

## GENERAL TERMS AND CONDITIONS FOR SYSTEM CONSTRUCTION (EPC CONTRACT, B2B) OF WAGNER GROUP GMBH AND AFFILIATED GROUP COMPANIES

### § 1 Scope

1. These terms and conditions shall apply from the time the order is placed by the Customer (hereafter referred to as Customer) as an accepted part of the contract. All deliveries, services and offers shall be made exclusively based on these General Terms and Conditions.

2. Terms and conditions of the Customer that conflict with or deviate from the General Terms and Conditions shall only be accepted by the Contractor (hereafter referred to as Contractor) if he expressly agrees to their validity in text form.

3. These terms and conditions shall also apply to all future transactions with the Customer in the sector of contracts for work and services. They shall be deemed accepted at the latest upon acceptance of services.

### § 2 Content of Contract and Conclusion of Contract

1. The scope of the owed services shall be determined by the written contract concluded with the Customer. Within two weeks, the Contractor may accept an order from the Customer, which is to be considered as an offer in accordance with § 145 of the German Civil Code (BGB).

2. The Customer shall indemnify the Contractor against all claims asserted based on descriptions and advertising statements made by the Contractor, the manufacturer in accordance with § 4 para. 1 or 2 Product Liability Act (ProdHaftG) or a support person or representative of one of the aforementioned and which would not exist or would not exist in this amount without the advertising statement. This provision shall apply irrespective of whether the description or advertising statement is made before or after the conclusion of this agreement.

3. The services shall be provided in compliance with the rules of technology and the relevant, current technical standards.

4. The Contractor reserves himself the right to make technical changes during the execution of the order, provided that they result from the progress of technical development or prove to be appropriate in individual cases in the interest of the system's efficiency, the changes are reasonable for the contractual partner taking into account his interests and the overall efficiency is at least equivalent.

5. In the case of transmission via the public telephone network or other transmission media, the Contractor shall provide the same

availability and security for the establishment and availability of the connection as well as for the transmission of the messages as is inherent in this transmission service.

### § 3 Documents provided, Copyright

1. All documents provided to the Customer in connection with the offer, such as calculations, drawings, planning documents, etc., shall remain the Contractor's property until conclusion of the contract, for the rest the copyright shall remain with the Contractor. These documents shall not be made accessible to third parties unless the Contractor gives the Customer his express consent in text form. If the contract is not concluded, the documents shall be returned to the Contractor without delay.

2. The software provided by the Contractor is protected by copyright. The Customer shall not be entitled to install the software himself. This shall be the sole responsibility of the Contractor. By accepting the software, he undertakes neither to duplicate it nor to have it duplicated without the Contractor's consent and not to make the software or copies available to any unauthorized third party. The Customer shall not be entitled to make changes or interventions in the software himself or through third parties, not even in order to eliminate possible program errors. In the event of infringement, the Customer shall be obliged to pay damages.

### § 4 Prices and Terms of Payment

1. The prices quoted by the Contractor do not include the statutory value-added tax if the value-added tax has not been expressly stated. For the adjustment of changes in the statutory value-added tax, the execution period shall apply and not the time of conclusion of the contract.

2. If a price agreement binding the Contractor has been concluded, the Contractor may, if the Contractor's services are to be rendered more than four months after conclusion of the contract, nevertheless adjust the prices if the delivery or service is subsequently affected by new public charges, ancillary charges, freight charges or their increase or other statutory measures or a change in the cost factors such as wage and material costs on which the Contractor's prices are based, are directly or indirectly affected and made more expensive and the price adjustment corresponds to these cost increases.

3. Unless otherwise stipulated in the contract, the Contractor's invoices shall be due within 8 calendar days of the invoice date. Payments may only be made to the Contractor, not to any representatives. The date of payment shall be the date on which the money is received by the Contractor or credited to the Contractor's account. In deviation from §§ 366, 367 BGB, payments of the Customer shall first be offset against the oldest claim.

4. The Customer shall bear the charges levied by the network operator, police, fire department or third parties based on the agreed delivery and service. In the event of claims due to defects, these charges shall not be borne by the Contractor if the charges have arisen due to a cause for which the Contractor is not responsible.

