

## 1 General

- 1.1 Delivery of Products or provision of Services by the Seller and/or its Affiliated Companies is expressly conditioned on Customer's assent to these GT&C. Any additional or different terms proposed by the Customer are expressly objected to and will not be binding upon Seller unless agreed to in writing by Seller.
- 1.2 Any representation or warranty not contained in these GT&C or the Contract shall not be binding on either Party.

## 2 Definitions

**"Affiliated Companies"** shall have the meaning as defined in Section 15 ff. of the German Stock Corporation Act (*AktG*).

**"Contract"** means the documents that comprise the agreement between Customer and Seller for the provision of Services or delivery of Products, including any document (including these GT&C) incorporated by reference.

**"Customer"** shall mean the legal entity to which Seller is providing Services or delivering Products under the Contract.

**"Date of the Contract"** shall mean the date on which the Contract is signed by both Parties.

**"GT&C"** shall mean these general terms and conditions of sale of the Seller.

**"Party"** shall mean either the Customer or the Seller individually and **"Parties"** shall mean both the Customer and the Seller collectively.

**"Products"** shall mean any goods, hardware, software or technology as well as corresponding documentation the Seller shall deliver to the Customer under the Contract.

**"Seller"** shall mean the legal entity performing Services or delivering Products under the Contract.

**"Services"** shall mean all works and services the Seller has agreed to perform for the Customer under the Contract.

**"Supplies"** shall mean the delivery of Products by the Seller to the Customer under the Contract.

## 3 Bids, Orders and Correspondence

Seller's bids shall in all cases be without engagement unless expressly designated as binding. Supplementary oral agreements to the order or letter of appointment shall only be effective when confirmed by the Seller in writing.

## 4 Software

- 4.1 If the Seller delivers any software to the Customer, the Contract is subject to these terms including the Seller's respective terms of use for software (e.g.

Seller's Terms of Use for Pit Software) which shall, in case of conflict, prevail over these terms.

- 4.2 If the Seller performs Services related to Seller's own proprietary software, the Customer agrees that the Seller owns all proprietary rights, including, but not limited to any patent, copyright, trade secret and trademark, in and to that software.

## 5 Prices and Payment

- 5.1 Where not expressly stated otherwise in the Contract all prices and rates are net and exclusive of VAT and excluding any of taxes, levies, duties, fees or other charges of any nature imposed outside the Federal Republic of Germany. VAT and any taxes, levies and duties imposed outside the Federal Republic of Germany will be invoiced additionally at the applicable rates.

- 5.2 Our invoices are payable net within 30 days. Should the Customer default on payment, the provisions of the law shall apply. Should the Seller be able to demonstrate greater damages resulting from such default, it shall be entitled to require compensation in that amount. The Customer shall however be entitled to demonstrate to the Seller that the Seller has incurred no loss or damage, or less loss or damage, as a consequence of the default in payment.

- 5.3 The Customer shall only be entitled to set off counter-claims when these are recognized by declaratory judgement, undisputed or accepted by the Seller. Furthermore, the Customer shall be only entitled to exercise a right of retention to the extent that its counter-claim is based on the same contractual relationship.

## 6 Taxes

- 6.1 Seller shall be responsible for and pay directly all corporate and individual taxes measured by net income or profit imposed by any governmental authority on Seller, its employees or subcontractors due to the execution of any agreement or the performance of or payment for Supplies and Services under the Contract ("**Seller Taxes**"), unless and to the extent otherwise specified in the Contract.

- 6.2 Customer shall be responsible for and pay directly when due and payable all taxes, levies, duties, fees or other charges of any nature, other than Seller Taxes, imposed by any governmental authority on Seller or its employees or subcontractors due to the execution of any agreement or the performance of or payment for Supplies and Services under the Contract; these include all withholding taxes, duties imposed on payments from Customer to Seller, for which Customer shall increase the amount of any payment which is required to be made subject to withholding to the extent necessary to ensure that, after the making of the required withholding, Seller receives the same amount it would have received had no withholding been made ("**Customer Taxes**").

6.3 If Seller is required to pay Customer Taxes, the Customer shall, promptly upon presentation of Seller's invoice, reimburse Seller for the Customer Taxes.

6.4 Customer shall provide to Seller within one month accurate official receipts from the appropriate governmental authority for deducted or withheld taxes. All rights to drawback of customs duties paid by Seller to the customs authorities of the country of manufacture of any Products belong to and shall remain with Seller. Customer agrees to cooperate with Seller and to furnish such documents to Seller as may be necessary to obtain a drawback.

