

General Terms and Conditions of Business

of the companies of **Elements Group**, including **elements.at New Media Solutions GmbH, Punkt & Komma GmbH** and **Pimcore GmbH**, hereinafter referred to as **ELEMENTS**.

1. Scope of application

1.1 Contractual bases. These General Terms and Conditions of Business shall only apply to transactions with entrepreneurs.

ELEMENTS shall conclude its contracts and provide its services only on the basis of its written offers as well as the respective valid version of any descriptions of goods or services (e.g. individual specification sheets or general product folders), price lists as well as these General Terms and Conditions of Business.

The description of goods or services, price lists and General Terms and Conditions of Business shall apply, to the extent they are not project-specific (e.g. individual specification sheet) to all legal relationships between ELEMENTS and the customer and therefore automatically underlie all further contract conclusions between ELEMENTS and the respective customer in the respective valid version as of first contract conclusion, even if such price lists, product descriptions and General Terms and Conditions of Business are not explicitly referred to.

1.2. Future changes. Changes to the descriptions of goods or services, price lists and General Terms and Conditions of Business of ELEMENTS shall be communicated to the customer in writing and are deemed agreed upon if the customer does not object thereto in writing within four weeks.

As of validity of the new agreement, the changes to the General Terms and Conditions of Business shall also apply to all other current contracts.

1.3. Additional agreements. All forms of additional agreements, both before contract conclusion and during the contractual term, shall be in writing in order to be valid. This shall also apply if such written-form requirement is to be waived.

1.4. Contractual components of the customer. Any customer requirements concerning the service contents, e.g. specifications, shall, even if ELEMENTS is aware thereof, become contractual components only if they are integrated into the offer by ELEMENTS or explicitly accepted by ELEMENTS, e.g. by reference to such requirements.

Any elements with legal elements provided by the customer, such as General Terms and Conditions of Business or contractual clauses, shall, even if ELEMENTS is aware thereof, become valid only if ELEMENTS accepts such legal texts with an additional notice explicitly referring thereto (such as, e.g. "GTCB accepted"). Otherwise, ELEMENTS expressly objects to integration of elements with legal effect such as General Terms and Conditions of Business or contractual clauses of the customer.

More acceptance of the customer's requirements regarding the service contents by ELEMENTS shall therefore not represent any acceptance of legal texts of the customer, even if such requirements contain elements with legal effect (such as, e.g. "Our GTCB apply.>").

1.5. Course of action in the event of inconsistencies. In the event of inconsistencies between the offer, any descriptions of goods or services (project-specific documents, general documents), any price lists and the General Terms and Conditions of Business of ELEMENTS, they shall apply in the order set forth. The more individual components shall therefore automatically change the more general components of the contract.

In the event of inconsistencies between contractual elements of ELEMENTS and contractual elements of the customer, all contractual elements of ELEMENTS shall take precedence.

1.6. Course of action in the event of invalidity. If individual provisions of the contract are invalid or unenforceable, the invalid provision shall be replaced by a valid provision which comes closest to the commercial intent and purpose of the invalid provision.

2. Contract conclusion and term

2.1. Offer by ELEMENTS. The respective offer by ELEMENTS to the customer shall form the basis of contract conclusion. The offers by ELEMENTS shall be subject to alteration and non-binding.

If the customer places an order, the customer shall be bound thereby for two weeks as of receipt thereof by ELEMENTS.

2.2. Offer by customer. If the customer, on an exceptional basis and without solicitation, i.e. without prior offer by ELEMENTS (e.g. in the event of additional orders in ongoing business relationships) places an order with ELEMENTS, the customer shall also be bound thereby for two weeks as of receipt thereof by ELEMENTS.

2.3. Acceptance by ELEMENTS. Therefore, the contract shall always be established only upon acceptance of the offer by ELEMENTS by proper corporate signature.

In principle, acceptance shall be in writing, e.g. by order confirmation, unless ELEMENTS shows that ELEMENTS accepts the offer, e.g. by commencement of activities obvious from the customer's perspective. Mere confirmation of receipt of the order, e.g. in the form of confirmation of receipt by an online shop, shall not represent order acceptance.

2.4. Contractual term. Contracts with an unlimited term may be terminated observing any minimum contractual term and complying with a notice period of three months before the end of a calendar half-year.

3. Scope of service, order execution and customer's duty of cooperation

3.1. Place of performance. The registered office of ELEMENTS shall be the place of performance.

3.2. Scope of services. The scope of the services to be provided is set forth in the written service description of ELEMENTS resulting from all contractual components. Any other information from other sources (e.g. presentation documents, websites or catalogues) not included in the offer shall not form part of the service description.

The customer shall be obliged to check the service description for compliance with his requirements and for completeness. After placing the order, changes to the service description shall only be possible by mutual agreement and can particularly result in changes to prices, deadlines and dates.

3.3. Professional services. To the extent the written service description does not provide otherwise, ELEMENTS shall owe professional services in accordance with the generally recognised rules of technology. Within the scope of written service description, ELEMENTS shall have freedom of design for performance of the service to the extent there are several options of proper performance.

