



Standard Business Terms for SAW COMPONENTS Dresden GmbH (last revised: September 2021)

I. General provisions

§ 1 Scope of application

(1) SAW COMPONENTS Dresden GmbH (“SCD”) supplies its goods and services in dealings with entrepreneurs, legal entities under public law or special funds under public law exclusively on the basis of these Standard Business Terms unless provided otherwise in an individual contract. To the extent that the terms performance or services are used below, this is understood to comprise all supplies of goods and services of any type by SCD to the customer.

(2) SCD does not provide services to consumers in within the meaning of section 13 of the German Civil Code (*Bürgerliches Gesetzbuch* - “BGB”). With regard to the services referred to in paragraph (1), these Standard Business Terms also apply to all pre-contractual obligations as well as future contracts even if they are not expressly agreed again. In the case of future contracts, these Standard Business Terms do not apply, but rather a new version of the Standard Business Terms shall apply provided that SCD has informed the customer of the new version and of a convenient method of reviewing its contents prior to or no later than upon conclusion of the contract.

(3) The customer must provide written notice to SCD prior to or upon conclusion of the contract in the event that the customer objects to the application of the new Standard Business Terms. Any different (purchasing) terms and conditions of the customer or any third party are rejected. Accordingly, any standard business terms of the customer or any third party do not apply even if SCD does not separately object to their application in a specific case or if SCD refers to correspondence that includes or refers to the standard business terms of the customer or a third party.

§ 2 Definitions

For the purposes of these Standard Business Terms, the following terms have the meanings described below:

Sitz der Gesellschaft
Manfred-von-Ardenne-Ring 7
01099 Dresden

Handelsregister
Amtsgericht Dresden
HRB 13116
Ust.- ID Nr.: DE 179 024 637

Geschäftsführer:
Dipl.-Phys. Steffen Zietzschmann

HypoVereinsbank
Konto 5360217 738 BLZ 850 200 86
IBAN DE60850200865360217738
BIC HYVEDEMM496
Commerzbank
Konto 0912213800 BLZ 850 800 00
IBAN DE97850800000912213800
BIC DRESDEFF850

1. *Business days* Monday to Friday with the exception of public holidays in Saxony as well as 24 December and 31 December;
2. *Foreign trade restrictions* Prohibitions and restrictions based on the foreign trade laws applicable to any specific *individual contract* and its fulfilment (in particular export control and/or customs regulations including embargoes and supply prohibitions), in particular according to the foreign trade law of the Federal Republic of Germany or the country in which the customer has its registered office or to which or through which delivery is intended to be made;
3. *Supply prohibition* Prohibition on making funds, technical assistance, or economic resources directly or indirectly available to certain persons, countries, entities, or organisations;
4. *Order* A binding offer from the customer to conclude a contract;
5. *Individual contract* The contract concluded in a specific case within the scope of these Standard Business Terms;
6. *Feedback* Wishes, suggestions, proposals for improvement, error reports and other information from the customer and his vicarious agents relating to the properties and characteristics of SCD's performance, in whatever form;
7. *Normal business hours* 9.00 to 17.00 (CET and CEST) on *business days*.

§ 3 Individual contract

An *individual contract*, and thus a contractual obligation for specific services, is concluded by means of an order confirmation from SCD, by conclusive action, especially if SCD commences contractual performance following an *order* or if the customer accepts a binding offer from SCD. Product and service descriptions from SCD do not constitute binding offers. The customer is bound by an *order* for fourteen (14) days.

§ 4 Scope of performance by SCD

(1) The specific scope of performance owed by SCD is specified in the *individual contract* subject to any and all agreed contract amendments and supplements.

(2) SCD is entitled to make minor changes to the agreed scope of performance provided that they do not impair the quality of the respective good or service and are reasonably acceptable to the

customer. In particular, SCD is entitled to make excess or short deliveries to the extent customary in the trade. The same applies to technically acceptable tolerances. The parties may agree on the size of customary excess or short deliveries as well as technically acceptable tolerances in the *individual contract*.

(3) Product descriptions, illustrations, test programs, etc. are performance specifications and do not comprise a quality guarantee. Guarantees must be in writing to be effective. They may only be effectively provided by a managing director or authorised officer of SCD. Other employees of SCD are not authorised to provide guarantees.

(4) SCD may also provide its services through third parties.

(5) As long as supplies of goods and services by SCD are free of charge to the customer, such supplies by SCD are purely voluntary and the customer has no claim against SCD for continuation of the respective supply. SCD reserves the right to discontinue its complementary supplies of goods and services at any time without prior notice.

§ 5 Place of performance by SCD

Subject to any agreement to the contrary in the *individual contract*, SCD shall provide all services at the SCD head office. In the event that access to the customer's systems is required in order to render services, this shall generally be performed by way of remote maintenance.

§ 6 Remuneration; Ancillary costs

(1) Prices are specified in the *individual contract* concerned including any and all agreed contract amendments and supplements. In the absence of an express agreement, prices are based on the current terms of service in effect at the time an agreement for the provision of goods and services is reached. These terms may be requested from SCD at any time.

(2) If the parties have specified daily rates or person days within the context of remuneration on a time and materials basis, SCD's obligations in this regard are limited to a maximum of eight person hours per calendar day. If SCD provides additional person hours on a calendar day, such hours are to be additionally remunerated pro rata temporis, unless such excess hours conflict with an identifiable wish of the customer or its objective interests. If hourly rates are agreed, they will be remunerated per 15 minutes or part thereof.

(3) The prices indicated are subject to the costs of insurance, packaging, and shipment and, in the case of international supplies of goods and services, any potential taxes, levies and customs duties, incidental costs of monetary transactions any the respectively applicable value added tax.

(4) Unless otherwise agreed, the customer shall bear all documented out-of-pocket expenses, such as travel and accommodation expenses, meals and third-party claims for remuneration incurred in the course of the performance of the contract. Travel time is to be compensated.

(5) The customer is required to pay customary remuneration for any supply of goods or services by SCD for which the parties have not reached agreement concerning remuneration where the customer should expect to make payment for such goods and services based on the circumstances. In case of doubt, the prices requested by SCD for its services are deemed to be customary.

(6) Costs resulting from subsequent changes to the scope of performance initiated by the customer will be invoiced separately.

§ 7 Payment and default

(1) Unless agreed otherwise, invoices from SCD are due for payment immediately, however in any event no later than two (2) weeks after, receipt of the invoice without deduction. Invoices may be issued immediately in the case of permitted partial deliveries. Invoices may be sent electronically.

(2) If payment in advance has been agreed, SCD will only perform after receipt of payment.

(3) If the customer does not pay on the due date, all outstanding amounts shall bear interest at 5 % p.a. from the due date. This is without prejudice to the right to claim a higher interest rate and to assert further damages in the event of default.

(4) If the customer is in default, the customer will be charged interest at the statutory rate from the relevant date. SCD reserves the right to claim higher damages caused by default. This is without prejudice to other rights of SCD. This applies in particular to SCD's rights to refuse performance as well as SCD's right of termination for good cause.

(5) Any conflicting terms and conditions of the customer notwithstanding, SCD is entitled to apply payment first to the customer's older obligations and will inform the customer of how payments have been applied. If costs or interest have already been incurred, SCD is entitled to apply payments first to costs, then to interest and finally to the principal obligation.

