

## Performance of Work

### § 1

#### Subject matter of the agreement

These General Terms and Conditions apply to all work by Pilz GmbH (hereinafter referred to as Pilz) that Pilz performs on behalf of customers (hereinafter referred to as the client). Exclusively the General Terms and Conditions for services shall apply for services.

### § 2

#### General/Scope

(1) These General Terms and Conditions shall apply to all current and, by way of a blanket agreement, also to all future business relationships between Pilz and the client, without Pilz needing to refer the client to the General Terms and Conditions in each specific case, unless other General Terms and Conditions of Pilz have been incorporated into the future contracts.

(2) The quotations and declarations of acceptance, as well as all services and goods, are provided exclusively on the basis of the General Terms and Conditions stated below, in each case in their latest version. These General Terms and Conditions are freely accessible at any time on the Internet at <http://www.pilz.com/en-AT/termsandconditions>, and may be saved and printed out by the client in a reproducible form.

(3) The General Terms and Conditions of the client are hereby expressly rejected. Where the client has his own different, conflicting or additional General Terms and Conditions, these shall not form part of the contract, regardless of Pilz's knowledge of such conditions, unless expressly agreed in writing by Pilz at the time the contract is concluded. This confirmation requirement shall still apply if Pilz supplies goods to the client without reservation, in full knowledge of the client's General Terms and Conditions, which conflict with or differ from the present terms. The written consent given at the time the contract is concluded shall in each case apply only to the individual instance regulated therein.

(4) The General Terms and Conditions of Pilz shall only apply if the client is an entrepreneur (Section 1 UGB) or a corporate body under public law.

### § 3

#### Formation of contract

(1) All quotations by Pilz are always non-binding.

(2) If the client's order qualifies as a quotation, Pilz may accept this order within 4 weeks unless otherwise indicated in the client's order.

(3) Acceptance shall be declared by Pilz in writing (including by telefax or e-mail) in the form of the order confirmation. In the absence of any other written agreements, the written order confirmation of Pilz shall set out the contractually due performance.

(4) There are no verbal ancillary agreements at the time of conclusion of the contract. Individual agreements (including ancillary agreements, supplements and amendments to these General Terms and Conditions) expressly reached between the client and Pilz on an ad hoc basis shall always take precedence over these

General Terms and Conditions, to the extent that they have been reached after the conclusion of the contract. A written contract or – in its absence – written confirmation to the client by Pilz shall be decisive with regard to the content of such individual agreements.

(5) By the time the order is executed, should there be any substantial increase in the price of raw materials, wages, taxes, public dues and/or difficulties resulting from laws and/or provisions which would demonstrably and substantially affect the calculation on which the quotation was based, Pilz shall be entitled to increase the price by an appropriate amount.

(6) We reserve the right to make reasonable changes to form, colour and/or weight. Compliance with technical data and other information/details from catalogues, printed materials, parts lists and/or drawings/sketches and similar shall only be confirmed insofar as specific data, measurements or details are expressly listed in the technical description included with the quotation. A general reference to documents or drawings shall be deemed only to confirm the function.

(7) If fulfilment of the work is dependent on the delivery of goods by a supplier of Pilz, it shall be subject to the proper and timely delivery on the part of our suppliers; Pilz shall therefore be released from the performance obligation to that extent that Pilz does not receive supplies from its supplier through no fault of its own, even though Pilz has previously concluded a supply agreement to that effect with the supplier. Pilz shall notify the client without delay that the supplier has failed to supply Pilz, that Pilz therefore withdraws from the contract and that the consideration – where already paid by the client – will be refunded without delay.

(8) Pilz reserves intellectual property rights and copyright on illustrations, drawings, drafts, models, samples, calculations, estimates and any other documents; they shall not be made available to third parties. Such information shall not be disclosed to third parties without express written agreement from Pilz. Items 28 to 31 of these General Terms and Conditions shall apply for software.

(9) The quotation shall be based on the condition of the machine/system as indicated to Pilz by the client. Pilz shall assume that no defects or damage are present over and above usual wear and tear. Pilz shall notify the client of more extensive damage or defects identified during dismantling and/or while performing the work.

(10) Pilz cannot give the client guarantees in the legal sense. This shall not affect manufacturer guarantees from third parties.