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## **§ 5 Execution, Duration of Performance, Transfer of Risk**

1. If no binding execution period has been agreed, the execution shall commence within 3 months. If a down payment has been agreed, the period shall be suspended until the down payment has been received by the Contractor. If, at the time of conclusion of the contract, details of execution to be clarified by the Customer have not yet been finally determined, the period shall be suspended until they have been clarified. In the event of subsequent requests for changes/additions made by the Customer, the execution time shall be extended accordingly. If the delivery of the originally ordered material becomes impossible, the Contractor shall be entitled to deliver other material of the same quality. If the execution is impossible or if the Contractor has a right to refuse performance due to personal or practical unreasonableness, the Contractor shall be released from the obligation to execute the work or shall be released from the obligation to perform.

2. If the time for execution or performance is extended or if the Contractor is released from the obligation to execute or perform, the Customer cannot derive any claims for damages from this. The Contractor may only invoke the aforementioned circumstances if he promptly notifies the Customer. The Customer's right to withdraw from the contract after fruitless expiry of a reasonable grace period set by the Customer shall remain unaffected.

3. The Contractor shall be entitled to execute orders by means of partial executions insofar as they are reasonable for the Customer. These can be invoiced separately.

4. The risk shall pass to the Customer upon system commissioning by the Customer, but no later than upon acceptance of the system. If the Customer does not request acceptance, the performance shall be deemed accepted upon commissioning of the system. The aforementioned provisions shall also apply to partial acceptances. Acceptance may not be refused or delayed due to minor defects.

5. If the acceptance of the performance is delayed for reasons for which the Customer is responsible (creditor default), the risk of loss shall pass to the Customer for the duration of the delay.

6. The Contractor shall be entitled to use sub-contractors for the execution of the service at any time, but shall remain responsible for the contractual execution of the services to be rendered. The Contractor shall ensure that these are qualified contractors and that the Customer will not suffer any disadvantage from this.

7. If non-compliance with agreed deadlines is due to force majeure (e.g. natural catastrophes, acts of violence, attacks, strikes) or to circumstances beyond the control of the Contractor, the Contractor may interrupt or suspend his performance for the duration of the disruption without being in default. In any case, the performance obligations shall be extended by the time caused by the disruption or interruption plus a reasonable start-up time for the Contractor.

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## **§ 6 Installation and Maintenance of Systems, Details regarding Remuneration**

1. The provisions of the law on contracts for work and services and construction contracts of the German Civil Code (BGB) shall apply for providing work and installation services, unless provisions deviating therefrom are agreed in the contract or in these General Terms and Conditions.

2. Five working days prior to the start of the installation work, the Customer shall provide the necessary information on the location of concealed electricity, gas and water lines or similar installations as well as the required static information without being requested to do so. Should damage occur due to incomplete or incorrect information provided by the Customer, the Customer shall indemnify the Contractor against any liability.

3. The Customer undertakes to certify the work performed to the Contractor and his installation personnel on a daily or weekly basis, at the Contractor's discretion. He shall also confirm the completion of the installation or assembly on media provided by the Contractor.

4. For performing maintenance work and all related activities, unhindered access to the system without waiting time shall be provided. Operations that have to be repeated for this reason or whose performance is prolonged shall be invoiced separately to the Customer.

5. The Customer shall take over and provide in due time at his own expense:

5.1 Support personnel such as laborers and, if necessary, also bricklayers, carpenters, locksmiths, crane operators, other skilled workers with tools required by them in the required number, all earthwork, bedding, caulking, scaffolding, plastering, painting and other ancillary work outside the trade, including building materials, operating power and water required for this, including the necessary connections up to the point of use, heating and general lighting at the installation site for the storage of machine parts, apparatus, materials, tools, etc., sufficiently large, suitable, dry and lockable rooms and adequate working and recreation rooms for the installation personnel, including appropriate sanitary facilities. In all other respects, the Customer shall take the same measures to protect the Contractor and the property of the Contractor's installation personnel at the installation site as he

would take to protect his own property.

5.2. Protective clothing and protective devices which are necessary due to special circumstances at the installation site and which are not customary for the Contractor.

