldering works, and the arrangement of all precautions (in particular but not limited to the arrangement of a fire-watch and material to extinguish fire); special protecting clothing for heavily working conditions in particular due to noxious vapours, gases, acids and fuel-laden air; also special protecting clothes or safety device in case that they are due to special conditions on site necessary but not customary in the particular trade; furthermore the information of the staff of Funkwerk with respect to security rules and standards of relevance to the works to be performed by Funkwerk.

5. In case of a delay of the erection, assembly and maintenance not caused by an at least negligent act or omission by Funkwerk, the Customer shall bear all additional accrued costs. Any and all newly set lead times for the erection, assembly and maintenance are subject to written approval by Funkwerk.

## XI. Warranty

1. Any and all warranty claim are subject to a limitation period of twelve months, such period starting with the transfer of risk. However, this limitation period shall not apply in case longer warranty periods are determined by compulsory law.
2. The Customer may only claim damages if he in accordance with Sec. 377 HGB (German Commercial Code) has properly fulfilled his obligation to examine the products and notify Funkwerk of any damages within a period of three weeks.
3. In the event of a justified warranty case Funkwerk is entitled to remedy the defect in its sole discretion by either repair or delivery of a substitute product.
4. In case that Funkwerk fails to remedy the defect, the Customer shall be entitled in his choice to a reduction of the purchase price or a cancellation of the contract. Funkwerk shall be deemed to have failed to remedy the defect in case that two such attempts have not been successful unless with regard to the contractual object further attempts are suitable and reasonable to the Customer.
5. Warranty claims are excluded in case of only insignificant deviations from the agreed quality,

only minor impairment of use, natural wear and tear, damages arising after the transfer of risk due to faulty or at least negligent treatment or use, or treatment or use against the rules, or excessive strain, unsuitable means of operation, improper construction works, inappropriate building ground, particular external influences not assumed under the contract or non-reproducible software errors. Furthermore, warranty claims are also excluded in case that the Customer or a third party has modified the products or has carried out or omitted maintenance works improperly or against the instructions of Funkwerk, on in case of lack of required maintenance at all. Funkwerk shall also not be liable for the quality or condition of the products resulting from the design or material if such design or material has been determined by the Customer.

6. Notwithstanding other exclusions of warranty, Customer shall also not be entitled to warranty claims if and insofar the Customer has remedied the defect by a workshop or a service point not authorized by Funkwerk.
7. Any and all claims raised by Customer for expenses required within the process of remedying of defects, in particular costs of transport, travelling, labour and material, shall be excluded, if such costs have arisen on the ground that the products after delivery have been transferred to a place different from the place of business of the Customer unless such transfer corresponds to the product's intended use.
8. Any and all warranty claims shall be restricted to direct damages, and, within this limitation, be limited further to an amount equal to the remuneration that is attributable to the defective delivery or service (or only portions thereof, if applicable). Any further warranty claims against Funkwerk including, in particular, claims on indirect or consequential damages, in particular again loss of profit, shall be excluded.
9. The above exemptions from, and limitations of, liability do not apply where liability is compulsory by law in case of intention, gross negligence, or death or bodily injury or damage to health, or breach of essential contractual obligations. Notwithstanding the aforesaid, however, the liability for breaching essential duties under a contract shall be limited to the typically foreseeable damage, unless the damage has been caused by intention or gross negligence, or unless liability is compulsory due to death, bodily injury or damage to health. This provision shall not imply a change in the burden of proof to the detriment of the Customer.

## XII. General liability

1. Unless already determined in particular in Sec. XI, any and all claims for damages or expenses

(hereinafter: damage claims) of the Customer against Funkwerk, irrespective of their legal grounds, in particular arising from faults upon the conclusion of contracts, breach of contractual obligations or unlawful acts, shall be excluded.

2. The aforesaid does not apply where liability is compulsory by law in case of intention, gross negligence, or death or bodily injury or damage to health, or in case of breach of essential contractual obligations. The liability for breach of essential contractual obligations shall be limited, however, to the compensation of the typical foreseeable damage, unless such events have been caused by intention or gross negligence, or unless liability is compulsory due to death, bodily injury or damage to health. This provision does not imply a change in the burden of proof to the detriment of the Customer.

### **XIII. Intellectual property rights and copyrights**

1. Unless otherwise agreed upon, Funkwerk shall be obliged to perform the deliveries or services free of third parties' intellectual property rights and copyrights (hereinafter referred to as Proprietary Rights) solely in the country of the place of delivery.

Even in such case, however, Funkwerk shall not be liable for any claims due to infringement of any third party's Proprietary Rights if the Customer or any legal entity directly or indirectly owned or controlled by the Customer through capital or voting shares, holds, or held, title to the Proprietary Rights.

2. The Customer shall be obliged to immediately inform Funkwerk of any (alleged) infringement of Proprietary Rights of third parties and respective risks becoming known to him and to grant Funkwerk, as far as possible, upon its request the right of action both for judicial and extra-judicial cases in order to refuse any and all claim.
3. In case of an infringement of third party's Proprietary Rights, Funkwerk shall in its sole discretion be entitled to either obtain a right to use the product respective perform the services, or modify such product or services in such a way that they do not infringe these Proprietary Rights any more, or to replace such product or service by a product or service which do not infringe these Proprietary Rights any more. In case that Funkwerk cannot exercise such right at adequate conditions or within a reasonable time, the Customer provided, however, that he has enabled Funkwerk to remedy the infringement of the Proprietary Rights, shall be entitled to exercise the statutory rights of rescission. Correspondingly to this, and subject to the fulfilment of the above conditions, also Funkwerk shall be entitled to withdraw from the contract.

4. In the event that the Customer ceases to use the product or the services due to an (alleged) infringement of third party's Proprietary Rights in order to reduce damages or for any other substantial reason, the Customer shall be obliged to advise the third party asserting the infringement of the Proprietary Rights that the ceasing of the use shall not be deemed as acknowledgment of the infringement of Proprietary Rights.

5. Any Customer's claims with respect to an infringement of third parties Proprietary Rights shall be excluded insofar as the Customer is liable for such infringement of Proprietary Rights. Furthermore, any Customer's claims shall be excluded in the case that the infringement of Proprietary Rights of a third party was caused by a specific instruction by the Customer or by any use which was unforeseeable for Funkwerk or due to a modification effected or joint use with other products or services not performed by Funkwerk, by Customer.

With respect to any remaining claims regarding the infringement of Proprietary Rights of third parties the stipulations as per Sec. XII shall apply.

6. Any and all claims with respect to the infringement of Proprietary Rights of third parties shall be statute-barred as per the stipulations as per Sec. XI.1 being applicable accordingly.
7. Any and all further claims or other claims not stipulated in this Sec. XIII.1 to 6 with respect to the infringement of Proprietary Rights of third parties shall be excluded, unless otherwise determined by compulsory law.

### **XIV. Miscellaneous**

1. Place of performance shall be Nuremberg (Germany).
2. Place of jurisdiction of all disputes between Funkwerk and the Customer shall be Nuremberg (Germany). However, Funkwerk at its option shall also be entitled to institute proceedings to any other competent court.
3. The law of Germany shall apply.
4. For the sake of good order Funkwerk herewith points out that it is bound to current German law, particularly to the Foreign Trade and Payments Law ("Außenwirtschaftsgesetz") including the statutory orders enacted thereto on basis of this Law and all other foreign trade regulations. All deliveries and services to be rendered by Funkwerk are therefore subject to the condition that the relevant permits and licenses have been granted and also all other export requirements have been met.