

# **General Terms and Conditions for Delivery of Goods and Services by Siebel Elektronik GmbH**

Öhlchen 4, 57223 Kreuztal/Germany

## **1. General Terms and Conditions**

### **1.1.**

All legal relations, including information and consulting, between Siebel Elektronik GmbH (hereinafter referred to as Siebel Elektronik) and the customer in connection with deliveries of goods or design services (deliveries and services) shall be solely governed by the present GTC. Contrary terms and conditions, as far as they are not stipulated in the entire purchase order, are not applicable. They are also not applicable if the customer's GTC provide that these terms and conditions are applicable to govern the legal relationship, unless Siebel Elektronik has expressly disclaimed the application of its own GTC in written form. On receipt and acceptance of an order confirmation the customer disclaims all legal objections governed by his own terms and conditions.

### **1.2.**

Quotations of Siebel Elektronik are always subject to change and are not binding. This includes also verbal side agreements, in particular verbal declarations. On receipt of the order confirmation submitted by Siebel Elektronik the contract becomes effective.

### **1.3.**

All documents, in particular data sheets or drawings, submitted by Siebel Elektronik prior to conclusion of contract, are only binding after prior written agreement. Siebel Elektronik reserves all intellectual and industrial property rights and/or copyrights pertaining to all documents submitted to the customer. These documents shall not be made accessible to third parties without prior written consent.

### **1.4.**

Siebel Elektronik reserves the right to modify at any time its components or data sheets on a technical or formal basis. Such modifications do not apply to transacted deliveries or services.

## **2. Delivery Dates, Partial Shipments / Force Majeure / Delays of Siebel Elektronik**

### **2.1.**

Delivery dates shall only be binding if they were agreed as binding, expressly in writing.

### **2.2.**

Siebel Elektronik reserves the right to fulfill at any time its deliveries or services as partial shipments.

### **2.3.**

If non-observance of delivery dates or times is due to cases of force majeure or circumstances which significantly impair or render deliveries impossible for Siebel Elektronik or its suppliers, in particular strike, Siebel Elektronik reserves the right to set new delivery dates or times within a reasonable period.

### **2.4.**

If those circumstances which lead to non-observance of delivery dates or times last longer than three months, the customer has the right to withdraw from that part of the

contract which had not yet been fulfilled. Claims for damage for that part of the unfulfilled contract are excluded. The above does not apply in cases of fraudulent concealment, intent or gross negligence, personal injury or harm to life or health.

### **2.5.**

Should Siebel Elektronik be in default on delivery for which it is responsible and should the period of grace granted by the customer of at least 14 days – unless inappropriate – has elapsed in vain, the customer may claim compensation for the justified damage or default amounting to max. 0,5 percent for every full week of delay which may not exceed 5 percent of the invoice amount of the deliveries or services affected by the delay. Any further claims are excluded in all cases of delayed delivery. The above does not apply in cases of fraudulent concealment, intent or gross negligence, personal injury or harm to life or health.

## **3. Transfer of Risk**

### **3.1.**

Unless otherwise agreed, the risk shall be transferred to the customer on delivery FCA Kreuztal/Germany (according to Incoterms 2010).

## **4. Retention of title**

### **4.1.**

Delivered goods and services remain the sole property of Siebel Elektronik until the complete receipt of full contractually stipulated payment (retained goods). The customer is obliged to respect the property of Siebel Elektronik and guarantees integrity of goods and services.

### **4.2.**

In case of seizures by third parties of the goods or services which are retained goods, in particular in the case of pledges, the customer shall notify that this is the property of Siebel Elektronik and inform him without delay. The customer shall be liable to Siebel Elektronik for all resulting costs.

## **5. Complaint / Warranty Period / Warranty**

### **5.1.**

Any recognizable material defects shall be subject to a prompt and written notification given by the customer, however, not later than 30 days from receipt of the goods. After discovery, any concealed defects are to be subject to a prompt notification, however, within the warranty period, as defined in article 5.2.. Any claims notified by the customer after expiry of these deadlines are excluded. The above does not apply in cases of fraudulent concealment, intent or gross negligence, personal injury or harm to life or health.

### **5.2.**

Warranty period for products and services shall be 12 months starting from the date of delivery of the goods or services. Warranty claims are excluded if the customer or third parties are responsible for improper use, modification, incorrect maintenance or repair. Warranty claims are also excluded in case of damage occurred at the customer's or third parties' premises which is proven not to be caused by defective material, incorrect workmanship or improper performance or if the customer does not allow Siebel Elektronik to remedy a defect. The above does not apply in cases of fraudulent concealment of this defect, non-observance of an accepted warranty, intent or gross negligence, personal injury or harm to life or health.