(6) Unless otherwise agreed in any *individual contract*, payment shall be made in euros by means of bank transfer to an account specified by SCD. A payment is only considered to have been made once SCD can dispose of the funds.

(7) SCD is entitled to accelerate the due date for all remaining amounts outstanding if SCD becomes aware of circumstances that objectively call the customer's creditworthiness into doubt, in particular

if the customer suspends payments or if a direct debit is returned due to lack of sufficient funds. In such cases, SCD is also entitled to demand advance payments or the provision of security.

§ 8 Export controls and embargoes

(1) Supplies of goods or services are intended for use exclusively for the purposes specified in the *individual contract*. Subject to any agreement to the contrary in an *individual contract*, the customer warrants that supplies of goods or services will not be used by the customer or its end users in connection with any of the following technologies: Military technology, weapons, missiles that can carry weapons, and/or nuclear technology.

(2) The customer is required to review the desired supply of goods and services for all potential foreign trade restrictions at the earliest possible time, before the order to the extent possible and reasonable, and inform SCD if there are any indications of possible foreign trade restrictions without undue delay. The relevant details should be addressed in the *individual contract*.

(3) SCD may refuse to fulfil the obligations arising from the *individual contract* in the event that fulfilment is prohibited or adversely affected by *foreign trade restrictions*. SCD shall inform the customer of any such circumstances without undue delay.

(4) If SCD refuses to perform due to a *supply prohibition* and the customer disputes the applicability of a *supply prohibition*, the customer will, if possible and reasonable, request written confirmation from the competent authority according to which SCD will not infringe foreign trade law as applied by such authority if SCD satisfies its obligations under the *individual contract* concerned. If such confirmation is not provided within a reasonable period, the parties will assume that a *supply prohibition* applies. Similarly, the parties will presume the applicability of a *supply prohibition* if it is impossible or unreasonable to request confirmation from the competent authority and there are objective indications that the infringement of a *supply prohibition* is possible.

(5) Claims for damages and reimbursement of expenses by the customer based on the aforementioned *foreign trade restrictions* are excluded provided that SCD is not responsible for the *foreign trade restriction* (e.g. because SCD is no longer deemed to be reasonable by the export control authorities in light of previous conduct by SCD in violation of export control laws) or SCD has fraudulently concealed the applicability of a *foreign trade restriction* from the customer. SCD is not liable for a lack of knowledge of a *foreign trade restriction* due to simple negligence. Clause 20 ("Liability on the part of SCD") applies with regard to the scope and amount of liability for damages and reimbursement of futile expenses related to a *foreign trade restriction* for which SCD is at fault.

(6) Without prejudice to additional legal or contractual obligations to provide information, the customer shall immediately inform SCD of all circumstances and provide all documents required under the foreign trade law of any country

- a) In which the customer has its registered office;
- b) Into which, or through which, the intended supply of goods or services
- c) is intended to be made;

That is necessary or appropriate for the proper performance of SCD's obligations. Without limitation, this includes information about the end customer, the country of destination and the intended use of the respective supplies of goods and services.

§ 9 Dates; Deadlines and obstacles to performance

(1) Delivery and performance dates or periods are agreed upon as non-binding. If they are intended to be binding in a specific case, this requires an express and written agreement. The schedule for services to be provided may be specified in the *individual contract*. If shipment has been agreed, delivery periods and delivery dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned to provide shipping services.

(2) SCD is not liable for any impossibility of performance or delays in performance due to *force majeure* or other events not foreseeable at the time the contract was concluded, including without limitation operational disruptions of any kind, difficulties in the procurement of materials or energy, transport delays, pandemics, strikes, lawful lockouts, delays in the grant of permits, confirmations or similar requirements, including without limitation issues related to foreign trade law, official orders or missing, incorrect or untimely delivery by suppliers, even if they occur at SCD's suppliers or their subcontractors, or problems with third party products for which SCD is not responsible. SCD shall inform the customer of any such circumstances without undue delay.

(3) If events for which SCD is not responsible within the meaning of paragraph (2) render performance by SCD significantly more difficult or impossible, or the impediment and the hindrance are not temporary in nature, SCD is entitled to release itself from the obligation to fulfil the contract; any consideration already paid for parts of the contract that will not be fulfilled will be refunded by SCD without undue delay. If any such events lead to hindrances that are only temporary in nature, the respective delivery or performance deadlines shall be extended, or the delivery or performance dates shall be postponed for the duration of the hindrance plus a reasonable lead time. SCD shall inform the customer of the expected new dates and/or deadlines without undue delay. If the hindrance lasts longer than two months, the customer is entitled to terminate the respective *individual contract* with regard to any parts that remain unfulfilled after setting a reasonable grace period with notice of intent

to reject performance. This is without prejudice to any additional legal rights of the customer. Similarly, this is without prejudice to existing provisions of law related to the exclusion of the obligation to perform due to impossibility for the benefit of SCD under section 275 of the German Civil Code.

(4) Paragraph (3), second sentence applies accordingly if the customer fails to comply with a duty of cooperation in breach of contract, for example does not provide notice, does not provide access, does not provide materials, or does not make employees available or if the customer is in default of payment. However, in such cases the customer has no right of revocation or termination.

(5) Relevant deadlines shall be extended by a reasonable period if the parties subsequently agree to other or additional services which affect agreed deadlines.

§ 10 Reminder and grant of a grace period by the customer; Fault requirement in cases of rescission or termination

(1) The termination of further exchanges of goods and services as a result of disruptions in performance (e.g. in the case of contract rescission, termination for good cause, compensation for damages in lieu of performance), as well as a reduction in the agreed remuneration by the customer, must always be preceded by notification from the customer indicating the grounds and the grant of a reasonable grace period for cure. Termination or reduction, as applicable, may be effective upon expiry of the grace period. No deadline is required in cases to which section 323 (2) of the German Civil Code applies.

(2) All declarations by the customer in this context, in particular notifications and the grant of any grace periods, must be in writing in order to be effective. All grace periods must be reasonable. Any deadlines set by the customer of less than two weeks are only reasonable in cases of special urgency.

(3) The customer may only rescind or terminate a contract due to a breach of duty not involving a defect if SCD is responsible for the breach concerned.

§ 11 Set-off; Retention and assignment

(1) The customer is only entitled to a right of set-off and retention if counter-claims that have fallen due have been finally determined by a court, are undisputed or are ripe for judgement. However, the customer is also entitled to exercise a right of set-off absent satisfaction of the additional requirements set out in the first sentence of this paragraph

- a) if it intends to set-off a claim of SCD that is reciprocal to the customer's claim (e.g. set-off a claim for compensation for damages based on non-performance or default against a claim for payment of remuneration owed);
- b) and is also entitled to exercise a right of retention if the right of retention is exercised in relation to counter-claims based on the same contractual relationship.

(2) Except within the scope of section 354a of the German Commercial Code, the customer may only assign its claims in relation to SCD with SCD's prior written consent.

§ 12 Goods and services provided by the customer

(1) If the customer supplies materials (e.g. texts, graphics, pictures, videos, third-party programs), the use of which could conflict with the rights of third parties (e.g. copyrights and industrial property rights, right to one's own image), the customer is obliged to clarify and obtain relevant rights in advance to the extent required to achieve the purpose of the contract. Without limitation, the customer must check whether the customer has the necessary rights to use such items within the scope of the contract both itself, and in relation to performance of the contract by SCD, prior to each supply of materials described in the first sentence of this paragraph. Upon request, the customer will provide proof of sufficient ownership or acquisition of relevant rights to SCD without undue delay.

