

Terms and Conditions for purchasing IT Services

1 Order and acknowledgement of order

- 1.1 WINCOR NIXDORF may contract consulting, planning, organizational, programming, maintenance and software maintenance work, hereinafter referred to as "Software Development" from the Supplier.
- 1.2 WINCOR NIXDORF shall be entitled to cancel the Contract / Order (together herein referred to as "Order") in writing if the Supplier fails to accept it in writing within two weeks of receipt (acknowledgement).
- 1.3 If the acknowledgement of order deviates from the Order, it shall be binding for WINCOR NIXDORF only if it has accepted such deviation in writing.

2 Time of delivery

- 2.1 On time fulfillment of services shall be based upon the specified fulfillment location, and the on time fulfillment of acceptance relevant services shall be based upon their acceptance.

3 Obligations of the Supplier

- 3.1 The Supplier shall be obliged to create a written timetable and work schedule before commencement of the work and to maintain it.
- 3.2 The Supplier shall perform all the tasks commissioned to it with qualified personnel, using great care and diligence and in accordance with the most current technical developments. It shall apply and use the methods/processes and tools agreed upon with WINCOR NIXDORF, or use comparable development methods and tools. The Supplier shall observe instructions issued by WINCOR NIXDORF under the Order where they relate to the subject matter of the service itself. However, WINCOR NIXDORF shall not be authorized to issue instructions directly to employees of the Supplier. Upon the request of WINCOR NIXDORF, the Supplier shall furnish evidence of the qualification of the employees involved in Software Development.
- 3.3 The Supplier shall designate a project manager who shall be the contact person for all matters relating to the project and shall make or obtain all necessary decisions without undue delay. The Supplier shall maintain an ongoing reporting system in all projects for which the project manager designated by the Supplier shall be responsible for.
- 3.4 The Supplier shall be obliged to involve the WINCOR NIXDORF project manager if and insofar as this is required to fulfill an Order.
- 3.5 To the extent that standardized programs or program modules can be used within a project, available WINCOR NIXDORF standard software shall be used, insofar as it is specifically designated by WINCOR NIXDORF or its use is reasonable following testing by the Supplier. Use of other standard software shall require both evidence that the Supplier is authorized without restriction to use it in order to fulfill an Order, and the written consent of WINCOR NIXDORF.
- 3.6 The Supplier shall enable WINCOR NIXDORF to inspect the Software Development. WINCOR NIXDORF shall be entitled to acquire information at any time regarding the progress of the projects by inspecting all relevant documents (reports, descriptions, listings, manuals, etc.). The documents required for this shall be submitted and explained to WINCOR NIXDORF upon request.
- 3.7 At the request of WINCOR NIXDORF, the Supplier shall provide support in preparing for use of the programs created/converted by Supplier, and assume responsibility for maintaining said programs. To the extent such services do not fall within the services that are to be performed under the Order with out a separate fee, the Parties shall agree on a reasonable payment.
- 3.8 In order to ensure process and product quality, the Supplier shall be obliged in its quotations to state the quality management systems that are maintained and used by it, and which have either been certified or are regarded as having an equivalent status. WINCOR NIXDORF shall be entitled to conduct quality audits at the Supplier's premises in order to verify the existence and use of said quality management systems. WINCOR NIXDORF has been certified according to ISO 9001 and expects the Supplier himself to be certified according to ISO 9001 or to maintain a similar quality management system.
- 3.9 Being fully aware of the provisions of the Arbeitnehmerüberlassungsgesetz (AÜG = Personnel Leasing Act), in particular the provision on regulatory offenses in § 16 of said act, the Supplier hereby declares to WINCOR NIXDORF, in the event that the payment of fines is demanded from WINCOR NIXDORF due to any claimed impermissible leasing of personnel pursuant to the provisions of said act, that it shall expressly indemnify WINCOR NIXDORF internally from all such claims and reimburse to WINCOR NIXDORF immediately upon request any fines to be paid by WINCOR NIXDORF.
- 3.10 The Supplier shall maintain the Software delivered by him and give WINCOR NIXDORF access to improved versions for at least seven years commencing with the last delivery of the respective Software. Software maintenance shall include the improvement of program errors, modification of the program's functionality and the addition of new functions.