### § 4

#### Supplementary quotation

Where Pilz considers it necessary, the client shall be given a supplementary quotation. The scope and prices of the additional performance shall be agreed separately by Pilz and the client in the supplementary quotation. The costs of materials stated in the quotation for work shall only apply in the event that Pilz is commissioned with the work stated there, for the quoted scope.

### § 5

#### Scope of work

(1) The performance by Pilz shall be rendered as work in accordance with the currently applicable statutory requirements, to the scope specified in a non-binding offer up until conclusion of the contract or in an order confirmation, unless specified otherwise in these General Terms and Conditions

(2) For the performance of work, Pilz shall be responsible for the results achieved and for the management, supervision and oversight of the performance rendered within the scope of the order issued, unless otherwise indicated in Item 21 of these General Terms and Conditions (Liability).

(3) Unless otherwise agreed, the installation of parts shall not come under the scope of performance of Pilz.

### § 6

#### Call-off orders

Delivery of call-off orders shall be taken within the agreed time scales or on the agreed dates. If the work has not been called off within the specified periods and the customer is therefore in default of acceptance with regard to fulfilling its call-off obligation pursuant to Sections 293 ff. of German Civil Code, the risk of accidental loss and accidental deterioration of the delivery item shall pass to the client. From the time of expiry of the deadline, the client shall moreover meet the costs incurred for storage of the goods at Pilz, but at least 0.5 % of the invoice total per month. Pilz shall furthermore enjoy the rights pursuant to Section 375 of German Commercial Code.

### § 7

#### Subsequent change to the agreed scope of work

Pilz and the client shall each be entitled to apply in writing for the agreed scope of work to be amended. Pilz and the client shall examine the feasibility of this change following receipt of an application for changes. The outcome of this examination shall be indicated to the opposite party without delay and in writing. Pilz shall be entitled to invoice the client for the work incurred as soon as an application for changes necessitates an extensive, labour-intensive examination and additional performance. The contractual adjustments required for such an examination or for a change to the agreed scope of work shall be set forth in a supplementary agreement.

### § 8

#### Execution of orders

(1) Orders shall be executed on the basis of the best available science and technology.

(2) Solely Pilz shall be authorised to issue instructions to its own employees.

(3) Pilz shall be entitled to use third-party services for the execution of orders. However, Pilz shall always remain directly responsible to the client itself.

## Performance of Work

### § 9

#### Duties to cooperate of the client

(1) The client shall make all information, materials, equipment, documents, processes etc. required for executing the order available to Pilz free of charge in good time before execution of the order and shall deliver these to Pilz at his own expense if necessary.

(2) Where Pilz is engaged at the client, the client shall grant the employees of Pilz or third parties appointed by Pilz the necessary access that Pilz requires to all premises, installations (hardware, software, networks, etc.) and other equipment in order to perform the work properly, at no charge, during customary working hours and subject to the internal rules on access. If necessary, the client shall also provide functioning work stations for the employees of Pilz or for third parties appointed by it, at no charge.

(3) The client shall moreover participate in the execution of the order in the manner required.

(4) If the client fails to fulfil its duties to cooperate pursuant to Items 9.1 to 9.3 of these General Terms and Conditions, Pilz shall be entitled to set the client an appropriate deadline to comply with its duty to cooperate and present the declaration that Pilz shall terminate the contract if the action has not been taken before the deadline has passed. The contract shall be considered cancelled if the deadline passes without the client complying with the duty to cooperate.

(5) If the client does not meet his obligations pursuant to Items 9.1 to 9.3 of these General Terms and Conditions, or fails to do so in a timely manner, and this leads to delays and/or additional work, Pilz shall be entitled to demand compensation for the resulting additional outlay.

### § 10

#### Prices/Remuneration and terms of payment

(1) The work shall be charged for after acceptance of the work, on the basis of the fixed price stated in the quotation or order confirmation, or based on time and materials, plus statutory VAT at the applicable rate, unless a different form of billing and payment has been agreed in the quotation or order confirmation. For work performed on a time or material basis, the hours worked and travel time shall be charged for at the applicable hourly rates and the materials used invoiced at the prices applicable at the time the contract is concluded. Other expenses, in particular preparatory, travel, subsistence and accommodation costs, shall be charged additionally. Where a quotation or order confirmation contains price estimates for work based on time or materials, these shall be without commitment.