(2) In relation to the customer, SCD is not obligated to verify whether the customer has acquired sufficient rights.

(3) The customer shall compensate SC for any damages resulting from claims asserted by third parties based on the infringement of industrial property rights and other rights, unless the customer is not responsible for such damages. The customer shall indemnify SCD with regard to all detriments incurred by SCD as a result of claims made by third parties related to injurious acts of the customer for which the customer is responsible.

§ 13 Change requests

(1) The customer must submit a written change request to SCD if the customer wishes to change the contractually determined scope of the services to be provided by SCD. The balance of the process is governed by the following provisions. SCD may dispense with the procedure described in paragraphs (2) to (6), and render the services directly, in the case of change requests that may be quickly examined and likely implemented within eight (8) person-hours. The customer is entitled to withdraw its change request at any time which concludes the current change request procedure.

(2) SCD shall review any change requests. Such a review shall include, in particular, questions of feasibility and of specific implementation, and what effects the desired change will have, in particular, with regard to remuneration and deadlines.

(3) SCD shall notify the customer of the outcome after reviewing the change request. Notification will contain either a detailed proposal for the implementation of the change request or information on why the change request cannot be implemented.

(4) The parties will consult each other concerning the content of a proposal for the implementation of the change request without undue delay and documents the results in text form at a minimum.

(5) The original scope of services will remain in effect if no agreement is reached or if the change request procedure ends for any other reason.

(6) Deadlines and dates affected by a change request shall be postponed under consideration of the duration of the review, the duration of consultation on the change request proposal and, where appropriate, the duration of the change requests to be executed, plus a reasonable start-up period where necessary, without need for express notification thereof.

(7) The customer shall reimburse any expenses incurred in connection with the review of a change request, preparation of a change proposal and any downtime. Similarly, the customer must compensate SCD for any additional expenses arising from the implementation of changes. Remuneration shall be governed by Clause 6 ("Remuneration; Incidental costs), including without limitation by paragraphs (1) and (5) thereof.

(8) SCD may, for its part, submit proposals to the customer for changes to supplies of goods and services, schedules, and previously-agreed remuneration. Paragraphs (3) to (6) and the second and third sentences of paragraph (7) shall apply accordingly.

§ 14 General ancillary and cooperation obligations for the customer

(1) The customer must support SCD in the performance of the contract to an appropriate extent.

(2) In particular, the customer shall

- a) Ensure that all preconditions within its sphere of operations are satisfied to the extent necessary for contractual performance by SCD. This includes, for example, access to the necessary rooms, systems, and documentation as well as the availability of the relevant technical contact persons by telephone. The customer must provide SCD detailed information concerning any circumstances that must be considered when SCD is performing work on the customer's premises and systems;

- b) Provide SCD all necessary information and documents upon request by SCD without undue delay and voluntarily as soon as their possible relevance has become apparent to the customer; this applies in particular to hardware, programs, interfaces, and databases, insofar as these items originate within the customer's sphere of control or responsibility and may be relevant for the performance of the contractual services.

(3) The customer undertakes to inform SCD if there is a change in personnel, address, name, legal form, or company without undue delay.

(4) All obligations of the customer to cooperate are primary obligations. The customer shall cooperate at its own expense.

§ 15 Industrial property rights

(1) Subject to any provision to the contrary in these Standard Business Terms and in an *individual contract*, the copyright, patent rights, trademark rights and all other industrial property rights to all items which SCD supplies to or makes available to the customer in the context of the initiation and performance of respective contract are exclusively vested in SCD as between the parties.

(2) In the event that SCD has attached references to its authorship, to other proprietary rights including the proprietary rights of third parties, to terms of use and licensing conditions as well as to safety and warning notices, disclaimers and limitations of liability, trademarks and logos to such items, the customer may not remove, falsify, or otherwise alter these references without the consent of SCD; SCD will not refuse consent if there is good cause for any such modification.

(3) SCD reserves ownership or copyright in and to all offers and cost estimates submitted by SCD as well as in and to drawings, illustrations, calculations, brochures, catalogues, models, tools and other documents and aids made available to the customer. The customer may not share any of the foregoing, as such or their content, with third parties, disclose them, use them itself or via third parties, or reproduce them, without SCD's express consent. Upon request of SCD, the customer must return such items to SCD in their entirety and destroy any copies that may have been made if they are no longer required by it in the ordinary course of the customer's business or if negotiations do not lead to the conclusion of a contract.

§ 16 Contract term and termination for individual contracts

(1) The start and end of any *individual contract* is specified in the *individual contract* concerned.

(2) An *individual contract* that establishes a continuing obligation on the basis of which recurring services and consideration are to be provided that does not contain any information on the term of such contract may be terminated by giving three (3) months' notice to the end of a calendar month.

(3) This is without prejudice to the right to terminate and/or rescind the contract for good cause. Without limitation, good cause for termination and/or rescission by SCD includes:

- a) A breach of a primary contractual obligations in an *individual contract* or of an essential contractual obligation in an *individual contract* by the customer;
- b) Should there be indications supporting legitimate doubts as to the financial standing of the customer;
- c) A significant direct or indirect (e.g. through contractual agreements, control agreements, trust agreements) change in the customer's ownership ("change of control"). For sake of clarity, the mere appointment of an insolvency administrator does not constitute a change of control. In any case, the customer must notify SCD of any changes without undue delay;
- d) The unsuccessful expiry of a reasonable grace period set for payment in the event of default in payment by the customer;
- e) A breach of the obligations concerning confidentiality and data protection set out in Clause 22 of these Standard Business Terms; or
- f) Any other significant breach of obligations arising under these Standard Business Terms.

(4) Notice of termination and/or rescission requires written notice in all cases.

§ 17 Defect classes

(1) The parties define the following defect classes:

Defect class	Description	Examples
Class 1 Critical operating errors	The error prevents operation of the contractually supplied goods or services by the customer; there is no workaround.	Malfunctions of central functions leading to complete failure.
Class 2 Non-critical operating errors	The error significantly impedes operation of the contractually supplied goods or services by the customer,	Despite the loss of a central function, the intended results can be achieved by means of a workaround.

	but its use is possible with workarounds or with restrictions or impediments that may be acceptable temporarily.	<p>A less central function is fails; meaningful use of the contractually supplied goods or services is still possible even though a workaround is not available.</p> <p>Frequent failures or system crashes and/or significantly reduced performance.</p>
<p>Class 3</p> <p>Other defects</p>	Other defects	<p>(Cosmetic) defects.</p> <p>Errors in the (if contractually owed) documentation that do not cause subsequent errors.</p> <p>Faults in user-friendliness.</p> <p>Individual functions take too long compared to the state of the art, without this leading to unacceptable impediments.</p> <p>Temporary or other acceptable performance losses, faults that can be easily eliminated with workarounds, faults that have no direct impact on operation.</p>

In cases where the overall effect of Class 3 defects is to materially impair use of the contractually supplied goods or services, the overall effect of such errors may comprise a Class 1 or Class 2 defect.