4 Hindrance of the Supplier, project control

- 4.1 If the Supplier believes that it is being hindered in fulfilling the Order, irrespective of the circumstances, it shall notify WINCOR NIXDORF thereof in writing without undue delay. If such hindering circumstances are not attributable to the Supplier, the Parties shall agree on a reasonable extension of the agreed deadlines. If WINCOR NIXDORF does not receive a written notification with-

out undue delay, the Supplier shall not be entitled to appeal the circumstances at a later point in time.

- 4.2 If the Supplier believes that instructions issued by WINCOR NIXDORF pursuant to Section 3.2 or other circumstances attributable to WINCOR NIXDORF will result in changes in the amount of work and/or computer time requirements, it shall notify WINCOR NIXDORF thereof in writing without undue delay. The Parties shall then agree on a reasonable adjustment to the payment. If WINCOR NIXDORF does not receive a written notification without undue delay, the Supplier shall not be entitled to claim any adjustment to the payment at a later point in time.
- 4.3 To the extent that an Order involves exceptional problems and/or an exceptional volume, either Party can, at certain intervals of time, convene a project meeting in which the project managers and, if necessary, other employees of WINCOR NIXDORF and the Supplier shall take part. In the project meeting, a status report on the Software Development shall be prepared, observance of the contractual responsibilities reviewed with reference to the milestones defined in planning, and continuation of the project discussed. Minutes of the project meeting shall be prepared and signed by both Parties to the Order.

5 Change Request Procedure

- 5.1 After issuing an Order, WINCOR NIXDORF shall be entitled to demand in writing, changes to the scope of services that lie within the capability of the Supplier, using the form "Change Request Procedure", unless these changes cannot be reasonably expected of the Supplier.
- 5.2 The Supplier shall examine WINCOR NIXDORF's change request and inform WINCOR NIXDORF within 5 working days if the change request cannot reasonably be implemented by it or requires extensive review, and shall subsequently submit a quotation for the review of such request stating the price (payment on the basis of time incurred/flat-rate payment). WINCOR NIXDORF shall either award the Order for review or reject the quotation in writing within 10 working days.
- 5.3 If the Supplier has neither rejected the change as unreasonable nor submitted a quotation for review of it, it shall submit to WINCOR NIXDORF a quotation for implementation containing details of the time frame of the service, deadlines, payment, etc.
- 5.4 WINCOR NIXDORF shall either accept or reject the quotation for implementation submitted by the Supplier within the commitment period of the quotation.
- 5.5 If the change request of WINCOR NIXDORF has effects on the time frame of the service, deadlines, payment, etc., the Supplier shall notify WINCOR NIXDORF of this in writing within the 5 day period in accordance with section 5.2. WINCOR NIXDORF and the Supplier shall then define the desired service changes in written form and make the necessary modifications to the Contract respectively the scope of services accordingly without undue delay.
- 5.6 WINCOR NIXDORF and the Supplier shall be entitled to demand that the services affected by the change request be interrupted until the necessary modifications to the contractual arrangements have been made.
- 5.7 If the necessary modifications to the contractual arrangements are not made within the commitment period of the quotation in accordance with section 5.4, or within 15 working days of receipt of the notification to WINCOR NIXDORF in accordance with section 5.5 relating to modifications of the contractual arrangements, the work shall be continued on the basis of the Order. The times for completion shall be extended by the number of working days by which the work was interrupted as a result of the change request or review of the change request. The Supplier shall be entitled to demand the agreed payment on the basis of time incurred or an increase in the agreed flat-rate payment for the duration of the interruption, unless the Supplier deploys elsewhere those employees affected by the interruption, or has maliciously refrained from deploying them elsewhere.