5.3. The costs of proper, environmentally safe disposal of installed parts and components that have to be removed or replaced.

6. If the Contractor has carried out the installation or repair for individual invoicing, the following conditions shall also be deemed to be agreed upon in addition to the provisions set out in Section 5:

6.1 The Customer shall remunerate the Contractor at the charge rates agreed upon when the order was placed for working hours and collectively agreed surcharges for overtime, night work, work on Sundays and public holidays, for work under difficult circumstances, as well as for planning, supervision and documentation. This shall apply accordingly for the consumption of materials, including waste, as well as for the installation and connection of the system.

6.2 Preparation, travel and running times as well as feedback shall be deemed to be working time, whereby the actual expenses shall be charged for travel to and from the site, including in particular wage and vehicle costs.

7. Furthermore, the following costs shall be reimbursed separately:

7.1 Travel expenses, costs for the transport of tools and personal luggage, for freight and packaging, for the delivery of all materials and equipment as well as ordered technical documents; at the Contractor customary travel allowances and allowances for working hours as well as for days of rest and holidays.

7.2 Repeated inspections and work services may be required to diagnose and eliminate temporarily arising (intermittent) faults. In this respect, the Customer shall also bear the costs of repeated deployments of the Contractor.

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## **§ 7 Remote Service, IT Security, Changes**

1. Unless otherwise agreed in the contract, the Contractor shall be entitled to access the contractual systems by remote access via a suitable connection and to carry out all service measures possible by remote access.

2. Insofar as the Contractor carries out measures in the aforementioned sense, these shall be carried out taking into account the system-relevant standards (e.g. DIN VDE 0833 or DIN 14675).

3. The Contractor shall document his activities in a suitable manner (e.g. evidence of working hours) and shall provide his activity report to the Customer in text form without delay after completion of the

respective remote access. If the Customer does not object within five working days after delivery, the work shall be deemed to have been accepted. The objection must also be made in text form.

4. Any remote access shall take place by means of a qualified transmission procedure appropriate to the type of system. In the event of changes to the alarm system, access shall only take place after separate release by the Customer. Further details of the access authorization, the type of access and the transmission procedure shall be specified in the contract by the Customer and the Contractor, taking into account the current state of the art.

5. Access shall be protected in such a way that it meets current security criteria. The transmission shall take place via a suitable connection. The Customer shall be responsible for the accessibility of the system via a suitable connection.

6. Test and auxiliary programs shall be stored by the Customer exclusively to the extent necessary and shall be deleted after completion of this work, unless they are required for the operability of the system being serviced or for the fulfillment of this service contract. In this case, the Customer shall be informed about the additionally installed programs. This shall also apply if changes are made to other applications or to the operating system.

7. In the event of shutdown of malfunctioning equipment and/or performance of a remote service resulting in an interim interruption of the function of an alarm system or individual parts of the system, the same conditions shall apply as for an "on-site" service. In particular, the Contractor shall inform the Customer's contact person about the measure and its consequences before the shutdown/interruption of function occurs.

8. It is then the Customer's responsibility to ensure the detection and reporting of hazards for the time of the shutdown or the interruption of function by alternative, equally effective means (compensatory measures).

9. Customer and Contractor shall each observe the IT security regulations applicable to them. They undertake to inform the other contracting party without delay of any identified security gaps and/or detected malware and attacks on the contractual equipment and the associated software and to jointly take countermeasures.

10. The Contractor shall not assume any liability for IT security on the Customer's premises or for damage and disadvantages caused by a breach of IT security due to the Customer's negligence. This shall include, in particular, any failure by the Customer to operate and maintain his data processing systems and networks, especially those connected to the internet, in a security standard corresponding to the current state of the art.

11. Modifications and extensions as well as relocations of alarm systems require that functional tests are carried out in accordance with the relevant technical standards (e.g. Section 4.1.6 of DIN

VDE 08331) or requirements of building law. As the operator, the Customer is responsible for arranging these tests and will bear their costs. The Contractor shall point out the necessity of the tests to the Customer and shall carry out these tests against separate remuneration after placing the order accordingly.