§ 18 Material defects

(1) The supply of goods or services shall have the agreed qualities, is suited for use as intended in the contract, or otherwise for customary use, and has the same quality as is customary for goods or services of the same type.

(2) Claims based on material defects are precluded in particular in the case of

- a) Contractual relationships for which the law does not permit claims based on material defects, e.g. service contracts;
- b) Supplies of goods and services by SCD for which the customer owes no consideration;
- c) Minor deviations from the agreed qualities and minor impairment of usability;

- d) Impairments resulting from use outside the agreed environmental conditions, incorrect operation, modification in breach of contract, faulty transport, faulty installation, faulty storage or use by the customer of spare parts or consumables not conforming to the original specifications or of an item provided or cooperation rendered by the customer, provided that SCD is not at fault;
- e) Defects of which the customer remained unaware at the time of conclusion of the contract due to gross negligence,
- f) A supply of goods or services to a destination outside the Federal Republic of Germany and in the event that such goods or services are intended to be resold or used in an area outside the Federal Republic of Germany, provided such goods or services violate technical standards or statutory or other regulatory provisions that apply in the respective territory of which SCD was not aware of nor should have been aware of; SCD is not obliged to research the particular provisions of foreign law;
- g) A contract for the supply of previously used goods.

This is without prejudice to all other legal or contractual exclusions of claims for defects.

(3) The customer shall support SCD in performing an error analysis and remedying defects by providing a specific description of any problems that occur and providing comprehensive information to SCD. The customer shall grant SCD the time and opportunity necessary to investigate and cure the alleged defect. If the goods concerned are movable, the customer shall, at SCD's discretion, either send the goods in question to SCD for examination or make them available for examination on site.

(4) SCD may elect to remedy the defect by repairing the defect on site or at SCD's business premises or by supplying goods that are free of defects. At least three attempts at cure must be permitted in relation to a defect.

(5) A defect may be remedied on a temporary basis until it is finally resolved, which must be completed in a timely manner. This may also be accomplished by SCD showing options to avoid the effects of the defect in the form of a workaround if and to the extent this is reasonably acceptable to the customer.

(6) If the item is located at a place other than the place of intended use, the customer shall bear the additional expenses resulting therefrom related to the examination and cure of the respective defect.

(7) If a defect reported by the customer cannot be verified or if SCD, in particular according to paragraph (2)(d), is not responsible for the impairment concerned, the customer will bear the costs

incurred by SCD according to the agreed and/or customary prices unless the lack of a defect was not apparent to the customer.

(8) In the event of defects in goods manufactured or supplied by third parties which are part of the respective supply of goods and services by SCD that SCD is unable to remedy for licensing or practical reasons, SCD may, at its discretion, either enforce its defect claims against such third party or assign them to the customer. Claims for defects according to the provisions of this Clause 18 may, in the event of assignment to the customer, only be asserted against SCD in the event that an attempt to enforce such claims against the third party by SCD was unsuccessful without fault on the part of the customer or, for example, is futile as a result of insolvency. The statute of limitations applicable for the customer to assert claims against SCD for the relevant defects is tolled during the pendency of litigation. SCD shall reimburse the customer for eligible costs related to the legal action according to applicable cost ordinances provided that the customer and its legal representatives reasonably considered them to be necessary under the circumstances and SCD is not able to collect such costs from the third party.

(9) The exclusions and limitations applicable to the rights of the customer according to this Clause 18 do not apply if SCD acted fraudulently or assumed a guarantee for the quality of the goods.

(10) Clause 20 ("Liability on the part of SCD") applies with regard to the scope and amount of liability for damages and reimbursement of futile expenses related to a material defect for which SCD is at fault.

§ 19 Defects in title

(1) Unless otherwise agreed in an *individual contract*, SCD guarantees that supplies of goods and services are not subject to any third party rights within the Federal Republic of Germany. SCD is only obligated to examine conflicting industrial property rights or other intellectual property rights of third parties for the territory of the Federal Republic of Germany.

(2) In the event of a supply of goods and services to a destination outside of the Federal Republic of Germany, and in the event that such goods and services are to be resold or are intended for use outside of the Federal Republic of Germany, conflicting industrial property rights or other third-party intellectual property rights only constitute a defect in title if SCD was or should have been aware of such rights upon conclusion of the contract. Accordingly, the customer must conduct all required intellectual property searches itself prior to delivery and/or use in a foreign country.

(3) In the event of defects in title, SCD warrants that, at the option of SCD it will

- a) Modify or replace the goods or service in such a way that the defect in title is eliminated and does not lead to a reduction in quality, quantity or value and is otherwise reasonable for the customer; or

b) Obtain a right of use for the customer by concluding a license agreement.

(4) The customer must inform SCD in writing if third parties assert proprietary rights (e.g. copyrights, trademark, or patent rights) in and to the respective supply of goods and services without undue delay. The customer authorises SCD to resolve the dispute with the third party concerned on its own. If SCD makes use of this authorisation, the customer may not acknowledge the third party's claims without SCD's consent. SCD will then defend against the claims of such third party. In the event that the customer is responsible for the assertion of a claim to the infringement of a proprietary right (e.g. as a result of use in breach of contract or failure to conduct property right research by the customer), the customer shall indemnify SCD against all reasonable costs associated with the defence against such claims and shall reimburse SCD for all damages and expenses in excess thereof; in such cases SCD shall be entitled to payment of a reasonable advance.

Clause 20 ("Liability on the part of SCD") applies with regard to the scope and amount of liability for damages and reimbursement of futile expenses related to a defect in title for which SCD is at fault.

(6) Clause 18, paragraph (2), (a), (b), (d) and (e), as well as paragraphs (8) and (9), shall apply accordingly.

§ 20 Liability on the part of SCD

(1) SCD's liability for damages, regardless of legal grounds (e.g. impossibility, delay, defective or incorrect delivery or performance, breach of contract or in tort), is limited in accordance with this Clause 20 ("Liability on the part of SCD") to the extent that liability requires fault on the part of SCD.

(2) SCD has no liability in cases of simple negligence provided that there has been no breach of a material contractual duty the fulfilment of which is essential to the proper performance of the contract, the observance of which the customer is entitled to rely upon and the non-fulfilment of which endangers achievement of the purpose of the contract ("essential obligation"). In cases where such an essential contractual obligation has been breached, in cases of simple negligence liability on the part of SCD is limited to damages that are typical to the contract and foreseeable at the time the contract was concluded. However, SCD's liability in the event of simple negligence shall not exceed the liability limits agreed in the *individual contract*.

(3) In cases involving gross negligence, liability on the part of SCD is limited to damages that are typical to the contract and foreseeable at the time the contract was concluded.

(4) The foregoing exclusions and limitations on liability set out in paragraphs (2) and (3) apply to the same extent, even retroactively, to breaches of duties during contract negotiations.

(5) Liability on the part of SCD is entirely excluded in cases of simple negligence involving a breach of an obligation by SCD concerning supplies of goods and services provided to the customer by SCD voluntarily and free of charge (e.g. as a gift, loan, gratuitous agency, and courtesies). Furthermore, liability on the part of SCD for gross negligence is excluded if the customer is an entrepreneur, a

legal entity under public law or a special fund under public law. In cases where SCD provides technical information or acts in an advisory capacity following conclusion of the contract and such information or advice is not part of the contractually agreed scope of services owed by SCD, such acts are performed gratuitously and subject to the exclusion of any and all liability for negligently false information or advice.