6.5 Where expressly stated in the Seller's bid or the Contract that the Seller's prices and rates are inclusive of taxes, levies, duties, fees or other charges outside the Federal Republic of Germany and if, during the term of the Contract, one of the following situations occurs: (a) the enforcement of new taxes, levies, duties, fees or other charges; (b) the revocation of the existing taxes, levies, duties, fees or other charges; (c) the alteration of the pertaining rates; or (d) the establishment of taxes, levies, duties, fees or other charges incentives of any type and/ or the exemption from or reduction of taxes, levies, duties, fees or other charges that increase or decrease the financial burden of the Seller; then, the prices and rates shall be reviewed, with the purpose of adjusting them to the new reality.

## 7 Performance Standards

7.1 The Seller commits itself to deliver the Products and/or perform the Services offered completely and free of defects and in accordance with the applicable law.

7.2 The delivery of Products and/or performance of Services is based on the established state of the art in engineering and the applicable law, known stipulations, codes, guidelines and standards valid at the Date of the Contract.

7.3 In case of any change in the performance standards after the Date of the Contract, the Contract price, delivery and performance dates and any performance guarantees (as applicable) will be equitably adjusted in accordance with Clause 15 in order to reflect additional costs and obligations incurred by Seller resulting from such change.

7.4 Except as expressly stated otherwise in the Contract, the term "guarantees" or "guarantee" – if used in the Contract – shall not be deemed as guarantees regarding condition and durability (Beschaffenheits- und Haltbarkeitsgarantie) within the meaning of sections 443 and 639 German Civil Code (Bürgerliches Gesetzbuch).

## 8 Completion of Supplies and Services

8.1 The Parties will agree on a time schedule for the Supplies and Services.

8.2 Completion of the Supplies shall be achieved after hand-over of the concerned Products to the

Customer or a third party named by the Customer, however latest 60 days after delivery in accordance with the agreed INCOTERM.

8.3 Completion of the Services is achieved after acceptance of the concerned Services by the Customer. Seller shall serve written notice of completion of the concerned Services and readiness for acceptance to the Customer and acceptance shall be granted by the Customer within 14 days from serving such notice.

8.4 Minor deficiencies in the Supplies and Services shall not be a reason to refuse acceptance. Any minor deficiencies to be rectified by the Seller shall be listed in a punch list along with a mutually agreed period of time foreseen for rectification.

8.5 Should completion and acceptance of the Supplies and Services be delayed for reasons not attributable to the Seller, the Supplies and Services shall be deemed completed and accepted latest 30 days after serving written notice of completion and readiness for acceptance to the Customer.

## 9 Transfer of Title and Risk of Loss

9.1 Any Supplies and Services shall fully remain property of the Seller until Seller has been fully paid for the respective Supplies and Services. The Customer may only resell, process, combine or mix with other property, or otherwise integrate the Supplies and Services under retention of title to the extent expressly permitted under the Contract. The Customer shall be prohibited from taking any other disposition regarding the Supplies and Services for which the Seller retains title.

9.2 Transfer of risk of loss or damage to the Supplies and Services to the Customer shall occur upon completion of the Supplies and Services according to Clause 8 of these GT&C.

## 10 Intellectual Property Rights

10.1 Each Party shall retain ownership of all Confidential Information and Intellectual Property it had prior to the Date of the Contract, but Seller shall own exclusively all rights in ideas, inventions, works of authorship, strategies, plans and data created in or resulting from the Supplies and Services, including but not limited to all patent rights, copyrights, moral rights, rights in proprietary information, database rights, trademark rights and other intellectual property rights, and the Customer will execute assignments as necessary to achieve that result.

10.2 Except to the extent expressly stated otherwise in the Contract, nothing in the Contract shall be deemed to grant a license directly or by implication, estoppel, or otherwise.

10.3 "Intellectual Property" means all intellectual property and proprietary rights including without limitation all rights of inventorship and authorship, inventions, patents, patent applications, and knowhow for any product, process, method, machine, manufacture, design, composition of matter, or any new or useful