6 Delivery and Acceptance

6.1 Delivery

Development work shall be delivered in the form of a presentation with evidence of complete fulfillment of the agreed specifications, including the associated or separately-agreed documentation. If the development work is the development, alteration or adaptation of software, the following is applicable: the work shall be delivered in the form of a presentation with evidence of complete software functions on the agreed hardware and software system, including the associated or separately-agreed documentation. The software that is delivered must be checked for the absence of alien software elements (e.g. viruses) using up-to-date methods. The Supplier shall confirm that this check for the absence of alien elements has been conducted, stating the method used, on the WINCOR NIXDORF "Delivery/Acceptance Record for Software Products" form. Delivery shall be confirmed to the Supplier in writing on the form "Delivery/Acceptance Record" issued by WINCOR NIXDORF. The Supplier shall announce the results of the Development being ready for acceptance in writing no later than one week ahead of time, taking time planning interests of WINCOR NIXDORF into account.

6.2 Acceptance

After the results have been delivered properly to WINCOR NIXDORF, WINCOR NIXDORF shall conduct the acceptance procedure, if and insofar as an acceptance can be performed according to the nature and scope of the work to be executed by the Supplier. If defects are determined thereby, WINCOR NIXDORF shall notify the Supplier in writing and the Supplier shall rectify the defects immediately free of charge and then provide the appropriately corrected results for renewed acceptance in the manner specified above. WINCOR NIXDORF shall then repeat the acceptance procedure.

The following error categories shall apply to the acceptance procedure:

- Error category 1: Use in accordance with the Order is unreasonably restricted or impossible.
- Error category 2: Use in accordance with the Order is restricted, but still reasonably possible.
- Error category 3: Use in accordance with the Order is not restricted by the defects or is only restricted to a minor extent.

Defects shall be assigned to the error categories by WINCOR NIXDORF. WINCOR NIXDORF shall be entitled to refuse to declare the acceptance if there is at least one defect of error category 1 or at least three defects of error category 2. Defects of error category 3 shall not entitle WINCOR NIXDORF to refuse the acceptance.

The handling and rectification of defects in error category 1 must begin within 24 hours of their notification. Rectification of defects in error category 2 shall be carried out for the most part during the acceptance procedure. The Supplier shall ensure that defects of error category 2 are analyzed and described within three (3) working days. Such defects should be rectified within ten (10) working days. The Supplier shall rectify errors of error category 3 within a reasonable period of time, but at the latest within 30 days.

Should it be determined during the analysis of a defect that the defect must be assigned to another category than that originally assigned by WINCOR NIXDORF, the defect shall be handled in accordance with the new categorization. If defects are not rectified within the aforementioned deadlines, the acceptance shall be regarded as not having been granted.

If WINCOR NIXDORF does not accept the results after they have been provided for acceptance for a reason other than a defect or incompleteness or for any another legal grounds, the results shall be deemed to have been accepted two months after the written announcement in due time, and the fact of having been ready for acceptance. In the case of such a fictitious acceptance, Wincor Nixdorf remains entitled to give notice of defects that are known or not known at the time of the fictitious acceptance within the statutory deadlines and claim non-fulfillment of performance.

The same shall apply if WINCOR NIXDORF, for reasons attributable to WINCOR NIXDORF, prevents, without being entitled to do so in accordance with the foregoing, the announcement in due time of the results being ready for acceptance.

If defects in the results are due to circumstances attributable to WINCOR NIXDORF, the Supplier shall rectify them at the request of WINCOR NIXDORF at reasonable prices and terms to be agreed.

6.3 Comprehensive Rules for Delivery and Acceptance

Delivery and acceptance shall take place at a location that is designated by WINCOR NIXDORF and is acceptable to the Supplier. Successful acceptance shall be confirmed on the "Delivery/Acceptance Record" form to be signed by both Parties.

The above mentioned acceptance procedure is also valid for partial work performances which are agreed in the Order. The acceptances of all the partial work performances agreed in the Order shall not constitute a total acceptance, unless this is expressly agreed upon in the Order.

Travel expenses incurred due to repeated delivery and acceptance shall be borne by the Party that is responsible for the repetition.

If not agreed otherwise, the delivery and acceptance shall take place at the premises of WINCOR NIXDORF in Paderborn.