(6) The exclusions and limitations on liability set out in this Clause 20 (“Liability on the part of SCD”) apply to claims for reimbursement of futile expenses accordingly.

(7) The exclusions and limitations on liability set out in this Clause 20 (“Liability on the part of SCD”) apply to the same extent for the benefit of SCD’s executive bodies, legal representatives, employees, and other agents.

(8) The limitations set out in this Clause 20 (“Liability on the part of SCD”) do not apply to liability on the part of SCD based on intentional conduct, injury to life, limb, or health, in cases of bad faith, the assumption of a guarantee or claims under the Product Liability Act (*Produkthaftungsgesetz*).

§ 21 Limitations period for claims by the customer

(1) The limitations period for claims by SCD customers is

- a) For claims to repayment of remuneration following contract revocation, or for a reduction in remuneration based on claims arising from defects in quality or defects in title, one year from submission of a valid declaration demanding revocation or a reduction in remuneration. Notice of contract revocation or a reduction in remuneration is only valid if provided within the deadline provided in b) for defects in quality and c) for defects in title;
- b) b) One year in the case of claims based on defects in quality that do not demand repayment of remuneration following contract revocation or a reduction in remuneration;
- c) c) Two years in the case of claims based on defects in title that do not demand repayment of remuneration, revocation, or a reduction in remuneration; The foregoing notwithstanding, the statutory limitations period applies if the defect in title relates to an exclusive right of a third party on the basis of which such third party may demand the surrender or destruction of objects provided to the customer;
- d) Two years for claims for repayment of remuneration, compensation for damages or reimbursement of futile expenses not based on material defects or defects of title.

(2) Subject to individual contractual provisions to the contrary, the limitations period commences as provided in applicable statutory provisions, in particular applicable warranty law, in cases referred to

in paragraph (1)(b) and (c) and from the time at which the customer became aware of the circumstances giving rise to the claim or should have become aware of them but for gross negligence, in cases referred to in paragraph (1)(d). A replacement delivery or repair does not result in the start of a new limitations period or the extension of the limitations period unless SCD has stated its acknowledgement within the meaning of section 212 (1) no. 1 of the German Civil Code in the specific case. A claim is time-barred at the latest upon expiry of the maximum limitations periods referred to in section 199 of the German Civil Code.

(3) The foregoing notwithstanding, the applicable statutory limitations periods apply in the following cases:

- a) In the case of claims for damages and reimbursement of futile expenses based on gross negligence and in the cases described in Clause 20, para. (8); and
- b) In the case of claims based on a defect in the cases described in section 438 (1) no. 2 of the German Civil Code and section 634a (1) no. 2 of the German Civil Code;
- c) For all cases other than those referred to in paragraph (1).

§ 22 Confidentiality and data protection

(1) (1) The customer undertakes to treat the contents of *individual contracts* concluded on the basis of these Standard Business Terms, as well as all information and knowledge obtained in connection with contract negotiations and performance, as confidential and not to disclose any of the foregoing to third parties provided that SCD has expressly stated that such information is confidential or is identifiable as confidential in light of the respective circumstances, unless disclosure is necessary for performance of the contract, disclosure is legally required or a court or authority has ordered disclosure. Provided that such notification is lawful, the customer will inform SCD in advance of any compelled disclosure and limit disclosure to the necessary extent. Consultants, auditors, banks, or insurance companies who are subject to confidentiality obligations are not considered third parties. This is without prejudice to any legal obligations concerning confidentiality.

(2) The customer is required to observe all currently applicable data protection laws and regulations. This also includes technical security measures based on the current state of the art (Art. 32 GDPR) and subjecting employees to commitments to maintain the confidentiality of personal data (Art. 28(3)(b) GDPR).

(3) (3) The obligations to maintain confidentiality pursuant to paragraph (1) and to comply with data protection obligations pursuant to paragraph (2), shall apply for an unlimited period.

§ 23 Contractual penalties

In the event of a culpable breach of an obligation under Clause 21 (“Confidentiality and data protection”), the customer undertakes to pay SCD a contractual penalty to be determined by SCD at its reasonable discretion on a case-by-case basis and which may be reviewed by the competent court in the event of a dispute as to its appropriateness. However, the obligation to pay a contractual penalty is limited to breaches within five years of performance of the last *individual contract* performed on the basis of these Standard Business Terms. The penalty for breach of contract does not preclude claims for additional damages.

§ 24 No obligation to pay contractual penalties by SCD

SCD is not obliged to pay a contractual penalty to the customer regardless of legal grounds. Without limitation, this applies specifically in the event of delays on the part of SCD.

II. Sales contracts

§ 25 Subject matter of the contract

(1) Specific details concerning the products sold by SCD on the basis of sales contracts, in particular details concerning the quality and scope of performance, including intended use, tolerances, system requirements, environmental conditions, storage and shelf life, are set out in the relevant *individual contract*.

(2) In cases where there is an obligation to provide documentation, such documentation will be supplied in a common file format (e.g., PDF, Word, TXT) subject to any agreements to the contrary in the respective *individual contract*.

§ 26 Delivery; Passage of risk; Responsibility for costs; Partial delivery

(1) All deliveries will be made at the risk and costs of the customer to the extent not otherwise agreed in an *individual contract*. Specific details concerning delivery, e.g. determination of the place of delivery and agreement to INCOTERMS, shall be specified in the *individual contract*. SCD is entitled to specify the type of shipment, in particular the carrier, packaging and transport route itself provided the details regarding delivery are not addressed in the *individual contract*.

(2) SCD is entitled to make partial deliveries provided that the partial delivery can be used by the customer within the scope of the intended contractual purpose, the delivery of the remaining goods and services on order is assured and the customer does not incur any significant additional outlays

or costs as a result, unless SCD states that it is willing to bear such costs itself. This is without prejudice to the customer's legal rights with regard to timely delivery.

§ 27 Return of special packaging

The customer is entitled to return transport packaging, as well as other special packaging within the meaning of section 15 (1), first sentence of the Packaging Act (*Verpackungsgesetz* - VerpackG), to SCD. The place of return shall be the registered office of SCD unless otherwise agreed in the *individual contract*. The customer shall bear the costs of returning the packaging. The customer must consult with SCD in advance concerning the date and the manner of return. SCD will reuse or properly dispose of any returned packaging. Sentences 1, 2, 3, 4 and 5 shall apply accordingly if SCD's obligation to accept the return of packaging is based on a comparable law or regulation (e.g. a foreign law applicable in a specific case).

§ 28 Retention of title

(1) SCD is granted the security interests described below until the satisfaction of claims arising from the business relationship (including claims to account balances related to a current account relationship limited to this contract) to which SCD is entitled in relation to the customer, regardless of their legal basis.

(2) Goods that have been delivered remain the property of SCD until the complete payment of all secured claims. These goods, as well as all goods that replace them based on the following provisions, subject to a reservation of title are referred to hereinafter as "reserved goods". Where reference is made below to the value of the goods or of an object, this refers to the invoice value, the list price in the absence of an invoice or the objective value in the event of the absence of a list price.