- improvement thereof, as well as copyrights, trademark, trade dress and service mark rights and all rights in trade secrets, computer software, data and databases, and mask works.
- 10.4 Notwithstanding anything to the contrary, if the scope of the Supplies and Services under the Contract includes delivery of a report that is solely prepared for the Customer, and excepting any and all Seller Property that may be used to create or is incorporated within the deliverable, the Customer shall own such report.  
“**Seller Property**” in this regard means: (a) Intellectual Property incorporated into any Supplies and Services under the Contract; (b) Intellectual Property conceived, produced or developed by the Seller, whether directly or indirectly or alone or jointly with others, in connection with or pursuant to the Supplies and Services; and (c) creations and inventions that are otherwise made by the Seller through the use of the Seller’s or its Affiliated Companies’ equipment, funds, supplies, facilities, materials and/or Proprietary Information.
- 10.5 The Seller shall indemnify the Customer against any damages, costs and expenses arising out of any suit, claim, or proceeding (a “Claim”) alleging that the Supplies and Services infringe a patent in effect, if and to the extent: (a) the Customer promptly notifies the Seller in writing of the Claim; (b) the Customer makes no admission of liability and gives the Seller sole authority, at Seller’s expense, to direct and control the defense and any settlement and compromise negotiations; and (c) the Customer provides the Seller with full disclosure and assistance that may be reasonably required to defend any such Claim.
- 10.6 The Seller shall have no obligation or liability with respect to any Claim based upon: (a) any Supplies and Services that have been altered by the Customer (or any third party); (b) the combination or use of the Supplies and Services with other products or services when the combination is part of any allegedly infringing process; (c) failure of the Customer to implement any update provided by the Seller that would have prevented the Claim; (d) unauthorized use of the Supplies and Services; or (e) Supplies and Services have been performed by the Seller in accordance with Customer’s specifications. The Customer shall indemnify and hold the Seller harmless against, any claim that arises out of such alleged infringement.
- 10.7 If any Supply and Service, or any portion thereof, becomes the subject of a Claim, the Seller may at its option (a) procure for the Customer the right to continue using it, or any portion of it, (b) modify or replace it in whole or in part to make it non-infringing, or (c) failing (a) or (b) refund any applicable fees.
- 10.8 This states Seller’s entire liability for indemnification for patent, trademark, copyright, and trade secret infringement for the Supplies and Services.
- 10.9 Notwithstanding this, with respect to any Supplies and Services, or portions thereof, which are not developed by the Seller, only the indemnity of the developer, if any, applies.
- 11 Defects Liability**
- 11.1 In case of a defect, the Seller will, without undue delay and free of charge, make good any defects and/ or deficiencies in its Supplies and Services which were already existent at the time of transfer of risk to the Customer by, at its sole discretion and as the nature of the defect or deficiency would reasonably require, repair or replacement. The Customer has the obligation to inform the Seller of any defect and/ or deficiency without undue delay after detection of the same.
- 11.2 Should remedy of a defect and/ or deficiency finally fail, the Customer shall – without prejudice to claim damages – be entitled to terminate the Contract or ask for an equitable adjustment of the Contact price. Except as otherwise provided in the Contract, a remedy shall be deemed to have finally failed after the third unsuccessful attempt by the Seller to rectify the defect and/ or deficiency.
- 11.3 Defect liability claims shall become statute-barred after a period of 12 months, counted from the date of completion of the concerned Supplies and/ or Services (“Defect Liability Period”). In case and where a longer Defect Liability Period is mandatory as per applicable law, the Defect Liability Period mentioned in the preceding sentence shall be replaced by such mandatory longer period. If any part of the Supplies and Services has to be repaired or replaced during the Defect Liability Period, the Defect Liability Period for the relevant part of the Supplies and Services shall begin for another period of 12 months, however, provided that the Defect Liability Period shall not be (further) extended beyond 24 months from the from the date of completion of the concerned Supplies and/ or Services.
- 11.4 The Seller shall not be liable for any damage / defect occurring after transfer of risk to the Customer being a result of careless usage, inappropriate consumables/ fuels, defective and/ or deficient civil works, inappropriate ground conditions or special outside influences which are not specifically provided for in the Contract. Should the Customer or any third party perform improper maintenance works or effect any changes to the Supplies and Services the consequences thereof shall not be covered under subject defect liability obligations of the Seller.
- 11.5 The Seller shall not be liable for normal wear and tear. Wear-parts are excluded from any defect liability, except in case the Customer provides proof that the damage or defect is not caused by normal wear and tear.
- 11.6 Any further liability for defect liability claims is – as far as permissible by applicable law – excluded.