7 Warranty for Software Defects

- 7.1 The Supplier warrants that the contracted service complies with the agreed performance criteria, if and insofar as Software Development is the subject of the Order.

If defects occur, WINCOR NIXDORF shall inform the Supplier or a person designated by the Supplier thereof in writing. At the sole discretion of WINCOR NIXDORF, the remedy shall either be carried out through a rectification of the defect, or a failure free delivery of the Software Development. The Supplier is obliged to rectify the defects immediately and free of charge. If the Supplier fails to comply with a demand for remedy from WINCOR NIXDORF, despite having received a reasonable grace period of time for rectification of the defect, WINCOR NIXDORF shall be entitled, at its sole discretion, to rectify the defects or cause them to be rectified at the expense of the Supplier, or to reduce the payment by an extent corresponding to the degree to which use of the performance is restricted, or to withdraw from the Order. Notwithstanding the preceding rights, WINCOR NIXDORF shall also be entitled to claim compensation for damages. The right to withdraw the Order shall not exist for parts of the work performance that WINCOR NIXDORF can otherwise utilize, in accordance with the Order, as independent functionalities, in full and without additional expenses. The decision whether, and to what extent, a functionality exists in this sense shall solely be made by WINCOR NIXDORF.

The warranty period shall be automatically extended by the time during which the subject matter of the Order cannot be meaningfully used due to a defect.

- 7.2 The Supplier shall be entitled to claim payments for time incurred and reimbursement of travel expenses insofar as WINCOR NIXDORF or the user is responsible for the defects of the Software Development.
- 7.3 If WINCOR NIXDORF makes modifications or extensions to the Software Development without the prior consent of the Supplier, the warranty obligation shall expire for the changed software portions, unless WINCOR NIXDORF can provide evidence that the defect has not been caused by such modification or extension.
- 7.4 The Supplier shall undertake all reasonable efforts to deliver the Software Development free of any alien software elements (e.g. viruses) and undertakes to confirm that the check for the absence of said alien elements has been conducted, stating the method used, on the "Delivery/Acceptance Record" form issued by WINCOR NIXDORF. If the Supplier should become aware after delivery of an alien element with which the Software Development may be affected, it shall immediately notify WINCOR NIXDORF thereof.

8 Limitation of warranty claims

Warranty claims shall become statute-barred - except in cases of fraudulent concealment of a defect or a condition/durability guarantee - after the expiration of 24 months upon transfer of risk.

9 Delay in Performance

In the event the Supplier is in delay with a delivery or a contracted service, and after a reasonable grace period (typically one week) has elapsed without success, WINCOR NIXDORF shall be entitled to claim a flat rate compensation of 1%, but not more than 10% of the remuneration payable for this delivery or service, provided that WINCOR NIXDORF can credibly show that it suffered a damage from the delay. WINCOR NIXDORF is furthermore entitled to claim compensation for damages.

In the event the Supplier is in delay with a contracted service for more than four (4) weeks, WINCOR NIXDORF is entitled to withdraw from the Order and claim reimbursement of all payments made up to that time. Notwithstanding the foregoing, WINCOR NIXDORF is still entitled to claim flat rate compensation and respectively damages according to Paragraph 1 of this Clause 9.

The Supplier may prove that the actual damages are lower.

10 Payment

- 10.1 The payment for the Supplier shall be based upon a flat-rate fixed price, unless otherwise agreed. Additional services and expenses shall only be reimbursed separately if this has been expressly agreed in the Order. In addition, the statutory value added or sales tax valid at the time of performance of the service shall be charged, unless it is expressly included in the flat-rate fixed price.

- 10.2 Charges for services to be billed by time and expenses incurred and for travel expenses shall be invoiced on a monthly basis retrospectively for the month in question.

- 10.3 When billing by time and expenses, only such working hours shall be compensated which have been documented on detailed activity records that have been countersigned by the WINCOR NIXDORF project manager or a person designated by it. Such activity records shall only serve to account for work and hours, and shall not be deemed as a quality confirmation or acceptance of work performed. Travel expenses and travel times resulting from journeys by employees of the Supplier between their work place / residence and the location for the contractual work shall not be regarded as working hours.