(3) The customer is required to store goods subject to retained title at no charge and subject to the standard of care of a prudent businessman. It is obliged to properly insure the goods subject to retained title and provide proof of such insurance to SCD on request.

(4) The customer is entitled to process the goods subject to retained title in the ordinary course of business and to combine and mix them with other items including real estate (hereinafter also referred to collectively as "processing" or "mixing") and to sell such goods until the occurrence of a realisation event (paragraph (11)). Pledges and assignments of security interests are not permitted.

(5) If goods subject to retained title are processed by the customer, the parties agree that such processing is carried out in the name and for the account of SCD as manufacturer and that SCD will acquire direct ownership or - if such processing is carried out from materials from several owners or the value of the processed item is higher than the value of the goods subject to retained title - co-

ownership (pro rata ownership) of the newly created item in the relationship of the value of the goods subject to retained title to the value of the newly created item. In the event that SCD does not acquire such an ownership interest, and the newly created object is a movable object, the customer assigns to SCD, in advance, its future ownership interest, or its pro rata ownership interest as described in the first sentence above, in the newly created object.

(6) In the event of resale of goods subject to retained title, the customer hereby assigns to SCD, as security, its resulting claim against the purchaser - in the event of a co-ownership interest in the goods subject to retained title on the part of SCD, however, such security interest is only pro rata in accordance with SCD co-ownership interest. The foregoing applies in like manner for other claims that are intended to take the place of the goods subject to retained title or otherwise accrue with regard to the goods subject to retained title, such as insurance claims or claims based on tort in the event of loss or destruction.

(7) If the customer processes goods subject to retained title on behalf of its customer ("end customer"), it hereby assigns to SCD, as security, claims to which it is entitled as remuneration for the respective supply of goods and services of processing - but only on a pro rata basis in accordance with SCD's co-ownership interest. If goods subject to retained title are combined with real property, the amount of the assigned claim shall be determined proportionately in accordance with the relationship of the value of the goods subject to retained title supplied by SCD to the other movable property with which such goods are combined.

(8) Until such authorisation is revoked, the customer is authorised to collect the claims assigned in accordance with paragraphs 6 and 7. The customer shall immediately forward payments made with regard to assigned claims to SCD up to the amount of its secured claim. SCD shall be entitled to revoke the customer's authority to collect with regard to such claims in cases of good cause, in particular default of payment, suspension of payments, opening of insolvency proceedings or legitimate indications of over indebtedness or imminent insolvency on the part of the customer. In addition, SCD may, after prior warning and subject to allowance of a reasonable grace period for payment and its expiry without result, disclose the assignment by way of security, realise the assigned claims and demand disclosure of the assignment by way of security by the customer to the end customer. In cases in which good cause as defined sentence 3 applies, or upon the expiry of a deadline according to sentence 4 without result, the customer must provide SCD with all information required to assert its rights against the end customer and surrender any necessary documents.

(9) If third parties attach goods subject to retained title, in particular by means of garnishment, the customer is required to inform such third party of SCD's ownership and notify SCD without undue delay so that SCD may enforce its ownership rights. The customer is liable to SCD for the respective costs in the event that such a third party is not in a position to reimburse SCD for the judicial or extra-judicial costs incurred in this context.

(10) SCD shall release its security interest in goods subject to retained title, as well as all goods that replace them, if their value exceeds the amount of the secured claims by more than 10 %. SCD is free to decide which goods are to be subject to release.

(11) In the case of non-payment of the purchase price when due, or the non-payment of any other claim arising from the same business relationship when due, SCD is authorised to revoke the contract on the basis of applicable statutory provisions and/or to demand surrender of the reserved goods on the basis of the reservation of title (realisation). A demand for surrender does not concurrently include notice of revocation, but rather SCD is authorised to demand the surrender of the reserved goods and reserve the right of revocation. If the customer does not satisfy the claim when due, SCD may only assert these rights if SCD has previously granted the customer a reasonable grace period without success or no such grace period is required under applicable law.

§ 29 Duties of inspection and providing notice of defects

Claims of defects on the part of the customer first require the customer to have satisfied its statutory duties of inspection and providing notice of defects (sections 377, 381 HGB). An inspection must be carried out immediately before processing in all cases with regard to goods intended for installation or other further processing. If a defect appears during delivery, inspection or at any later point in time, this must be reported to SCD in writing without undue delay. In any case, obvious defects must be reported in writing no later than the 10th calendar day following delivery and defects that were not apparent during the inspection within the same period of time after discovery. If the customer fails to carry out a proper inspection and/or report a defect, liability on the part of SCD for a defect that was not reported at all or for which notice was too late or not properly given is excluded in accordance with applicable provisions of law.

§ 30 Disposal of waste electronic equipment

The customer shall assume the respective obligation in the event that SCD is obliged to properly dispose of waste electronic equipment under the Electrical and Electronic Equipment Act (*Elektro- und Elektronikgerätegesetz* - ElektroG). The customer shall dispose of goods purchased from SCD at its own expense and shall observe and comply with all applicable statutory provisions. SCD does not accept the return of, nor does it provide facilities for the return of, waste electronic equipment within the meaning of the ElektroG. The customer accordingly releases SCD from all obligations arising under section 19 of the ElektroG. Sentences 1, 2, 3, 4 and 5 shall apply *accordingly* if SCD's obligation to properly dispose of waste electronic equipment is based on a comparable law or regulation (e.g. a foreign law applicable in a specific case).

III. Contracts to produce a work

§ 31 Subject matter of the contract

(1) In cases in which SCD is commissioned to create a work as contemplated in the law of contracts to produce a work (e.g. in cases where such a commission is exclusively for planning services within the scope of a contract to produce a work or processing a component provided by the customer), additional details, in particular details concerning features and the scope of work - including intended purpose - shall be specified in the *individual contract*.

(2) Article II, Clause 25 ("Subject matter of the contract"), paragraph (2), shall apply accordingly.

§ 32 Rights to the results of research and development efforts

(1) Unless otherwise agreed in an *individual contract* SCD shall be entitled to the exclusive rights of use and exploitation of all research and development services performed by SCD on behalf of the customer and their respective embodiment, writing or visualization (e.g. by means of texts, drawings, plans, representations, files, and documents).

(2) S grants the customer, subject to any other specific agreements in an *individual contract*, a simple, perpetual right of use with limited transferability to the respective research products referred to in paragraph (1) within the territory of the Federal Republic of Germany. The specific subject matter of such right of use is based on the *individual contract*, alternatively from the purpose for which such right of use was granted.

(3) The acquisition of such right of use is subject to the condition precedent of full payment of all remuneration owed. Prior to satisfaction of such condition, the customer merely has a preliminary, contractual right of use in the form of permission that may be revoked at any time under paragraph (7).

(4) The results of research referred to in paragraph (1) may not be disclosed to third parties without the written consent of SCD.

(5) In the event the customer breaches the prohibition on transfer set out in paragraph (4), the customer shall owe SCD a contractual penalty equal to the amount that the third party would have had to pay SCD at the time of transfer and, in any event, no less than the amount of remuneration agreed between the customer and SCD. This is without prejudice to additional claims for damages.