## 12. Liability

- 12.1 The Seller shall be liable for any culpable injury to life, body or health in accordance with the applicable law. Furthermore, the Seller shall be liable, on whatever legal grounds, for gross negligence and willful misconduct.
- 12.2 The Seller shall be liable for any culpable infringement of essential contractual obligations. However, in the event of negligence, such liability shall be limited to such damages that are typical for this type of contract and could have been reasonably foreseen by the Seller at the Date of the Contract. Essential contractual obligations are obligations that fundamentally form the Contract and on which fulfilment the Customer may regularly trust and which render possible a proper performance of the Contract at all.
- 12.3 For any damage other than culpable injury to life, body or health or material contract obligations ("other damage") the aggregate liability of the Seller resulting from any negligent act or omission is limited to a total amount of 10% of the Contract price.
- 12.4 In any case the Seller shall (except for any willful act or omission), to the extent permitted by law, not be liable for any indirect or consequential damages as e.g. loss of profit, loss of production or resulting losses, etc.
- 12.5 The Seller shall not be held liable for any damage caused by nuclear accidents. The Customer shall indemnify and hold harmless the Seller from any claims resulting therefrom.
- 12.6 All claims for liability are time-barred by the limitation period stated under chapter "Defects Liability".
- 12.7 Particularly in cases where the Contract includes operation and maintenance services, the Customer shall procure a comprehensive Industrial All Risk (IAR) policy covering the plant and all assets including stocks at the site and off-site against fire and allied perils, acts of God, terrorism, impact damages, lightning, theft and burglary, all electrical, mechanical and electronic breakdowns and business interruption including loss of profit cover as is customary in the industry and in compliance with applicable law with deductibles reasonably acceptable to the Seller. The Seller, its affiliates, associates, its subcontractors and any party with whom the Seller has entered into any agreement for providing supplies and/or services in respect of the Contract shall be co-insured under the insurance policies to be taken out by the Customer, such co- insurance to include a full waiver of recourse and subrogation against the mentioned parties.

## 13. Force Majeure

- 13.1 In case of Force Majeure acting upon either the Seller or the Customer, the affected Party shall not be considered in default of those obligations impacted by Force Majeure and shall be automatically suspended from the performance or punctual performance, as the case may be, of such obligations for so long as

the Force Majeure event continues. Notwithstanding any other provision of this clause, Force Majeure shall not apply to obligations of either Party to make payments to the other Party under the Contract

- 13.2 "Force Majeure" shall mean any event or circumstance, to the extent that such event or circumstance which
- is beyond the reasonable control of the Party relying thereon;
  - was not operative or could not reasonably have been foreseen at the Date of the Contract;
  - is not an act, event or condition, the risks or consequences of which such Party has expressly agreed to assume hereunder; and
  - cannot be cured, remedied, avoided, offset, negotiated or otherwise overcome by the prompt exercise of due diligence of the affected Party relying thereon (or any third person over whom the affected Party has control, including any subcontractor);
- and shall, subject to the aforementioned, mean any event or circumstance or a combination of events or circumstances.

- 13.3 Force Majeure Events may include but are not limited to:
- natural catastrophes such as flood, earthquake, lightning, hail and similar calamities,
  - war, hostility, invasion, act of foreign enemies and domestic disorder,
  - Epidemic/pandemic
  - travel warnings by the German Federal Foreign Office
  - strike or lockout,
  - rebellion, riot, terrorism, revolution, insurrection, military or usurped power and sabotage,
  - fire, munitions of war, explosive materials, ionising radiation or contamination by radioactivity, except as may be attributable to the affected party's use of such munitions, explosives, radiation or radioactivity,
  - restraint by court order (not arising out of or resulting from any violation, default or fault of the affected Party),
- and which occurs despite all reasonable efforts of the affected Party to prevent or mitigate its effects, causes a delay or disruption in the performance of any obligation imposed on the affected Party under the Contract, provided that the Force Majeure Event shall not have arisen, whether in whole or in part, by some default, omission or neglect of the affected Party claiming relief.

- 13.4 Notice of Force Majeure
- If a Party is or will be prevented from performing any of its obligations under the Contract by Force Majeure, then it shall give notice to the other Party of the event or circumstances constituting the Force Majeure and shall specify the obligations, the performance of which is or will be prevented. The notice shall be given within 14 days after the Party

became aware, or should have become aware, of the relevant event or circumstance constituting Force Majeure. The Party shall, having given notice, be excused performance of such obligations for as long as such Force Majeure prevents it from performing them.

#### 13.5 Consequences of Force Majeure

Upon the occurrence of any Force Majeure event the Parties shall endeavour to continue to perform their obligations under the Contract so far as reasonably practicable and shall at all times use all reasonable endeavours to minimize any delay in the performance resulting from the Force Majeure event.