- 10.4 Should WINCOR NIXDORF be in default of Payment, then the Supplier shall be entitled to, excluding cases of intent and gross negligence, claim interest on late payments in the amount of 3 % above the prime rate per year. The Supplier shall not be entitled to claim term of payment interest from WINCOR NIXDORF.

- 10.5 Travel and accommodation expenses shall be reimbursed to the Supplier if employees of the Supplier undertake journeys for reasons for which the Supplier is not responsible, and at the express request of WINCOR NIXDORF. In such cases, the following reimbursements shall be made after deduction of value added tax amounts, if any:

Rail travel	2 nd class, upon submission of appropriate documents
Air travel	Economy class, upon submission of appropriate documents
Mileage allowance	In accordance with the maximum rates effective for tax purposes, if the use of a rental car is not less expensive
Accommodation allowance	In accordance with the maximum rates effective for tax purposes (higher accommodation expenses may also be reimbursed, if agreed with WINCOR NIXDORF in writing beforehand and upon submission of appropriate documents).

The Supplier shall, in each case, agree in advance with WINCOR NIXDORF on the details of travel, for example dates or the use of a car/rental car instead of rail or plane.

- 10.6 The Supplier shall select the most appropriate and inexpensive means of travel, taking time constraints into account. Should a rental car be used, the car category to be compensated shall be agreed with WINCOR NIXDORF.
- 10.7 The Supplier shall present WINCOR NIXDORF with invoices for amounts that are due and payable in which the travel expenses / accommodation expenses and value added tax are accounted for separately. Travel and accommodation expenses shall only be reimbursed if copies of travel invoices are enclosed with the expense invoice.
- 10.8 Travel times and per-diem expenses shall not be reimbursed, unless otherwise agreed.
- 10.9 In the event WINCOR NIXDORF should agree to pay a down payment exceeding EUR 25,000 (twenty-five thousand Euros), the Supplier shall furnish an adequate financial collateral (e.g. bank guarantee) to cover this amount. If no details for a collateral have been defined in the Order, the Supplier shall submit evidence of such a collateral immediately upon conclusion of the Order.
- 10.10 Invoices shall indicate the order reference and the numbers of every single item. Invoices shall not be payable until this information is provided. Copies of invoices shall be marked as such.
- 10.11 Unless otherwise agreed, payment shall be effected by choice of WINCOR NIXDORF either
- within 14 days less 3% discount, or
 - within 30 days less 2% discount, or
 - within 90 days net.
- 10.12 The term of payment begins from the date the delivery or service have been fully completed and a duly issued invoice is received. The discount shall apply even if WINCOR NIXDORF offsets payments against receivables or withholds payments in a reasonable amount due to defects found. The discount period shall be calculated from the date following correction of said defects.
- 10.13 Any payments made shall not imply acceptance of supplies or services hereunder.

11 Rights of use and exploitation

11.1 The results of the work performed on the subject matter of the Order, such as programs in any code form, documents created during development or planning, user documentation or maintenance documentation, hereinafter referred to as "results", shall become the sole property of WINCOR NIXDORF upon their creation, regardless of the state of processing they are in at any given time. The Supplier shall safeguard the results for WINCOR NIXDORF until they are delivered. WINCOR NIXDORF shall acquire the exclusive, transferable right, not restricted with regard to time or location, to use, edit, modify, translate, utilize in any way and for any purpose, rent and lease the results in any form and in any manner and to grant the rights of use to third parties at its own discretion. WN. shall also be entitled to have these rights exercised by third parties.

The Supplier shall be entitled to the joint use and any other utilization of its ideas, concepts, experience, tools, program development modules, technologies and techniques and appraisal reports that have been used in connection with the performance of the services. However, further utilization by the Supplier of results or parts of results for other developments or further developments shall require written consent from WINCOR NIXDORF.