(6) The research products referred to in paragraph (1) shall be considered intellectual property and a trade and business secret of SCD. To the extent not otherwise provided above, they may not be

used in any form without the written authorisation of SCD and must be kept confidential as provided in Clause 21 (“Confidentiality and data protection”). In the event that employees, subcontractors, affiliated companies, or cooperation partners of the customer are entitled to use the research products as referred to in paragraph (1), the customer shall inform them of the scope and limits of the rights of use as well as the agreed confidentiality and shall oblige them to comply with the contractual provisions on confidentiality and the rights of use, including directly in relation to SCD.

(7) SCD may revoke rights of use granted to the customer for good cause. Without limitation, good cause includes circumstances where the customer materially violates its obligations under the preceding paragraphs despite a written warning. If the right of use is not granted or ends, SCD may demand from the customer the return of research products as referred to in paragraph (1) as well as the destruction of all copies of research products as referred to in paragraph (1) or written assurance on the part of the customer that research products as referred to in paragraph (1), including all copies, have been destroyed.

§ 33 Feedback

(1) The customer shall provide *feedback* to SCD during each project phase, both in response to a specific request from SCD in connection with a specific question and when the customer identifies errors or other potential for improvement in SCD's services, in each case with a specific description of the errors or the potential for improvement.

(2) The customer grants SCD exclusive and unrestricted rights of use in the event that proprietary rights should result from *feedback* and its respective embodiment, written form, or visualization (e.g. through texts, drawings, plans, representations, files, and documents).

§ 34 Functional testing

(1) If the work to be produced does not consist of a pure research and development service, but (also) of a movable object to be produced (e.g. hardware and/or software), each (partial) acceptance is generally preceded by functional testing. Within the scope of such testing, the customer tests each functionality thoroughly for its usability in the specific situation before the customer commences with the agreed use and use in operations of such work.

(2) The customer is responsible for arranging functional testing. SCD shall support the customer in performing functional testing as needed. The details of the relevant functional testing, in particular the type, scope and duration, may be specified in the *individual contract*. Functional testing shall be subject to reasonable extension upon the legitimate request of a Party.

(3) During functional testing, the customer is obliged to notify SCD in writing of any deviations from the requirements of the work product without undue delay, stating the manifestations of the error in a specific and easily comprehensible manner or, in the event that a ticket system is used, via such ticket system.

(4) Functional testing shall be deemed to have been successful if no errors are found that would prevent acceptance. This is the case if there are only Class 3 defects within the meaning of Article I. Clause 17 (“Defect classes”).

(5) To the extent that such defects prevent successful functional testing, SCD shall summarise deviations to a suitable extent, rectify them and declare readiness for acceptance after they have been rectified. This is followed by new functional testing, which the customer must perform in a prompt manner.

§ 35 Acceptance

(1) The contractual conformity of the work product is to be confirmed by means of acceptance.

(2) The acceptance process shall commence after SCD has notified the customer of readiness for acceptance.

(3) If functional testing is performed, the customer shall declare acceptance upon successful completion of functional testing (Clause 34). Any remaining defects, in particular Class 3 defects that do not prevent acceptance (Clause 34, paragraph (4)), will be recorded in the acceptance declaration, and cured by SCD within the scope of SCD's liability for material defects and defects in title.

(4) Acceptance shall be indicated in writing. An acceptance report is to be prepared.

(5) Acceptance shall be deemed to have taken place if

- a) The customer has placed the work product into service, provided that such placement into service is made without notification of defects that would prevent acceptance and is not merely for testing purposes;
- b) The customer has not notified SCD of any defects that would prevent acceptance within ten (10) days of notification of readiness for acceptance (paragraph (2)); or
- c) After completion of the work product, the customer has not refused acceptance expressly naming at least one defect within a reasonable period set by SCD.

(6) At the request of SCD, the customer shall specifically accept self-contained parts of its performance. The preceding paragraphs shall apply accordingly to such partial acceptances, however, the time limit specified in paragraph (5)(b) shall be reduced to one (1) week. If the customer is in default in relation to a partial acceptance, SCD is entitled to refuse further performance without prejudice to further rights resulting from such default.

§ 36 Delivery; Passage of risk; Responsibility for costs; Partial delivery; Return of special packaging; Retention of title; Disposal of waste electronic equipment

The following provisions shall apply accordingly to performance under a service contract:

1. Article II. Clause 26 (“Delivery; Passage of risk; Responsibility for costs; Partial delivery”);
2. Article II. Clause 27 (“Return of special packaging”);
3. Article II. Clause 28 (“Retention of title”);
4. Article II. Clause 30 (“Disposal of waste electronic equipment”).

IV. Products based on customer specifications (contracts for work and materials)

§ 37 Subject matter of the contract

(1) In the event that the customer commissions SCD to supply products to be manufactured according to customer specifications (e.g. wafers, electronic components), specific details, in particular details concerning the quality and scope of performance, including intended use, tolerances, system requirements, environmental conditions, storage and shelf life, are set out in the relevant *individual contract*.

(2) Article II. Clause 25 (“Subject matter of the contract”), paragraph (2), shall apply accordingly.

§ 38 Development of a technical concept

(1) SCD shall develop a technical concept on behalf of the customer to the extent expressly agreed. The basis for this comprises the task defined by the customer.

(2) The technical concept describes the target status of the product to be developed, including the target status of any agreed additional services. Further details are to be set out in an *individual contract* to be concluded between the Parties.

(3) The customer is obliged to cooperate. In particular, Article III. Clause 33 (“Feedback”) shall apply accordingly.

(4) The technical concept shall be accepted by the customer upon completion. Acceptance is governed by Article III. Clause 35 (“Acceptance”) accordingly. The customer is to review the technical concept for accuracy and completeness. Once accepted, the technical concept becomes part of the respective *individual contract*. If and insofar as there are any conflicts with the task as defined by the customer, the technical concept shall have priority. In particular, the technical concept may result in deviating tolerances. Upon acceptance of the technical concept, SCD shall commence with the creation of the product to be produced or, if agreed, the prototype.

(5) Defects that are apparent to the customer from the technical concept must be reported upon acceptance of the technical concept, however no later than prior to the time at which SCD incurs expenses to start the implementation of the technical concept. If identifiable defects are reported later, the customer shall bear the additional costs arising from such later consideration of the respective complaint.

(6) The technical concept must be updated accordingly by SCD if changes are made to the service description after the start of implementation.

(7) SCD is to be remunerated for the creation and revision of the technical concept.

§ 39 Prototyping

(1) If the production of a prototype has been agreed according to the *individual contract*, SCD shall produce the prototype on the basis of the defined task and, if agreed, the technical concept.

(2) Acceptance first requires functional testing. Article III. Clause 34 (“Functional testing”) shall apply accordingly.

(3) Furthermore, Clause 38 (“Development of a technical concept”), paragraphs (2), (3), (4), (5), (6) and (7) shall apply accordingly to the production of the prototype.

§ 40 Manufacture products subject to production

(1) Products to be produced according to the customer's specifications, in particular including series production, shall be manufactured out on the basis of the contractual service specifications and, if agreed, the technical concept as well as any agreed prototype.

(2) Claims of defects on the part of the customer first require the customer to have satisfied its duties of inspection and providing notice of defects. The customer shall also, and in particular, pay special

attention to whether tolerances agreed upon, or specified by the technical concept and any prototype that has been produced, are complied with. Article II. Clause 29 (“Duties of inspection and providing notice of defects”) shall apply accordingly.