If the Seller is prevented from performing any of its obligations under the Contract by Force Majeure of which notice has been given to the Customer, and suffers delay and/or incurs costs by reason of such Force Majeure, the Seller shall be entitled to:

- a. an adequate adjustment of the agreed time schedule and milestones for any such delay, if the Supplies and Services is or will be delayed, and
- b. payment of any such cost reasonably incurred.

#### 13.6 Termination for Force Majeure

If the performance of a substantial part of a Party's obligations under the Contract is prevented for a continuous period of three months by reason of Force Majeure of which notice has been given to the respective other Party, or for multiple periods which total more than three months due to the same notified Force Majeure, then either Party may terminate the Contract with immediate effect.

Upon such termination, the Customer shall pay to the Seller (after receipt of Seller's invoice) and to the extent not already paid by the Customer the following:

- a. the amounts payable for any part of the Supplies and Services carried out in accordance with the Contract; and
- b. the cost of equipment and materials, including transportation costs, ordered for the Supplies and Services which have been delivered to the Seller, or for which the Seller is liable to accept delivery and such Supplies and Services shall become the property of the Customer when paid for by the Customer; and
- c. any other provable cost directly resulting from such termination such as e.g. cancellation charges claimed by subcontractors.

Irrespective of the obligation of the Customer to pay, the Seller shall at any time within its duty to avert, minimize or mitigate any loss, try to otherwise use or dispose any Products and Services which have not already been delivered to the Customer and which delivery is not in the interest of the Customer. For the avoidance of doubt, the Seller shall not be entitled to claim any loss of profit in relation to the Supplies and Services nor shall it be entitled to any payments for non-utilization or under-utilization of its staff after the termination of the Contract.

## 14 Termination

14.1 The Customer may terminate the Contract at any time up to completion of the Supplies and Services according to section 648 of the German Civil Code (*Bürgerliches Gesetzbuch*). The term of notice is 4 weeks. Notice must be given in writing.

14.2 The right of the Parties to terminate the Contract for cause shall remain unaffected.

14.3 In particular, the Seller shall be entitled to terminate the Contract for cause – upon thirty (30) days' notice in writing to the Customer – in case any amounts due and payable to the Seller under the Contract have not been paid within sixty (60) days after submittal of invoice.

14.4 In particular, the Customer may terminate the Contract (or any portion thereof) for cause, if Seller: substantially breaches a material obligation that does not otherwise have a specified contractual remedy, provided that: (a) the Customer shall first provide Seller with detailed written notice of the breach and of Customer's intention to terminate the Contract, and (b) Seller shall have failed, within 30 days after receipt of the notice (or such extended period as is considered reasonable and agreed in writing by the Parties), to either (1) commence and diligently pursue cure of the breach, or (2) provide reasonable evidence that the breach has not occurred. If Customer terminates the Contract as provided in this Clause, the Customer shall pay to Seller all portions of the Contract price allocable to Supplies and Services performed at the Seller's then current standard time and material rates.

Any expulsion and termination or rescission under this Clause 14.4 shall be without prejudice to any other rights or powers of the Customer under the Contract, including its right to claim damages and/or reimbursement of costs and expenses and/or indemnification and holding harmless.

## 15 Changes

15.1 The Seller shall be entitled to claim for (i) an adequate adjustment of the agreed time schedule and milestones for any delay, if the Supplies and Services is or will be delayed by one or more of the following events, and (ii) reasonable adjustment of the Contract price in case of occurrence of any of the following events, provided that this shall only apply to the extent the following events are not attributable to default of the Seller:

- a. decision by courts or authorities rendered after the Date of Contract which significantly influence the Supplies and Services;
- b. change of planning circumstances after the Date of Contract which result in a considerable change of engineering;
- c. change in the applicable law following the Date of Contract;
- d. change or variation to the Supplies and Services ordered / instructed by the Customer;
- e. change in currency exchange rates (where applicable);
- f. suspension or disruption of the Supplies and Services by Customer or third parties for which the Seller is not responsible;