### **5.3.**

After immediate notification of defective goods or services, Siebel Elektronik reserves the right to request the customer to return all defective goods to Siebel Elektronik at the customer's expense. After failure evaluation and subsequent repair performed at the costs of Siebel Elektronik, the return shipment of the repaired goods or replacement goods shall be carried out at the discretion of Siebel Elektronik.

### **5.4.**

In the case of a repair the initial warranty period shall not be extendable.

### **5.5.**

The customer may withdraw from the contract if it is impossible for Siebel Elektronik to deliver the goods or services prior to transfer of risk or in case of delay in delivery. The same applies if the additional period of grace granted by the customer has also expired in vain, for which Siebel Elektronik is responsible or if the subsequent correction remains unsuccessful, unless the defect is insignificant. In the above mentioned cases the customer may also make use of the legal right to reduce the price.

### **5.6.**

If delivery or service is impossible for Siebel Elektronik, and this is owing to the customer's responsibility, in particular due to unfeasible requirements imposed by the customer during performance, Siebel Elektronik may in turn withdraw from the contract, provided that an additional grace period granted to the customer has expired in vain. All costs incurred for Siebel Elektronik until the date of written notice of withdrawal shall be reimbursed by the customer. Claims for damages on the part of the customer due to a withdrawal by Siebel Elektronik are excluded. This does not apply to cases of intent or gross negligence, personal injury or harm to life or health.

### **5.7.**

Only the direct customer shall be entitled to warranty claims against Siebel Elektronik, such claims are not assignable.

## **6. Liability**

### **6.1.**

Claims for damages or expenses of the customer against Siebel Elektronik, whatever is the legal basis, are excluded. This exclusion of liability shall not be applied if the German Product Liability Law is applicable, in cases of intent or gross negligence by Siebel Elektronik or its representatives or persons whom Siebel Elektronik uses to perform its obligations, or in cases of personal injury or harm to life or health or if fundamental contractual obligations have been culpably violated. In the latter case Siebel Elektronik shall only be liable for contract-typical, reasonably foreseeable damage.

### **6.2.**

All claims for damages or expenses of the customer shall expire in 12 months from the beginning of the statutory limitation period.

### **6.3.**

Liability of Siebel Elektronik shall expire in the event of modifications made to the delivered goods by the customer or third parties, (as defined in article 5.2).

## **7. Prices / Payment / Customer's Delay**

### **7.1.**

Unless otherwise agreed, pricing term is FCA Kreuztal in accordance with the international commercial terms (Incoterms 2010).

### **7.2.**

Except for individual agreements, regular customers shall pay the invoices of Siebel Elektronik within 30 days from date of invoice, net. In case of a first delivery, or if the customer was in default of payment in the past, payments shall be made in advance.

### **7.3.**

The obligation to pay shall only be considered fulfilled as soon as the invoiced amount is freely available to Siebel Elektronik.

### **7.4.**

In case of non-payment with regard to the expiry of the due date (defined in article 7.2) the customer is placed in default without any further request for payment. Starting from the date of notice of default, 9 % interest above the basis interest rate of the European Central Bank shall be charged. During the period of non-payment or if Siebel Elektronik fears a default with regard to the payment obligation by the customer, Siebel Elektronik reserves the right to suspend further deliveries of goods to the customer. In case of expiration in vain of the additional deadline set by Siebel Elektronik, the latter is entitled to withdraw from the contract or to claim compensation for damages, in particular with regard to the lost profits incurred.

### **7.5.**

The customer may only set off those claims which are undisputed and have been legally established.

## **8. Design Services**

Design services shall only be performed in connection with delivery of goods by Siebel Elektronik. It is not allowed to use these design services independently without prior written consent by Siebel Elektronik, liability for damages resulting therefrom are excluded. This applies to damages at the customer's or third parties' premises, in particular at the customer's purchasers' premises. The above does not apply in cases of intent or gross negligence, personal injury or harm to life or health.

## **9. Applicable Law / Legal Venue / Severability Clause**

### **9.1.**

All terms and obligations contained herein and in connection herewith shall be exclusively governed in accordance with the laws of the Federal Republic of Germany, with the exclusion of the United Nation's Convention on Contracts for the International Sale of Goods (CISG) and the conflict-of-law rules.

### **9.2.**

Legal venue is Siegen/Germany.

### **9.3.**

The legal invalidity of one or more provisions of this contract affects in no way the validity of the remaining provisions. This shall not apply if it would be unreasonably onerous for one of the parties to be obligated to continue the contract.