(2) The prices shall moreover apply subject to the condition that at the start of any overhauling or inspection work to be carried out on a machine/system by Pilz, it shall be made available by the client in a thoroughly cleaned state and the client shall at his own expense, and if necessary using his own personnel, provide assistance in accordance with the assembly procedures, in particular

- Provide suitable assistants to the extent required;
- Provide access to the machine/system at the

agreed time; any waiting time for the assembly personnel due to delayed access caused by the client shall be billed at the agreed hourly rates;

- Provide the necessary tools and auxiliary materials;
- Provide the necessary operating power (electricity, compressed air, water, etc.);
- Transport the parts for assembly to the designated point of assembly.

(3) Prices shall apply exclusively to work performed within Austria.

(4) Discount shall only be offered by specific written agreement.

(5) Unless stated otherwise in the order confirmation and/or quotation, the net fee (before deductions) shall be due for payment within 14 days of the date of invoice.

(6) Should there is a significant deterioration in the client's financial situation after the contract is concluded, or should Pilz become aware of an earlier deterioration of the financial situation after the contract is concluded, and this gives rise to serious doubts concerning the client's creditworthiness, Pilz shall be entitled to request either payment in advance or a payment bond, at its own choosing. Pilz shall be entitled to withdraw from the contract if the client fails to comply with this request.

### § 11

#### Default

(1) The client is in default of its obligation to pay if issued with a reminder by Pilz. No reminder is required if the due date of a payment is determined by the calendar or payment is to be made following the occurrence of an event within a certain period. However even in the absence of a reminder the client is in default with the payment 30 days after the receivable is due and receipt of the invoice or, if the date of receipt of the invoice cannot be determined by Pilz, 30 days after acceptance of the work.

(1) If the client is in default of his obligation to pay, from the date of default Pilz shall be entitled to charge interest at the rate calculated by our business banks, but at least of 9,2% p.a. above the current base rate of the European Central Bank as well as a reminder fee. Interest shall be charged at a higher or lower rate if Pilz can demonstrate that it has been charged a higher interest rate or the purchaser demonstrates that Pilz has been charged at a lower rate. This shall not affect the right to assert further losses due to default.

### § 12

#### Offsetting and rights of retention

(1) The client shall only be entitled to offsetting rights or rights of retention if his counterclaims are declared legally valid, are undisputed or have been recognised by Pilz. The client shall only be entitled to exercise a right of retention if his counterclaim applies to the same contractual relationship.

(2) Solely Pilz shall be entitled to set payments off against the oldest outstanding debt, notwithstanding the client's settlement terms.

### § 13

#### Acceptance/commissioning

(1) Work shall be accepted by the client as soon as Pilz has indicated that it meets the contractually agreed specifications. The client shall not be entitled to decline acceptance for merely negligible differences. This shall not affect the client's entitlement to have defects rectified with the scope of these provisions.

(2) At acceptance, a report to be signed by both contracting parties shall be prepared, to confirm that the agreed specifications have been met ("operational transfer report").

(3) The commissioning or productive use of the work or of stages of the work in normal operations shall be deemed to constitute acceptance.

### § 14

#### Preliminary acceptance/Final acceptance/Special acceptance

(1) Preliminary acceptance, final acceptance and/or special acceptance shall be conducted on the basis of separate written agreements and shall be paid for separately, unless explicitly part of the agreed scope of performance.

(2) Any remuneration pursuant to Item 14.1 of these General Terms and Conditions shall be based on Pilz's current scale of charges for daily time worked, waiting times and other costs. The client may request to see Pilz's current scale of charges at any time.

### § 15

#### Default by the client

(1) If the client falls into default with acceptance, the risk of accidental loss or accidental deterioration of the work shall pass to the client at the point at which acceptance was delayed.

(2) If the client should also default on payment, e.g. through refusing acceptance, Pilz shall be entitled to claim for any loss incurred to Pilz, including any additional expenses.

(3) If the start and/or progress of the agreed work result in disassembly/reassembly or commissioning for reasons outside Pilz's sphere of responsibility, any supplementary costs incurred shall be charged for additionally on production of evidence. Agreed performance deadlines shall be adjusted if necessary.