- h. default of the Customer to comply with its obligations under the Contract;
  - i. Force Majeure events
- 15.2 If the Seller intends to claim for an adjustment of time or payment of costs incurred Seller shall give notice to the Customer as soon as possible, but not later than within 15 business days of the commencement of the event giving rise to the claim. The notice shall be supported by all information, details and documents available to the Seller at that time. The notice shall be followed as soon as possible, but in any event within 20 business days of the cessation of the event giving rise to the claim with the Seller's application for adjustment of time or payment of costs incurred with full supporting information, documents and details.
- 15.3 The Customer shall in due time (but in any event within 20 business days) after the receipt by of the Supplier's application by written order, grant such adjustment to the time which is fair and reasonable under the circumstances and payment of costs incurred.
- 16 Confidentiality**
  - 16.1 Any documents and information made available within the context of the Contract shall be dealt with in confidentiality by the respective recipient and the use or utilization outside of the scope of the Contract by the receiving Party requires a prior written consent of the disclosing Party and in case a Party needs to disclose documents and information to its Affiliates, advisors or subcontractors such Party shall ensure that the receiver of such documents and information is bound by confidentiality obligations being not less strict than those contained in the Contract.
  - 16.2 This obligation persists for three years after termination of the Contract.
  - 16.3 The provisions of the preceding paragraphs shall not apply to documents and information:
    - (i) that at the time of disclosure are already publicly known or publicly available or thereafter become publicly known or publicly available other than due to default of the recipient under these confidentiality provisions;
    - (ii) that the time of receipt by the recipient were already in lawful possession of the recipient or thereafter made available by an authorized third party without restriction to keep such documents or information confidential;
    - (iii) which the recipient, without making use of confidential documents and information or parts thereof, has developed itself or has caused others to do so.
  - 16.4 The prior written consent of the disclosing Party is not required in case and to the extent the recipient has to disclose confidential documents and information in order to (i) comply with applicable mandatory rules of law and regulations or (ii) comply with court decisions or (iii) avoid or start litigations in so far; always provided that the recipient has served prior written notice to the disclosing Party, to the extent permitted by applicable law, about such disclosure. The recipient is obliged to take all reasonable and allowed

measures to avoid such disclosure and/ or to reduce such disclosure to a minimum. In respect to proprietary rights the legal obligations according to the applicable law shall apply.

**17 Advertising material**

Reference may only be made to the business link with the Seller in information and/or advertising material with the prior, express and written consent of the Seller.

**18 Compliance with codes of conduct and the law**

18.1 The Seller refers to the Code of Conduct applicable to Iqony as well as to itself and its Affiliated Companies (available upon request). The Seller expects from its business partners to observe this Code of Conduct and the codes on "Minimum Standards of the UN Global Compact" and "Core Labor Standards of the International Labor Organization (ILO)".

18.2 The Customer is obliged not to take any actions or make any omissions which could lead to the Customer becoming liable to criminal prosecution, and to comply with all laws and regulations concerning the Customer and the business relationship with the Seller.

18.3 In regards of the prevention of corruption the Customer undertakes that during the term of the Contract, its directors and employees or directors and employees of an affiliated company shall, at all times and without exception, observe the highest standard of ethics and not engage in, directly or indirectly, Corrupt Practice in relation to its operation and management. The Customer further undertakes that it will carry out its business and management in compliance with the standards of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and any regionally applicable anti-bribery laws (collectively "Anti-Bribery Laws"). "Corrupt Practice" shall mean the offering, giving, accepting, receiving, promising or soliciting, directly or indirectly, of any item or promise having economic value to influence the actions of any person in relation to the conduct of the business of a Party; or a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the other person to enter into transactions in relation to or connected with the business of a Party; or impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in relation to or connected with the business in the operation and management of a Party, or any transactions contemplated under the Contract. Each Party shall further procure that any sale facilitators, project initiators, customs broker, subcontractor or other persons acting on behalf of it (collectively "Obligated Persons"), to the extent that it contracts or collaborates with third parties, imposes anti-bribery clauses which impose the same or higher standards of behaviour to those set out in this clause, and that it shall duly supervise Obligated Persons.

## 19 Data Privacy

19.1 Iqony GmbH, (Rüttenscheider Straße 1-3, 45128 Essen, Germany) is responsible for data processing. Customer can contact the responsible person for Iqony's data protection at the following address:

STEAG GmbH  
Group data protection officer  
Rüttenscheider Straße 1-3  
DE-45128 Essen  
datenschutz@steag.com

19.2 Seller process personal data in compliance with the EU Data Protection Regulation (GDPR), the Federal Data Protection Act (BDSG) and all other relevant data protection regulations in accordance with the principles of data avoidance, data economy and data security.

Unless otherwise stated below, the terms "process" and "processing" also cover in particular the collection, use, disclosure and transmission of personal data.

Seller is part of the Iqony Group. The Iqony Group is a group of companies in the sense of Art. 4. no. 19 GDPR. Hence Seller derives a legitimate interest in processing personal data of our business partners within the Iqony Group.