11.2 Patentable developments or inventions that can be protected as a utility model and that are made by employees of the Supplier as part of the development work to be performed under the present agreement shall be claimed by the Supplier without restriction in accordance with the German Law on Employee Inventions. The Supplier shall offer WINCOR NIXDORF the opportunity to assume the rights to them free of charge without undue delay. The costs of the proceedings for assignment of the rights shall be borne by WINCOR NIXDORF. WINCOR NIXDORF shall also then refund to the Supplier the remuneration for the invention that has been paid by the Supplier to the employee-inventor in question and that has been determined in prior agreement with WINCOR NIXDORF.

11.3 WINCOR NIXDORF shall be entitled to file applications for proprietary rights to the inventions stated in section 11.2 within and outside the Federal Republic of Germany at its own discretion and at its own wish – but naming the inventor or co-inventor –, to prosecute them further and also to withdraw them at any time. Such applications for proprietary rights and proprietary rights shall belong to WINCOR NIXDORF.

If explanations or declarations from the Supplier are required for such applications for proprietary rights, the Supplier shall issue them.

If WINCOR NIXDORF assumes such inventions, WINCOR NIXDORF shall be exclusively entitled to the rights to use and exploit them and to any proprietary rights granted on them; however, the Supplier shall be granted a free and non-exclusive right to joint use of them.

11.4 If WINCOR NIXDORF does not intend to file an application for a proprietary right in Germany and abroad for the above-mentioned applications in its name and at its expense, the Supplier shall have the right, following a written declaration of release by WINCOR NIXDORF, to file applications for proprietary rights in the relevant countries in his own name and at his own expense.

In such a case, however, WINCOR NIXDORF shall be entitled to a free, non-exclusive right to use the proprietary rights in question, along with the right to grant sub-licenses.

11.5 If technical results that are achieved by the Supplier (including proprietary rights) and that have not been specifically developed or elaborated by the Supplier as part of the present agreement are exploited in the production and distribution of subject matters of the Agreement and their modifications by WINCOR NIXDORF, the Supplier shall grant WINCOR NIXDORF a non-exclusive right to use them for the production and distribution of subject matters of the Agreement, along with the right to grant sub-licenses.

The Supplier shall ensure that, if he enlists the services of third parties to perform the work as part of the present agreement in accordance with section 12, WINCOR NIXDORF shall receive the same rights to its inventions as stipulated for inventions of employees of the Supplier in sections 11.2 and 11.3 above.

11.6 Companies affiliated with WINCOR NIXDORF under law relating to groups shall obtain the same rights as WINCOR NIXDORF.

12 Assignments of subcontracts

The Supplier may commission freelance workers or other third parties with performing contractual services only upon the prior written consent of WINCOR NIXDORF.

If consent is granted by WINCOR NIXDORF, Supplier undertakes to comply with all applicable labour and social laws and shall especially draw the attention of freelance workers or other third parties to the obligations concerning confidentiality and data protection that are stipulated in Sections 14, 15 and the obligation to comply with the Supplier Code of Conduct according to Section 16, and he shall obligate them accordingly. WINCOR NIXDORF is entitled to require the Supplier to produce a corresponding statement of the freelance workers or other third party.

13 Intellectual Property Warranty and Indemnity

13.1 Supplier shall defend and indemnify WINCOR NIXDORF and its associated companies, suppliers, sub-contractors, customers and their respective successors and assigns (the "protected parties") against all claims and losses and shall compensate for all damages (including reasonable attorney's fees) resulting directly or indirectly from any infringement, or alleged infringement, of any third party intellectual property right, caused by using, producing, selling or sublicensing Supplier's products; subject to the following conditions:

- WINCOR NIXDORF must notify Supplier in writing without undue delay of any allegation of infringement against them or other protect parties;
- WINCOR NIXDORF must not make any admissions without Supplier's prior written consent; unless Supplier does not react within a reasonable time upon such requests by WINCOR NIXDORF;
- WINCOR NIXDORF must, at Supplier's request, allow Supplier to conduct and/or settle all negotiations and litigation and must give Supplier all reasonable assistance. The costs incurred or recovered in such negotiations and litigation will be paid or received by Sup-

plier.
13.2 If at any time any allegation of infringement of any third party Intellectual Property Rights is made or, in Supplier's opinion, is likely to be made, Supplier shall at its own expense and upon his choice:

- modify or replace such part of the product as it considers necessary so as to avoid the infringement. Any replacement must offer equivalent performance and not violate any third party Intellectual Property Rights; or
- procure the right for WINCOR NIXDORF to continue using the product.