(4) Pilz shall charge for performance that is required pursuant to Item 15.3 of these General Terms and Conditions on the basis of the scale of charges for daily time worked, waiting times and other costs. The client may consult this scale of charges at Pilz at any time.

### § 16

#### Delivery time

(1) If Pilz specifies a period for the rendering of performance (completion time), it shall be assumed that all technical queries have been clarified and the client's obligations have been met in a timely and proper manner. In particular this shall include any documents to be obtained

## Performance of Work

or produced by the client, such as drawings, descriptions, any permits or approvals to be submitted by the client and any agreed prepayments credited to Pilz's account.

(2) The completion time shall be extended appropriately in the event of any unforeseen events beyond Pilz's control, insofar as such circumstances can be shown to affect the completion of the work. This shall also apply when such events occur at one of Pilz's subcontractors. In particular this shall apply in the event of difficulties arising from industrial action, in particular strikes and lockouts. Performance delays resulting from the aforementioned circumstances shall not be attributable to Pilz even if they arise during an existing delay. Pilz shall notify the client of such difficulties as soon as possible, indicating start and end dates.

### **§ 17 Force Majeure**

(1) The period for performance of work shall be extended appropriately in the event of force majeure or other unforeseeable events (operational disruptions of all kinds, difficulties in procuring materials or energy, transport delays, strikes, legal lockouts, shortages of labour, energy or raw materials, difficulties in procuring necessary official permits, official measures of the failure of suppliers to supply Pilz correctly or on time) for which Pilz is not responsible.

(2) Pilz shall not be held responsible for the above circumstances, even if they occur during an existing delay. Pilz shall inform the client of the start and end of such obstacles within a reasonable period.

(3) If such events hinder the performance of work or makes the performance of work by Pilz impossible and the hindrance is not only of a temporary duration, Pilz shall be entitled to withdraw from the contract. In the case of hindrances of temporary duration, the deadlines for the performance of work shall be extended by the period of the hindrance plus a reasonable start-up period. Insofar as the customer cannot reasonably be expected to adhere to the contract as a result of the delay, he shall be entitled to withdraw from the contract by a written declaration.

### **§ 18 Delayed and impossibility of performance by Pilz**

(1) The client may withdraw from the contract in the event of delayed or impossibility of performance by Pilz only due to dereliction of duty by Pilz. The client may not withdraw before the due date of performance, nor in the event of merely immaterial dereliction of duty by Pilz. Finally, withdrawal is excluded if the client is solely or overwhelmingly responsible for the circumstances that would entitle him to withdraw, or if circumstances for which Pilz is not responsible arise during the client's default of acceptance.

(2) In the event of default, withdrawal or compensation shall moreover require the client to have first given Pilz in writing a suitable deadline of at least 2 weeks to fulfil the contractually due work, stating expressly that he

withdraws from the contract and/or claims compensation if that deadline is not met (setting of deadline with warning of rejection of performance). After this deadline has passed, the client is obliged to declare, at the request of Pilz, whether he still insists on the work being performed or claims compensation pursuant to Section 281 (4) of the German Civil Code or withdraws from the contract. If the client does not make any such declaration within a suitable period set by Pilz, the client shall no longer be entitled to decline the work or withdraw, nor may he claim compensation in lieu of performance; he may merely accept the work.

(3) Setting of a deadline with warning of rejection of performance may only be dispensed with if Pilz seriously and definitively refuses the contractually due work or in the event of special circumstances that justify immediate withdrawal, after weighing up the interests of both parties.

(4) The entitlement to compensation or reimbursement of expenses from default or impossibility shall be subject to Item 21 of these General Terms and Conditions.

### **§ 19 Passage of risk**

(1) If Pilz performs assembly work at the client, the passage of risk shall take place upon acceptance and signing of the operational transfer report at the client.

(2) The client shall bear the risk of accidental loss and accidental deterioration of the work if the client is in default of acceptance.

(3) Insofar as Pilz has contractually agreed to assume the shipping costs, delivery or installation of hardware and/or software relating to the subject matter of the agreement, this shall not affect the above clauses regarding transfer of risk.

