

Services

§ 1

Subject matter of the agreement

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

§ 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-INT/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 14 of the German Civil Code [BGB]), a corporate body under public law or a public fund.

§ 3

Formation of contract

(1) All our quotations are non-binding.

(2) If the client's order qualifies as a quotation pursuant to Section 145 of the German Civil Code, 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.

(7) If fulfilment of the service 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 21 to 24 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 providing the service.

§ 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 shall only apply in the event that Pilz is commissioned with the services stated there, for the quoted scope.

§ 5

Scope of services

(1) The performance by Pilz shall be rendered as services in accordance with the currently applicable statutory requirements, to the scope speci-

fied 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) The client himself shall remain responsible for the results desired and achieved by him. Work contracts shall not be the subject matter of the quotation or order confirmation. Exclusively the services stated in the quotation or order confirmation shall be due from Pilz. In no case shall a particular outcome be due. The client is aware that when Pilz performs the services desired by the client on the system/machine of the client, there may be unforeseeable effects on the entire system/machine for Pilz, for example as a result of changing the parameters/software. The client shall take the necessary measures to commission the system/machine at his own risk. The client shall release Pilz from all liability in that respect. Pilz shall be liable if the criteria pursuant to Item 13 of these General Terms and Conditions are fulfilled.

§ 6

Subsequent change to the agreed scope of services

Pilz and the client shall each be entitled to apply in writing for the agreed scope of services 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 services shall be set forth in a supplementary agreement.

§ 7

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.

§ 8

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 services properly, at no

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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 Pilz, at no charge.

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

(4) If the client does not meet his obligations pursuant to Items 8.1 to 8.3, 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.

§ 9

Prices/remuneration and terms of payment

(1) The services shall be charged for 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 services rendered 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 services 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 and 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 services within the Federal Republic of Germany.

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

(5) Unless stated otherwise in the order confirmation and/or quotation, the net remuneration (before deductions) shall be due for payment within 30 days of the date of invoice.

(6) Should there be 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.

§ 10

Default

(1) The client is in default of his 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 receipt of the invoice or, if the date of receipt of the invoice cannot be determined by Pilz, 30 days after receipt of the service.

(2) 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 8 % above the current base rate of the German Federal Bank. 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.

§ 11

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

§ 12

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 in place of performance 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 service, 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 service being rendered 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 service or withdraw, nor may he claim compensation in lieu of performance; he may merely accept the service.

(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 service 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 13 of these General Terms and Conditions.

§ 13

Liability

(1) 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 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.

(2) In a departure from Item 13.1 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) injury to life, limb or health has been culpably caused by Pilz;
- (c) Pilz culpably breached material contractual obligations, i.e.
 - (aa) in the event of material contractual breaches that jeopardise the achievement of the purpose of the contract; or
 - (bb) in the event of breaches of obligations, the fulfilment of which makes the proper fulfilment of the contract possible in the first place, and on the compliance with which the client is regularly entitled to rely (material contractual obligations).

(3) In the event of a dereliction of duty of Item 13.2. (c) of these General Terms and Conditions, for ordinary negligence the liability of Pilz shall be limited in scope to reimbursement of the foreseeable losses that typically occur.

(4) 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.

(5) The liability of Pilz is generally excluded where components other than those manufac-

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tured or specified by Pilz have been built into the subject matter of the agreement, at the client's request.

(6) 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.

§ 14 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.

§ 15 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.

§ 16 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 16.1 and 16.2, and to protective rights to these shall require a separate written agreement.

§ 17 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.

§ 18 Termination

(1) Contracts may be terminated at any time with effect from the end of a month, with 30 days' notice.

(2) The service contract may be terminated for good cause at any time.

(3) In the event of termination under Items 18.1 and 18.2, the client shall pay the agreed amount less the pro rata payment for the agreed scope of performance that was saved as a result of termination. There shall in addition be an entitlement to payment for services and expenses arising in connection with the termination – including for Pilz in respect of third parties.

(4) If termination is given 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.

(5) Termination must always be given in writing.

§ 19 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 Pilz hands back to the client where this is necessary to fulfil statutory obligations to keep archives.

§ 20 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.

§ 21 Object code, rights to the software

(1) If Pilz produces software for the client under a service contract, the following provisions shall

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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 22 to 24 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 23 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 provided by Pilz under a service contract 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.

§ 22 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 23 of these General Terms and Conditions shall be obtained from Pilz. The client may 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 23 of these General Terms and Conditions applies in addition.

§ 23 Multiple use 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 removed.

(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.

§ 24 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 22 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 24.3 of these General Terms and Conditions for 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.

§ 25 Concluding provisions

(1) The place of performance is either Ostfildern, as the place of performance for the contractual relationship, or the location of the Pilz subsidiary that renders performance.

(2) The law of the Federal Republic of Germany 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, Ostfildern 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 October 1, 2014

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