As part of Seller's cooperation with business partners, Seller processes personal data for the following purposes:

- Communication with business partners on products, services and projects, for example to process business partner inquiries;
- Planning, execution and administration of the (contractual) business relationship between the business partner and us, e.g. to process the order of products and services, including accounting, invoicing and debt collection and to carry out deliveries, maintenance activities or repairs;
- Maintain and protect the security of our products, services and websites, prevent and detect security risks, fraud or other criminal or malicious activities;
- Adherence to
  - legal requirements (e.g. tax and commercial law requirements),
  - existing obligations to conduct compliance screenings (to prevent economic crime or money laundering).

A transfer to external parties for advertising purposes is not intended.

Seller processes personal data for the aforementioned purposes. This includes all information relating to identified or identifiable natural persons ("data subject"), e.g.

- Business contact information, such as first and last name, address, telephone number, mobile phone number, fax number and e-mail address;
- Payment data, such as information required for processing payment transactions or fraud prevention.

The processing of personal data is necessary to achieve the above-mentioned purposes, including the implementation of the (contractual) business relationship with the business partner. The legal bases for data processing are pursuant to Art. 6 para. 1 GDPR

- a contract or pre-contractual measures with a person concerned
- the fulfilment of our legal obligations or
- the protection of our legitimate interests or
- the explicit consent of the data subject.

19.3 Seller may transfer personal data to other Iqony Group companies if this is necessary to fulfil the above-mentioned purposes.

Seller may transfer personal information to courts, regulatory authorities or law firms to the extent permitted and necessary by law to comply with applicable law or to assert, exercise or defend legal claims.

To fulfil our contractual and legal obligations, Seller makes use of external service providers in some cases. These service providers only act in accordance with our instructions, are contractually commissioned and obliged to comply with the applicable data protection requirements.

The recipients of the data are preferably located within the EU, but possibly also in countries outside the European Economic Area ("third countries"), in which the applicable law does not guarantee the same level of data protection as in the EU. In this case, Seller takes measures to ensure appropriate safeguards for the protection of personal data (Art. 45, 46 GDPR).

19.4 Seller deletes personal data of data subjects as soon as it is no longer necessary to fulfil the above-mentioned purposes, unless statutory retention obligations (e.g. commercial and fiscal retention obligations) prevent deletion.

19.5 If a data subject has given its consent to the processing of personal data, the data subject has the right to withdraw its consent at any time with effect for the future.

19.6 A data subject has the right regarding to its personal data:

- to request a confirmation whether the Seller processes personal data about it, and information about the personal data processed by the Seller as well as further information about their processing,
- to request the correction of inaccurate personal data,
- to demand the deletion of the personal data processed by the Seller,
- to require the Seller to restrict the processing of personal data,
- to receive personal data provided to the Seller by the data subject in a structured, current and machine-readable format or to request that the personal data be transferred to a third party,
- to object to the processing of their personal data by the Seller

The data subject may contact the above addresses in this regard.

19.7 The data subject may appeal to the data protection officer mentioned above or to the data protection supervisory authority.

## 20 Export Control

20.1 If the Customer transfers Products delivered by the Seller or Services (including all kinds of technical support) performed by the Seller to a third party, the Customer shall comply with all applicable national and international (re-)export control regulations. In any event of such transfer of Products and Services the Customer shall comply with the (re-)export control regulations of the Federal Republic of Germany, of the European Union and of the United States of America.

20.2 Prior to any transfer of Products and Services to a third party the Customer shall in particular check and guarantee by appropriate measures that

- a. There will be no infringement of an embargo imposed by the European Union, by the United States of America and/ or by the United Nations by such transfer, by brokering of contracts concerning those Products and Services or by provision of other economic resources in connection with those Products and Services, also considering the limitations of domestic business and prohibitions of by passing those embargos;
- b. Such Products and Services are not intended for use in connection with chemical, biological or nuclear weapons or related missile technology nor in connection with a military end-use (e.g. installation in military goods) or civilian nuclear end-use (e.g. use in connection with the operation of a civilian nuclear plant), if and to the extent such use is subject to prohibition or authorization, unless required authorization is provided. Furthermore, the Customer shall ensure that the supplied goods – even if they are further supplied to third parties – will only be used for civilian purposes and not for internal repression, human rights infringements or terrorist acts of any kind;
- c. The regulations of all applicable Sanctioned Party Lists of the European Union and the United States of America concerning the trading with entities, persons and organizations listed therein are considered.

20.3 If required to enable authorities or the Seller to conduct export control checks, the Customer, upon request by the Seller, shall promptly provide the Seller with all information pertaining to the particular end user, the particular destination and the particular intended use of Products and Services, as well as any export control restrictions existing. Furthermore, upon request by the Seller, the Customer shall issue end-use documents and submit the originals thereof in the event that the Seller itself is obliged in individual cases, to prove the end destination and end-use to the competent export control authorities.