### **§ 20 Warranty**

(1) If the client demands remedial action within the limitation period (cf. Item 22.1. of these General Terms and Conditions), at the choice of Pilz the defects shall be rectified or the work repeated at no charge, provided the client proves that the defect was already present upon the passage of risk.

(2) Claims for defects shall not be entertained for merely negligible differences compared to the agreed properties, for only negligible impairment of usability, for natural wear or for damage occurring after the passage of risk due to incorrect or negligent handling, excessive loading, unsuitable operating materials or exceptional external factors that are not presupposed by the contract. If inexpert changes or repair work are carried out by the client or by third parties, likewise no claims for defects shall be entertained for these and for their consequences.

(3) Pilz shall in the first instance be granted an opportunity for remedial action within an appropriate period. If the remedial action fails, notwithstanding any claims for compensation or for the reimbursement pursuant to Item 21 of these General Terms and Conditions the client

may demand a price reduction or withdraw from the contract.

(4) Pilz shall not be obliged to take remedial action if this is only possible at undue cost.

(5) If notice of defect was issued unjustifiably, Pilz shall be entitled to demand reimbursement of expenses incurred by it from the client if the client has culpably misjudged circumstances lying within the scope of responsibility of the client as having caused the supposed defect.

(6) The liability of Pilz is generally excluded where components other than those manufactured or specified by Pilz have been built into the delivery item, at the client's request. The client shall be responsible for proving that such a modification did not cause the defect on the delivery item.

(7) Pilz shall not be liable for any installation work carried out by the client himself. The burden of proof that the installation is free from defects shall lie with the client.

(8) Service descriptions by Pilz constitute merely details of the product's composition, not a promise of guarantee. Public statements, promotions or advertisements represent neither details of the product's composition in accordance with the terms of the contract nor a promise of guarantee.

(9) Should the client receive defective installation instructions, Pilz's sole obligation shall be to supply fault-free installation instructions. That obligation shall exist solely if the fault in the installation instructions can lead to improper installation.

(10) The client shall be responsible for proving that he has not taken any action himself to correct the defect.

(11) The client shall be obliged to document both the defect and any resulting damage, notwithstanding the aforementioned provisions, in accordance with generally accepted technical standards.

(12) For claims for compensation or for the reimbursement of expenses due to defects, Item 21 of these General Terms and Conditions shall moreover apply. All further claims of the client or claims other than those covered by Item 20 of these General Terms and Conditions in respect of Pilz and its agents on grounds of a material defect are excluded.

### **§ 21 Liability**

(1) Pilz's liability assumes that the client has complied with the operating instructions when using the subject matter of the agreement. The burden of proof shall fall on the client.

(2) Unless otherwise agreed in these provisions, all compensation claims of the client for losses of any kind, including for reimbursement of expenses and indirect losses are excluded. This applies in particular to claims for all breaches of obligations resulting from the contractual relationship as well as from tort. The above exclusion of liability shall also be applicable for compensation claims by the client against Pilz

## Performance of Work

upon termination of the contract due to late performance (withdrawal) and in the event of impossibility of performance by Pilz as a result of its ordinary negligence. The exclusion of liability shall also apply if Pilz has used subcontractors or vicarious agents.

(3) In a departure from Item 21.2 of these General Terms and Conditions, Pilz shall be liable, whatever the legal basis, only – including if Pilz has used senior employees or subcontractors and vicarious agents – if:

(a) there is gross negligence or intent on the part of Pilz;

(b) Pilz has fraudulently concealed a defect or has assumed a warranty for the property of the subject matter of the agreement,

(c) injury to life, limb or health has been culpably caused by Pilz.

(4) All claims for compensation shall lapse after 12 months from the damage and originator becoming known, but in any event 10 years after fulfilment of the contractual obligations.

(5) The exclusion of liability shall not be applicable in respect of claims under product liability law. The aforementioned provisions do not entail a change in the burden of proof to the disadvantage of the client.

### § 22

#### Statutory limitation of claims

(1) The limitation period for claims for material defects and defects of title shall be 12 months, commencing with the acceptance of the performance of work.

2) Notwithstanding the foregoing, the statutory limitation periods shall apply:

- insofar as the law prescribes longer periods
- for damage resulting from injury to life, limb or health caused by a defect for which Pilz is responsible,
- and if the defect is due to an intentional or grossly negligent breach of duty by Pilz,
- in the event of fraudulent concealment of a defect,
- in the case of guarantees
- and for claims under the Product Liability Act.