§ 41 Exclusion of a unilateral right of termination

The unilateral right of termination on the part of the customer (in particular according to sections 650, 648 BGB) is excluded. Instead, unless the *individual contract* provides otherwise, termination of an *individual contract* shall be governed by the provisions of these Standard Business Terms or otherwise applicable statutory requirements and legal consequences.

§ 42 Delivery; Passage of risk; Responsibility for costs; Partial delivery; Return of special packaging; Retention of title; Disposal of waste electronic equipment; Rights to the results of research and development efforts

The following provisions shall apply accordingly to the delivery of products to be manufactured according to customer specifications:

1. Article II. Clause 26 (“Delivery; Passage of risk; Responsibility for costs; Partial delivery”);
2. Article II. Clause 27 (“Return of special packaging”);
3. Article II. Clause 28 (“Retention of title”);
4. Article II. Clause 30 (“Disposal of waste electronic equipment”).

V. Programming, consulting and/or support services pursuant to a service contract

§ 43 Subject matter of the contract

(1) In cases in which SCD provides consulting and/or support services, including the performance of workshops, briefings, and training courses, to the customer under a services contract, the further details, in particular regarding the scope of services, shall be based on the respective *individual contract*. SCD regularly provides such consulting and/or support services under a service contract, in particular in cases where SCD is obliged to provide the service alone according to applicable contractual agreements; this is the case, for example, when collaborating on larger projects under the management of the customer.

(2) SCD will provide the programming, consulting and/or support services stipulated in the service contract using appropriate personnel to the agreed extent. SCD is not obliged to produce a specific work or otherwise to achieve a specific result.

§ 44 Project responsibility

In the event that SCD provides programming, consulting and/or support services to the customer pursuant to a service contract, the customer, in particular its project manager, shall bear the overall responsibility for the proper, timely and on-budget realization of the project.

§ 45 Scope of the customer's rights of use

(1) SCD grants the customer a simple, worldwide, and perpetual copyright-based right of use to the results of services provided by SCD. The specific subject matter of such right of use is based on the *individual contract*, alternatively from the purpose of the service contract.

(2) The acquisition of such right of use is subject to the condition precedent of full payment of all remuneration owed.

(3) SCD is not obliged to examine work product for conflicting industrial property rights or other intellectual property of third parties.

(4) As between the parties, documents, proposals, test programs and other objects belonging to SCD that are associated with the programming, consulting and/or support services provided under the service contract and were supplied to the customer before or after conclusion of the contract, shall be deemed to be intellectual property and business and trade secrets of SCD. To the extent not otherwise provided above, they may not be used in any form without the written authorisation of SCD and must be kept confidential as provided in Article I., Clause 21 ("Confidentiality and data protection"). In all other respects, Article I, Clause 15 ("Property rights") paragraphs (3) and (4) shall apply *accordingly*.

§ 46 Goods and services provided by the customer

Subject to express agreement to the contrary in an *individual contract*, all supplies of goods and services beyond the discrete service to be provided by SCD are excluded. Without limitation, the customer must provide all materials related to the service (e.g., texts, graphics, pictures, videos, third party programs including free licenses) in accordance with Article I., Clause 12 ("Supplies of goods and services by the customer").

VI. Other provisions

§ 47 Exclusions

(1) Without limitation, absent express agreement, the scope of services of an *individual contract* concluded on the basis of these Standard Business Terms does not include:

- a) All services performed at the customer's request outside *normal business hours* unless the contractually agreed service is required to be performed outside *normal business hours*;
- b) All services performed at the request of the customer at a location other than the registered office of SCD;
- c) Work and services that become necessary as a result of improper use by the customer, such as non-compliance with instructions for use, regardless of whether this was done by the customer, its vicarious agents, or other persons within the customer's sphere of influence;
- d) Holding workshops, briefings, and training courses;
- e) Work and services that become necessary due to *force majeure* events or other circumstances for which SCD is not responsible;
- f) Work and services resulting from changed or new specific usage requirements of the customer;
- g) Work and services on hardware and software not covered by the contract.

(2) Services referred to in paragraph (1) shall only be provided on the basis of a specific agreement in the *individual contract* concerned and only upon payment of separate remuneration. The obligation to pay separate remuneration does not apply solely in cases where expressly so provided in the *individual contract* concerned.

§ 48 Use as a reference

SCD is authorised to include the customer's company name and logo, as well as a brief description of the project, in reference lists and to publish and disseminate them on the Internet, in print media, in presentations or otherwise for purposes of providing factual information. Any additional use is prohibited unless provided otherwise.

§ 49 Notifications and declarations

(1) Unless provided otherwise, text form as provided in section 126b of the German Civil Code (e.g. emails or facsimile) is sufficient, but not required, for all declarations and notifications associated with normal contract performance. However, declarations which modify, end, or otherwise restructure the contractual relationship (e.g. notices of termination) or for which these Standard Business Terms or applicable law expressly so provide, must be in writing (section 126 of the German Civil Code), whereby transmission by means of telecommunications is sufficient to comply with deadlines provided that the recipient receives the original without undue delay. The written form requirement according to sentence 2 also applies to any agreement to waive the written form requirement.

(2) Subject to proof to the contrary, an email is deemed to originate from the other party if the email contains the name and email address of the sender and a rendering of the sender's name at the conclusion of the message.

§ 50 Assignment of rights and obligations

SCD may transfer all rights and obligations arising under an *individual contract* to third parties at any time. The customer may object to such a transfer within one month if legitimate interests of the customer are impaired by the transfer concerned, e.g. because the acquiring company is a direct competitor of the customer, does not offer the required knowledge and qualifications or there are legitimate doubts about its economic performance capacities.

§ 51 Final provisions

(1) These Standard Business Terms, and all *individual contracts* concluded with reference thereto, are subject exclusively to German law.

(2) If the customer is a merchant, legal person under public law or a special fund under public law, or if a customer who is a consumer does not have a place of jurisdiction in the Federal Republic of Germany, the exclusive place of jurisdiction for any and all disputes related to *individual contracts* concluded with reference to these Standard Business Terms shall be the location of SCD's head office. In addition, SCD may bring suit against the customer at any other lawful place of jurisdiction. The preceding provisions do not affect exclusive places of jurisdiction prescribed by law.

(3) The agreements related to the place of jurisdiction under paragraph (2) are based exclusively on the laws of the Federal Republic of Germany.

(4) To the extent not otherwise provided in the preceding provisions or an *individual contract*, the place of performance is the location of SCD's head office if the customer is a merchant, a legal entity under public law or a special fund under public law.

(5) A complaint may only be lodged with the court once the parties have attempted to resolve the matter outside of the courts. For such purposes, the parties should agree to a neutral third party as arbitrator. The limitations period for the relevant claim subject to dispute is tolled until the end of the arbitration process upon initiation of an attempt at resolution by one of the Parties. Section 203 of the German Civil Code shall apply *accordingly*. Summary proceedings or lodging a complaint in order to toll a statutory limitations period that cannot be extended by agreement of the parties is permitted at any time.

(6) In the event that any *individual contract* concluded with the customer on the basis of these Standard Business Terms contains loopholes, any such loophole shall be deemed to be filled by a legally effective provision that would have been agreed between the parties in light of the business purpose of the *individual contract* concerned had the parties been aware of the respective loophole.