3.4. Interchangeable services. To the extent this is in compliance with the aims of the order, ELEMENTS shall be entitled to deviate from the service description and to replace services by other, equivalent services.

3.5. External services. ELEMENTS shall be entitled to perform the services itself or to use professional third parties for performance of the services (external services).

3.6. Agreed external services. Should performance of a service be agreed with the customer as external service (agreed external service), ELEMENTS shall be entitled to order the external service in its own name or in the name of the customer as well as for its own account or on the account of the customer, at ELEMENTS' own option. Regardless of the form of ordering chosen, the respective contractors shall not be vicarious agents of ELEMENTS if external services have been agreed upon. Therefore, ELEMENTS shall only be liable for fault in selecting such third party (*culpa in eligendo*). If the third party is involved at the suggestion of the customer, ELEMENTS shall not be held liable for such third party at all.

To the extent no special service descriptions or contractual contents have been agreed upon between ELEMENTS and the customer for external services, the service description of the third party shall be valid for the customer in case of engagement of the third party on behalf of ELEMENTS; if the third party is engaged on behalf of the customer, the entire contents of the contract of the third party shall be valid for the customer.

ELEMENTS shall not be obliged to examine the contractual conditions of third parties who perform agreed external services. This shall be the customer's responsibility.

The customer is aware that a lot of external services can only be used at standardised conditions which cannot be influenced, are frequently subject to foreign laws and jurisdiction and may be subject to unforeseeable and inevitable changes.

ELEMENTS shall solely check the service performance for suitability. If the third party is involved at the customer's suggestion, the customer shall examine the service description himself.

To the extent the term of agreed external services exceeds the term of the contract between ELEMENTS and the customer as agreed, the customer shall step in for external services ordered in the name or for account of ELEMENTS after the end of the contract between ELEMENTS and the customer. This shall particularly apply in case of termination of the contract for good reason.

3.7. Divisible services. In the case of divisible services, ELEMENTS shall be entitled to perform partial deliveries.

3.8. Forfeiture. The customer shall pick up any services ordered from ELEMENTS or provided to ELEMENTS for processing according to deadline. If collection does not take place in a timely manner, ELEMENTS shall be entitled to dispose of the services after three months, at the customer's expense.

3.9. Dates and periods. Any dates or periods for delivery of services or goods as stated by ELEMENTS shall be non-binding, unless they are explicitly marked as binding.

3.10. Unforeseeable or inevitable events. Unforeseeable or inevitable events – in particular the customer's default in performing his obligations as well as delays of ELEMENTS or its contractors unforeseeable and inevitable to ELEMENTS – shall extend periods and/or postpone dates by the duration of the unforeseeable and inevitable event plus the duration of the organisational measures required in such case. ELEMENTS shall inform the customer thereof in writing.

3.11. Customer's duties of cooperation. The customer shall immediately, without request, communicate to ELEMENTS any information in editable form in writing and provide to ELEMENTS any services as required for performance of the services by ELEMENTS. This shall particularly include appointment of a contact person for project coordination, the provision of documents, materials and systems, coordination for order details and acceptance (approval) of partial services and services.

If the fact that the customer needs to provide information or services becomes known only during performance of the services by ELEMENTS, the customer shall immediately provide the required services and/or information.

The customer himself shall check the information and services provided by him for suitability, accuracy and legality thereof.

The customer shall be held liable for any damage arising from defective, delayed or failed cooperation of the customer and, in particular, for any additional expenses incurred by ELEMENTS in such context. To the extent ELEMENTS cannot perform the services according to agreement due to defective, delayed or failed cooperation of the customer, ELEMENTS shall be, irrespective of other rights, also be entitled to interrupt performance of the services, to squeeze in other services for other customers and to continue the services for the customer only after completion of such services to the extent the customer has fulfilled his duties of cooperation in the meantime; in such case, all deadlines and periods are postponed.

If third parties assert a claim against ELEMENTS due to an infringement of rights in connection with information or services provided by the customer, the customer shall indemnify ELEMENTS and support it in the defence against any third-party claims.

3.12. Interventions by the customer. If the customer independently intervenes in the services of ELEMENTS and makes changes contrary to agreement, he shall be held liable for the additional expenses for ELEMENTS arising therefrom, e.g. in connection with review, documentation, determination of defects, allocation of defects, removal of defects.

3.13. Examination obligations of ELEMENTS. ELEMENTS shall only ensure that the services created by ELEMENTS

as such are not unlawful (e.g. using a copyrighted work without the approval of the copyright holder).

However, ELEMENTS shall not be obliged to perform legal examinations of the services created by ELEMENTS for any violation of rights of third parties or any rights infringements which arise due to the type of use planned by the customer (e.g. use of a graphic as logo). The customer shall perform such legal checks, in particular with regards to administrative, criminal, competition, brand, trademark, design protection, copyright, personality and data protection legislation, himself or shall have them performed by a legal expert with corresponding qualification.