### § 23

#### Confidentiality

(1) The client shall protect confidential information, i.e. all data and information of which he receives knowledge in connection with the contractual relationship with Pilz (hereinafter: "Confidential Information"), such as illustrations, drawings, drafts, models, samples, calculations, cost estimates and other documents or articles. The client undertakes to use Confidential Information only for the purposes of the contract concluded with Pilz and not to circulate it among or otherwise disclose it to third parties without the prior express written consent of Pilz.

(2) The client is obliged to protect Confidential Information against access by third parties. The client shall exercise the same care in this respect that he would take in handling his own confidential information, but at least due care. The client is obliged to secure from his employees the same obligations to protect Confidential Information. The client shall notify Pilz without delay in writing if he acquires

knowledge of an impending or existing breach of the confidentiality agreement or has suspicions to that effect.

(3) The obligation to protect Confidential Information shall cease to apply if the client can prove that

this Confidential Information was already known to him prior to the disclosure of this information by Pilz;

- he has legitimately received this Confidential Information from third parties without imposition of a confidentiality obligation and without him having any evidence that the third parties are in breach of confidentiality obligations imposed on these third parties;

- the Confidential Information is generally known or has become generally known without breaching this confidentiality obligation;

- this Confidential Information was or is developed by the client independently of its disclosure by Pilz.

(4) Pilz reserves all rights to the Confidential Information (including copyrights, the right to register industrial property rights and patents, utility models, topography rights, designs, brands) and rights of ownership to the items made available and containing the Confidential Information (papers, disks etc.). In no case shall rights of ownership, licence, reproduction, use or other rights be granted to the client for Confidential Information of Pilz, regardless of whether such information is covered by protective rights or not. In the case of items or documents on which Pilz has protective rights and/or which are protected as commercial/company secrets, the client shall only be permitted to use the item in accordance with Pilz's express conditions, unless specific usage methods are permitted to a third party.

(5) At the request of Pilz, the client shall without delay return all Confidential Information received from Pilz. Confidential information shall be returned unprompted to Pilz free of charge once it is no longer needed. The client shall have no right of retention to these documents or items. An exception merely applies for copies that must be archived in fulfilment of binding statutory requirements. All Confidential Information present on computers shall be deleted upon request.

(6) The client shall be liable for loss and damage where he is responsible for these.

(7) The confidentiality agreement shall apply for three years after the end of the contract.

### § 24

#### Data protection

The contracting parties shall only process or use personal data of the other contracting party for contractually agreed purposes, in compliance with the statutory provisions.

### § 25

#### Inventions

(1) Inventions that are made jointly by employees of Pilz and the client during execution of an order, as well as protective rights granted over these, shall be the joint property of both contracting parties.

(2) Inventions that are made by employees of Pilz during execution of an order, together with protective rights granted over these, shall be the property of Pilz. Inventions that are made by employees of the client during execution of an order, together with protective rights granted over these, shall be the property of the client.

(3) The granting of licences to inventions within the meaning of Items 25.1 and 25.2, and to protective rights to these shall require a separate written agreement.

### § 26

#### Results of work

(1) The transfer of ownership of and rights of use to all results of work achieved within the scope of performance, as agreed in the quotation and known to the client, such as documentation, reports, planning documents, evaluations, drawings, program material and similar, shall require a separate written agreement. Pilz shall always reserve a free and non-exclusive right of use to these results of work, for research and teaching purposes.

(2) Pilz shall bear no responsibility if technical documents delivered to it by the client or on his behalf are in breach of existing copyrights, industrial property rights or other third-party rights. The client shall bear sole liability if the rights of third parties are breached by the execution of his order. The client shall release Pilz from all third-party claims from such a breach of rights, at the first time of asking.