12. If the changes are substantial, it may be necessary to have the effectiveness and operational safety of the system, including the intended interaction of systems (Active Principle Testing), tested by external testing experts in accordance with the relevant testing regulations of the federal states prior to putting the system back into operation. The Customer shall be responsible for commissioning the expert and shall bear his costs. This shall also apply to expert inspections at the intervals prescribed by the building regulations. The Contractor's participation in such inspections shall be remunerated separately.

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### § 8 Termination, Withdrawal by the Client

1. If the Customer terminates or withdraws from the contract (cancellation) without the Contractor having given him a reason to do so, or if this occurs for reasons for which the Customer is responsible, the Contractor shall be entitled to invoice the services rendered up to the termination or withdrawal in accordance with the agreed contract prices and, in addition, to demand a lump sum of 15% of the agreed remuneration for the part of the work not yet rendered as compensation for the loss of profit.

2. The Customer shall be reserved the right to prove that costs and profit have not been incurred or have not been lost in this amount. Thereafter, the invoicing shall only be made in the proven amount.

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### § 9 Retention of Title

1. Delivered goods shall remain the property of the Contractor until full payment has been made under this contract. This shall apply in particular if the items delivered do not become an essential part of the building or the property when they are incorporated.

2. Insofar as the items delivered have become an essential part of the building or the property of the Customer, the Customer undertakes, in the event of non-compliance with the agreed payment dates and in the absence of his own rights to refuse performance, to allow the Contractor to disassemble the items which can be removed without significant impairment of the building structure and to transfer ownership of these items back to him.

3. The disassembly and other costs shall be borne by the Customer.

4. If the items delivered by the Contractor are combined or processed as essential components with a property or with another item, the Customer shall hereby already assign to the Contractor his claims or his right of co-ownership to the new item in the

amount of the Contractor's claim, in the event that claims or co-ownership arise as a result of the combination or processing. The Contractor hereby accepts this assignment.

5. If the value of the securities exceeds the Contractor's claim by more than 10%, the Contractor shall, at the Customer's request, release securities of his choice to this extent.

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### § 10 Claims and Rights due to Defects

1. The Customer's warranty rights in respect of obvious defects shall be excluded unless the Customer gives notice of such defects in text form within a period of 14 days from acceptance of the work which is the subject matter of the contract.

2. In the event of a breach of the obligation to inspect and give notice of defects, the delivery or service shall be deemed to have been approved in view of the defect in question.

3. Claims for defects on the part of the Customer regarding construction work shall become time-barred after 5 years. Further claims for defects for work services, for electrical/electronic or mechanical systems shall become time-barred 12 months after acceptance of the work which is the subject matter of the contract. The warranty obligation shall be excluded for used items. However, the Customer shall be entitled to claim damages in the event of intent and gross negligence as well as in the event of injury to life, body and health which are based on an intentional or negligent breach of duty on the part of the Contractor. The statutory limitation periods shall apply in this respect.

4. Insofar as the work, despite the greatest care, does not have the agreed quality, the Contractor may choose to either remedy the defect or to deliver a defect-free item. The Customer's right to claim damages or reimbursement of futile expenses in the statutory manner in addition to withdraw from the contract shall remain unaffected. The remuneration for the planning phase shall remain unaffected unless the defect is based on a breach of duty already committed by the Contractor in this phase.

5. If, after a notice of defects, it turns out that the defect complained of is not one covered by the contractual or statutory warranty, the Customer shall bear the Contractor's costs for the examination of the notice of defects (in particular travel to and from the site, hourly wages, material, etc.).

6. The Customer shall grant time and opportunity reasonably required to remedy the defect.

7. The liability for defects shall not apply to natural wear and tear, nor to damage resulting from lack of or negligent handling, lack of maintenance, excessive stress, effects of weather, force majeure, unsuitable operating materials, defective construction work, unsuitable foundation soil and such chemical, physical,

electromechanical or electrical influences (e.g. overvoltage) which are not assumed under the contract.

8. Changes in use intended by the Customer shall be notified to and coordinated with the Contractor. If the Customer fails to provide such notification or coordination, he shall lose any claim for defects in this respect.