20.4 The Customer shall indemnify and hold harmless the Seller from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating.

20.5 to any noncompliance with export control regulations by the Customer, and the Customer shall compensate the Seller for all losses and expenses resulting thereof.

20.6 The effectiveness and implementation of the Contract is subject to receiving all necessary export permits (if any) and/ or respectively subject to non-existence of any other obstructions due to applicable national and international (re-)export control regulations including (re-)export control regulations of the Federal Republic of Germany, of the European Union and of the United States of America export or intra community transfer regulations to be complied with by the Seller as exporter or dispatcher or to be complied with by its subcontractors.

20.7 The Seller shall not be in default of performance (Section 286 German Civil Code – *Bürgerliches Gesetzbuch*), if the Seller is prevented from timely delivery owing to an application or authorisation procedure under foreign trade law. In such case, the agreed time for delivery shall be appropriately extended in accordance with the delay incurred by this procedure and all potential legal remedy procedures.

If any export or transfer authorization or other authorizations or approvals required under foreign trade law are not granted by the competent authorities or if any legal obstacles to the performance of the Contract or Products or Services arise owing to provisions of foreign trade law or embargo measures that have to be observed by the Seller, the Seller shall have the right to withdraw from the Contract or individual supply obligations. In such case, all claims of the Customer – particularly claims for damages – shall be excluded.

## 21. "NO RE-EXPORT TO RUSSIA"/ "NO RE-EXPORT TO BELARUS" CLAUSE

21.1 The Customer shall not sell, export or re-export, directly or indirectly, to the Russian Federation or Belarus or for use in the Russian Federation or Belarus any Products supplied under or in connection with the Contract that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014 or Article 8g of Council Regulation (EC) No 765/2006.

21.2 The Customer shall undertake its best efforts to ensure that the purpose of Clause 21.1 is not frustrated by any third parties further down the commercial chain, including by possible resellers.

21.3 The Customer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of Clause 21.1.

21.4 Any violation of Clauses 21.1, 21.2 or 21.3 shall constitute a material breach of an essential element of the Contract, and the Seller shall be entitled to seek appropriate remedies, including, but not limited to:

- In the event of breach, the Customer must expect restrictions to or termination of the contractual relationship, in the extreme case contractual penalties amounting to 5 % of the total value of the Contract or price of the Products exported, whichever is higher and premature extraordinary termination of the contractual relationship.



21.5 The Customer shall immediately inform the Seller about any problems in applying Clauses 21.1, 21.2 or 21.3, including any relevant activities by third parties that could frustrate the purpose of Clause 21.1. The Customer shall make available to the Seller information concerning compliance with the obligations under Clause 21.1, 21.2 and 21.3 within two weeks of the simple request of such information.

**22. Jurisdiction, Governing Law**

22.1 All legal relationships between the Customer and the Seller shall exclusively be governed by the law of the Federal Republic of Germany excluding (a) sections 305 to 310 (inclusive) of the German Civil Code (Bürgerliches Gesetzbuch) regarding General Terms and Conditions, (b) private international law regarding the choice of law and (c) the United Nations Convention for International Sales of Goods.

22.2 All disputes, controversies or claims between the Parties which cannot be solved in an amicable way shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one arbitrator in case the amount in dispute is not higher than EUR 500.000, and by three arbitrators in all other cases, appointed in accordance with the said Rules of Arbitration. The arbitration proceeding shall take place in Düsseldorf (Germany), in the language of the Contract.

22.3 The arbitration award shall be binding upon the Parties and subject to no appeal (insofar as such waiver can validly be made).

**23. Miscellaneous**

23.1 The Customer shall not, without the prior written consent of the other Party, sell, assign, transfer, mortgage, charge, pledge, encumber or otherwise dispose the whole or any part of the Contract or any right, benefit, obligation or interest in connection with or under the Contract or assign to any person any benefit arising under or out of the Contract.

23.2 In case a clause of the Contract shall be or becomes invalid for material or formal reasons, this shall not affect the validity of the other clauses. Instead, the Parties are obliged to substitute the invalid clause by a clause, which is equal to the non-effective clause in its economic success and becomes effective immediately after the invalid clause has become in-effective. The same shall apply for the complementation of possible lacks in the Contract, which arise during the execution of the Contract.

23.3 All amendments and/or changes of the Contract or these GT&C need to be agreed upon in writing between the Parties of the Contract in order to become effective.