### § 27

#### Termination

(1) The client may terminate the contract at any time up until completion of the work, unless sales law is applied. In the event of termination by the client, Pilz shall be entitled to demand the agreed remuneration pursuant to Item 10 of these General Terms and Conditions, after deduction of the expenses saved by Pilz as a result of the cancellation of the contract or the income from the redeployment of its employees or the potential income that it wilfully neglects to earn (deductible amount). Pilz shall be entitled to 10 % of the remuneration agreed pursuant to Item 10 of these General Terms and Conditions for the portion of the work not yet performed. The client shall be entitled to prove that remuneration should be lower on the basis of a deductible amount exceeding 90 % of the agreed remuneration. However, Pilz shall always be entitled to 5 % of the remuneration agreed pursuant to Item 10 of these General Terms and Conditions for the portion of the work not yet performed.

(2) Contracts may be terminated for good cause at any time.

(3) If the contract is terminated by the client for good cause and termination is for reasons that are the responsibility of Pilz, Pilz shall only be entitled to payment for performance already rendered to the extent that it is usable for the client.

(4) Termination must always be given in writing.

## Performance of Work

### § 28

#### Handover of documents and articles, right of retention

(1) Once an order is complete, the client may demand handover of documents and articles entrusted to Pilz. Pilz may refuse handover until its entitlements under the contract have been satisfied, provided the retention of individual documents and articles would not be contrary to the principle of good faith in the circumstances, in particular if the amounts owed are relatively small.

(2) Pilz may make and retain transcripts or copies of documents that it hands back to the client where this is necessary to fulfil statutory obligations to keep archives.

### § 29

#### Special right of termination/ Embargo regulations/ EU anti-terror regulations

(1) Insofar as contractual agreements between Pilz and the client mean that Pilz's supply obligations and the client's payment obligations are in violation of binding national as well as international regulations (e.g. foreign trade regulations of the Federal Republic of Germany, export and embargo regulations of the European Union or other states, in particular the USA, including EU anti-terror regulations), Pilz shall be entitled to terminate the contract.

(2) In this special case the client shall not be entitled to compensation.

(3) It is the responsibility of the client to be aware of any relevant statutory regulations which could make it impossible for Pilz to fulfil a contract.

### § 30

#### Object code, rights to the software

(1) If Pilz produces software for the client under a contract for work, the following provisions shall apply to its use. All rights of use to the object code of the software in question shall be granted. The source code shall not be the subject matter of the transfer of rights. At the request of the client, an additional agreement such as an escrow agreement on the source code may be concluded.

(2) The client shall fundamentally be entitled to use the software produced solely for him for his own purposes as contractually agreed with Pilz, following payment in full of the agreed sum. To that end the client shall be granted an ordinary, non-exclusive, temporally unlimited, irrevocable, non-sublicensable right to use the software, as explained in detail below in Items 31 to 33 of these General Terms and Conditions. The software may not be used to control production machines or to control multiple systems at customers of the client without an express prior contractual agreement with Pilz (cf. Item 32 of these General Terms and Conditions). Use free of charge for test purposes prior to purchase shall be permitted.

(3) To the extent that rights are not expressly granted to the client in these General Terms and Conditions, all rights to the software created by Pilz under a contract for work and to all copies made by the client – in particular copyright, the

rights to inventions, data, samples, models, drafts and expertise as well as other technical protective rights – shall remain exclusively with Pilz or a manufacturer of third-party software. The same applies to any editing of the software by the client. This shall not affect the client's ownership of the respective data carriers supplied to him. For parameterization or adaptation of Pilz standard software, the General Terms and Conditions for the sale of software products, except for PAS, shall apply.

### § 31

#### Reproduction rights

(1) The client may reproduce the software produced for him to the extent that its reproduction in a specific instance is necessary in order to use the software. Necessary reproduction includes installation of the software from the original data carrier or through download on the mass storage device of the hardware used, and loading of the software in the working memory.

(2) Over and above this the client may make a reproduction for backup purposes. However only one backup copy may fundamentally be made and saved. If the routine backing-up of the entire data set, including of the software used, is indispensable for reasons of data security or for assuring swift reactivation of the computer system following total failure or for internal or external auditing, the client may make the number of backup copies that is absolutely necessary. The appropriate data carriers shall be identified appropriately. The backup copies from routine data backup procedures may only be used purely for archive purposes.