13.3 If despite WINCOR NIXDORF having set a reasonable time limit for Supplier, and after lapse of said time the infringement is not eliminated, or if above rectification attempts fail, WINCOR NIXDORF shall, at its own discretion and notwithstanding further rights and claims, be entitled to:

- reasonably reduce the purchase price; or
- withdraw the respective Order and demand repayment of price or service fee whereas a reasonable sum shall be deducted for the previous use, taking into consideration the expected economic life-time of the software.

13.4 The Indemnity in this Clause 13 shall apply to Supplier unless Supplier can provide evidence that WINCOR NIXDORF or any other protected party is solely responsible for infringing upon the third party's Intellectual Property Rights (through unauthorised modification, combination with other products or services not reasonably foreseeable or similar).

14 Confidentiality

14.1 All information designated as being confidential by one Party in writing or orally, in particular documents, drawings, knowledge or other business and trade secrets, shall be treated with confidentiality by the respective other Party and used solely for the purpose of fulfillment of the Order. This confidentiality agreement shall not apply to information

- that has entered the public domain without the effort of the recipient Party or
- that was demonstrably known to the recipient when the information was disclosed or
- that the recipient has obtained from an authorized third Party or
- the disclosure of which is justifiably required by a public authority or
- that is based on knowledge acquired independently of information from the disclosing Party.

14.2 If the Supplier is provided with documents, software and/or programming code, information or other aids, such objects shall remain the exclusive property of WINCOR NIXDORF and may only be used for executing the underlying Order. The Supplier is not entitled to copy such objects, disseminate them to third parties or disclose their contents to unauthorized persons without the prior written consent of WINCOR NIXDORF. The documents, software and/or programming code, information and other aids provided by WINCOR NIXDORF or created by the Supplier, as well as any duplicates made thereof, shall be returned to WINCOR NIXDORF of the Supplier's own accord after the end of the work or after expiration of a subsequent maintenance obligation. Software copies that WINCOR NIXDORF has provided to the Supplier to permit it to complete its work shall be destroyed. WINCOR NIXDORF shall be entitled to a declaration of completeness to this effect.

14.3 The obligations pertaining to confidentiality shall remain in force for a period of three (3) years after the fulfillment and completion of the Order.

15 Data protection

15.1 To the extent the Supplier must process personal data during its work on the subject matter of the Order, the Supplier shall observe data protection laws, agree on measures for data backup and security with WINCOR NIXDORF, and enable WINCOR NIXDORF to obtain information regarding conformance with such arrangements.

15.2 The Supplier shall impose an obligation corresponding with Sections 14.1, 14.2 and 15.1 upon its employees and third parties who are involved in fulfilling the Order.

16 Supplier Code of Conduct

16.1 Supplier shall implement WINCOR NIXDORF's Supplier Code of Conduct and shall obligate his subcontractors accordingly. WINCOR NIXDORF shall make the Supplier Code of Conduct available on its website (www.wincor-nixdorf.com/suppliercoc). On request by WINCOR NIXDORF, Supplier will provide WINCOR NIXDORF with an official declaration by its management that Supplier fulfils all provisions of the Supplier Code of Conduct. Non-compliance with the Supplier Code of Conduct is considered a material breach of this Agreement, entitling WINCOR NIXDORF to terminate the Agreement, or – if the non-compliance affects a part of the service only, to terminate the respective Purchase Orders for cause.