9. If maintenance work, attempted repairs or technical modifications were carried out on the subject matter of the contract by the Customer or third parties, the Customer shall bear the burden of proof that the material defect is to be found in the sphere of the Contractor. The same shall apply if the subject matter of the contract has been operated improperly by the Customer, has not been maintained or has been insufficiently maintained or has been used contrary to the contractual agreements.

10. The Contractor shall not assume any liability for defects in products/services provided by the Customer (e.g. existing cabling, telecommunication and power connections as well as company-owned or public communication networks).

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### **§ 11 Liability for Software Defects**

1. The Contractor draws attention to the fact that an absolutely error-free creation of software, in particular of complex software systems, is not possible according to the current state of the art or is not possible with reasonable expenditure. The object of this liability for defects is a program which is suitable for the customary use or use assumed under the contract in accordance with the program description. The obligation of the Contractor to bear the expenses necessary for the purpose of subsequent performance shall remain unaffected.

2. The Contractor shall warrant that the program carrier does not have any material or manufacturing defects when it is handed over to the Customer.

3. It must be noted that software is subject to constant improvement efforts during use and therefore may need to be updated at certain intervals. This does not constitute a defect but is an inherent characteristic of the software system.

4. For the aforementioned reasons, no warranty can be assumed for the faultlessness of the programs outside the owed work performance. In particular, the Contractor shall not assume any liability that the program functions will meet the requirements of the Customer or will interact in the selection made by the Customer. The Customer shall also bear the responsibility for the use as well as the thereby intended results.

5. If programs are used for the Customer's own hardware, the liability for defects shall only be extended to the software supplied and not to its interaction with the hardware and software

provided by the Customer.

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### **§ 12 Liability**

1. In principle, the Contractor shall be liable for any damage in the amount of the simple order value. For damages resulting from injury to life, body or health, which are based on an intentional or grossly negligent breach of duty on his part or an intentional or grossly negligent breach of duty on the part of his support personnel in accordance with mandatory law.

2. The Contractor shall also be liable for damages caused by slight negligence insofar as this negligence relates to the breach of such contractual obligations, compliance with which is of particular importance for the achievement of the purpose of the contract (cardinal obligations), also in the amount of the simple order value. Of particular importance is the obligation to perform the subject matter of the contract free of material defects in a timely manner, as well as advisory, protection and obligation duties which are intended to enable the Customer to use the subject matter of the contract in accordance with the contract or which are intended to protect the life or limb of the Customer's personnel or to protect the Customer's property from significant damage. However, the Contractor shall only be liable insofar as the damage is typically associated with the contract and is foreseeable. The Contractor shall otherwise not be liable in the event of slightly negligent breaches of ancillary obligations that are not essential to the contract. The limitations of liability contained in sentences 1 to 3 shall also apply insofar as the liability for the legal representatives, executive employees and other support personnel is concerned.

3. Any further claims for damages and reimbursement of expenses on the part of the Customer are excluded, in particular claims for compensation for consequential harms caused by a defect, insofar as these were not caused intentionally or by gross negligence on the part of the Contractor or his employees or support personnel. The Contractor's liability in tort is limited to intent and gross negligence.

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### **§ 13 Data Protection**

1. The Customer and the Contractor shall observe the regulations on the protection of personal data applicable to them in each case.

2. The Customer undertakes to create all legally required conditions so that the Contractor is able to provide the agreed services without violating data protection regulations. This also includes obtaining declarations of consent from employees and other persons involved in the processing on the part of the Customer, unless there is a legitimate recital on the part of the GDPR.

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## § 14 Final Provisions

1. This contract and the entire legal relationship between the parties shall be governed by German law with the exclusion of the UN Convention on Contracts for the International Sale of Goods and the conflict of laws provisions of German private international law.

2. The place of performance for payments by the Customer shall be the Contractor's registered office.

3. In the event of any disputes arising from the contractual relationship, insofar as the Customer is a merchant, a legal entity under public law or a special asset under public law, the action shall be brought before the court which has subject-matter jurisdiction for the Contractor's registered office.

4. Oral agreements before and at the time of conclusion of the contract as well as subsequent amendments, collateral agreements, assurances and deviating agreements shall require the written confirmation of the parties to become effective. This shall also apply to any amendment of this clause.