(3) The client may only make other reproductions of the software, including output of the program code on a printer and photocopying of the documentation, if Pilz has given the client prior written authorisation to do so. Any additional documentation required for employees or for multiple use pursuant to Item 32 of these General Terms and Conditions shall be obtained from Pilz. The client may moreover only reproduce the software on the original data carrier or obtained through download provided he has acquired the licences to do so from Pilz. In this respect, Item 32 of these General Terms and Conditions applies.

### § 32

#### Multiple uses and network use

(1) The client may use the software on the contractually agreed system/machine for the contractually agreed purpose. However, if the client changes the system/machine, he must delete the software from the system/machine previously used.

(2) Simultaneous programming, storage or use on more than one system/machine is fundamentally impermissible. If the client would like to use the software simultaneously on more than one system/machine, for example in several production machines or to control several systems, he must acquire a corresponding number of licences for the software. Where Pilz has granted reproduction rights, the client shall receive written confirmation of the number of reproductions – software product certificate – that the client is

entitled to make of the data carrier supplied with the licence, enabling the software to be used simultaneously on several systems/machines, up to the number of licences issued. The copyright notice and all other proprietary notices shall be applied to every copy or partial copy, or the installation of the copy noted in the documentation for the system/machine. Existing copyright notices/other proprietary notices shall not be re-moved.

(3) The client undertakes to observe the notes on reproduction supplied to him together with the software product certificates, and already made available to him in the product description. The client shall furthermore keep proper, full records of all reproductions in such a way that the number of reproductions made and the area of use can be traced. He shall make these records available to Pilz at any time upon request. At 14 days' notice, Pilz shall be entitled to have the records checked by an independent, certified auditor of its own choice. The auditor shall be granted access to the business premises of the client during normal business hours. If discrepancies from the contractual agreements to the disadvantage of Pilz are established, the client shall be obliged to reimburse Pilz the costs incurred for the audit.

### § 33

#### Decompilation and modification of the software by the client

(1) The client shall fundamentally not be entitled to decompile the software into the source code or transfer it into other forms or into other programming languages, edit or rework the software as well as reproduce it above and beyond the scope stated in Item 31 of these General Terms and Conditions. The client shall not remove any alphanumeric identifiers on the data carrier; if the client is entitled to make copies, the alphanumeric identifiers shall be copied unamended.

(2) If Pilz does not meet its warranty obligations within an appropriate extension period, the client shall exceptionally be entitled to rectify defects on a one-off basis.

(3) A further exception is that the client may analyse the software supplied and modify it only to the extent that is absolutely essential for establishing interoperability with an independently created computer program, satisfying the following conditions:

- All analytical or processing actions shall be carried out only by the client, his employees or a third party expressly authorised by the client.
- The information required for establishing interoperability is not accessible without decompilation to the client or to a third-party appointed by him, nor has it been made available to the client even though the client has requested Pilz to supply it, and he has set Pilz an appropriate extension for its supply.
- The analytical and processing actions of the client shall be limited to those parts of the software that are necessary for establishing interoperability.

(4) The client may not use the information obtained through the actions pursuant to Item 33.3 of these General Terms and Conditions for

## Performance of Work

---

purposes other than for establishing the interoperability of the independently created program, and above all not for the development, creation or marketing of a program with essentially similar features, nor for other actions that breach copyright. He may in particular not disclose such information to third parties except to the extent that the disclosure of the information is necessary for establishing the interoperability of the independently created program.

(5) To the extent that the client is unable to or does not wish to perform the aforementioned exceptional activities himself or have them performed by his own employees, before commissioning third parties he shall give Pilz the opportunity to carry out the desired work to establish interoperability within an appropriate period of time and for an appropriate fee.

### **§ 34** **Concluding provisions**

(1) The place of performance is the location of Pilz in Vienna.

(2) The law of Austria shall apply, unless otherwise agreed.

(3) For all current and future claims from the business association with Pilz, including for bills of exchange and cheques receivable, Vienna shall be agreed as the exclusive legal venue provided the client is a full trader or a corporate body under public law. Pilz shall also be entitled to institute legal proceedings at the location of the client's headquarters.

valid from January 01, 2021

Pilz GmbH  
Modedcenterstraße 14  
1030 Vienna, Austria

Telephone: +43 1 798 62 63-0  
E-Mail: [pilz@pilz.at](mailto:pilz@pilz.at)  
Internet: [www.pilz.at](http://www.pilz.at)