16.2 If the Supplier is in breach of his obligations set forth in the Supplier Code of Conduct, the Supplier shall pay WINCOR NIXDORF a penalty amounting to

- 7 % of the gross amount invoiced (in case of a continuing obligation, of the yearly gross amount), if the breach is committed by an executive director or member of the board of the Supplier, or
- 5 % of the audited gross amount invoiced (in the case of a continuing obligation, of the yearly gross amount), if the breach is committed by an authorised signatory or authorised representative, or
- 2 % of the audited gross amount invoiced (in case of a continuing obligation, of the yearly gross amount), if the breach is committed by other employees of the Supplier or by sub-contractors,

but in no case shall the penalty be less than € 5000.

16.3 This contractual penalty shall not affect the rights of WINCOR NIXDORF to claim damages for breach of a contractual obligation. However, if a contractual penalty is incurred according to this section 16, it shall be set off against any such claims for damages. A penalty in accordance with the provisions of this section 16 can be imposed separately to other contractual penalties. The claim can be raised at any time up until final payment.

16.4 A penalty in accordance with the provisions of this section shall be inapplicable if the breach of the Supplier Code of Conduct is committed by a sub-contractor of the Supplier, and if the choice of this sub-contractor was made obligatory by WINCOR NIXDORF, and if the Supplier or his employees, board members, executive directors or other third parties working under his instruction did not themselves participate in committing this breach.

17 Liability

Supplier shall be liable to WINCOR NIXDORF only in accordance with the provisions set forth in this Agreement

- 17.1 Unless a certain arrangement on liability has been agreed in an Individual Agreement, Supplier shall be liable for personal damages (injury to life, body or health) up to an unrestricted amount, and for direct damages regarding property up to an amount of one (1) million EUR for each case of damage. However, the above limitation of liability shall not apply in cases of intent and gross negligence, for breach of a guarantee within the meaning of "Garantie", for fraudulent intent and in the application of Section 13. For financial damage or losses, the Supplier is liable as set forth in the statutory provisions.
- 17.2 The Supplier shall not be liable to WINCOR NIXDORF for damages, which are attributable to force majeure, i.e. unpredictable, inevitable events.
- 17.3 Liability under product liability law that that has been caused by the Supplier shall remain unaffected by the above provisions. Supplier will indemnify WINCOR NIXDORF and the protected contractual partners from these claims without limitation.
- 17.4 Unless expressly agreed otherwise in the contract, claims shall become statute-barred according to the applicable law(s).

18 Final provisions

- 18.1 Modifications and amendments to the present Terms and Conditions shall not be valid unless made in writing and signed by both Parties. This shall also apply to a rescission of the present provision.

18.2 Any provision of the present Terms and Conditions that is found to be invalid, voidable, unenforceable or contrary to law shall be disregarded in the performance or interpretation of these Terms and Conditions; the rest of the Terms and Conditions shall, however, remain in effect. The provision in question shall be replaced by a valid and enforceable provision that most closely reflects the intent and purpose of the Parties as far as is legally permissible.

18.3 Terms and Conditions other than those in the present Master Agreement shall only be valid if they have been expressly acknowledged in writing by both Parties to the Agreement and have been signed by the persons authorized by the Parties. In particular, they shall not obligate WINCOR NIXDORF without its express written acknowledgment even if they are stated in the order confirmation or order acceptance of the Supplier. The same shall apply if WINCOR NIXDORF accepts or pays for the ordered products in full or in part.

18.4 The Supplier may assign accounts receivable for WINCOR NIXDORF only if WINCOR NIXDORF consents thereto in writing. WINCOR NIXDORF shall withhold its consent to an assignment for financing purposes only for good cause.

18.5 In the event and to the extent of any conflict or inconsistency between the provisions in the main body of this Agreement and any provisions in the Appendices, this Agreement will prevail over the Appendices unless it is expressly stated otherwise in either the respective Clause in the Appendix and/or the respective Clause in this Agreement.

19 Venue, applicable law

19.1 The contractual relations shall be governed by the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) from April 11, 1980 shall not apply.

19.2 The place of jurisdiction for any legal disputes shall be Paderborn, the Federal Republic of Germany. If WINCOR NIXDORF is the plaintiff, WINCOR NIXDORF may also appeal to the court having jurisdiction for the seat of the Supplier.