To the extent ELEMENTS indicates the necessity to perform an additional legal examination of services also regarding other rights or other risks before order placement or during order execution after becoming aware of the new order detail, the liability for performance of such legal examination regarding other rights or acceptance of such risks shall pass to the customer in the event that information or examination obligations existed for ELEMENTS. Thus, the service of ELEMENTS is deemed performed properly and in accordance with the agreement.

3.14. Rights to the services. In principle, ELEMENTS or its licensors shall be entitled to all rights in the agreed services. The customer shall be entitled to use the services after full payment of the agreed remuneration in the scope agreed with ELEMENTS or pre-defined by the licensors.

In case such scope was not agreed, it shall cover the non-exclusive use for the customer's own use within the company of the customer, excluding any right to sublicensing or handover to third parties (or affiliated companies), the right to editing being restricted to the statutory minimum extent.

The customer is aware that the services by ELEMENTS are often based upon works or services of third parties at very different licencing terms. The customer shall comply with such licencing terms of services or works of third parties which are a component of the services or works by ELEMENTS.

3.15. Right to the end product. The customer shall only be entitled to use of the service in the agreed form as end product, however, not to receipt of the bases, working aids, interim results etc. required for creation of the services. To the extent not agreed, ELEMENTS shall not be obliged to store such bases, working aids, interim results etc. after completion of its activities.

3.16. Reference. ELEMENTS shall be entitled to make reference to ELEMENTS and, if applicable, any other originator, in all services rendered by ELEMENTS for the customer and to use, under the reservation of withdrawal in writing at any time, in ELEMENTS' own advertising materials data such as name and logo of the customer, project description, project illustrations and the like as reference or as indication of the business relationship to the customer without the customer being entitled to remuneration.

4. Special types of performance

4.1. Contents such as texts, photographs & graphics. To the extent the services of ELEMENTS include preparation of contents such as texts, photographs and graphics, the offer shall only apply to one draft as well as to minor changes. If the customer is not satisfied with the draft in spite of professional performance according to the order preparation of further drafts shall be subject to charges.

To the extent the customer provides such contents, this shall be in digital quality suitable for further editing.

4.2. Domain registration. To the extent the services of ELEMENTS include registration of domains in the customer's name, such registration shall be subject to the conditions of the respective provider / registrar. For registration of domains for the customer, ELEMENTS shall only be obliged to take reasonable efforts regarding registration, however, not to ensure successful registration, as this depends on several factors which cannot be influenced by ELEMENTS.

4.3. Hosting. To the extent the services of ELEMENTS include hosting of programs or data, ELEMENTS shall not be obliged to ensure specific reliability or data security to the extent no reliability or data security levels are agreed upon on an individual basis.

Uptime of 99% referring to the contractual year is aimed at.

4.4. Search engine optimisation. To the extent the services of ELEMENTS include services in the field of search engine optimisation, ELEMENTS shall only be obliged to perform professional execution suited to achieve the agreed goals but shall not be responsible for reaching specific goals.

4.5. Availability. Providers whose services are needed for contract performance often have their own terms regarding the decision whether and in which manner their services can be used. ELEMENTS shall only be obliged to perform professional execution but shall not be responsible for any negative consequences of unforeseeable individual decisions of such providers.

4.6. Service and maintenance. To the extent no service or maintenance activities were agreed upon, they shall not be included in the scope. To the extent the services of ELEMENTS do not contain service and maintenance activities, ELEMENTS shall not be subject to any specific response time, unless particular response times have been agreed upon on an individual basis.

4.7. Data backup. The customer shall be responsible for backup and security of his data, in particular before installation activities, maintenance activities or other activities performed by ELEMENTS.

4.8. Remote monitoring. To the extent ELEMENTS uses systems for remote monitoring of the functional capacity of the systems of the customer without charging costs for such service, ELEMENTS shall not be responsible for monitoring of the functional capacity of such systems.

4.9. Integration of third-party components and services. To the extent the services of ELEMENTS include integration of third-party components and services, ELEMENTS shall only be obliged to execute performance in the scope as defined in the offer. Any subsequent changes shall no form part of the agreed scope of services but will be separately offered, ordered and invoiced.

4.10. App programming. To the extent the services of ELEMENTS include programming of applications, ELEMENTS shall only be obliged to perform execution based upon the rules of the app stores known at the point in time of the offer or any changes to the rules of the app stores already stipulated at the point in time of the offer for the point in time of completion. Any subsequent changes shall not be part of the agreed scope of service but will be separately offered, ordered and invoiced.

4.11. App platform compatibility: To the extent the services of ELEMENTS include development of apps for platforms, in the case of a native app for a certain platform, compatibility with the two most common versions of such platform at the point in time of the offer will be intended if this is possible due to the technology used; in the case of a non-native app, compatibility with the two most common platforms at the point in time of the offer, again with the two most common versions, will be intended.

4.12. Cross-browser compatibility. To the extent the services of ELEMENTS include creation of web applications, compatibility with those web browser versions will be intended, to the extent this is possible due to the technology used, which have a market share of at least 5% upon commencement of order performance.

4.13. Use of external platforms. To the extent the services of ELEMENTS include use of third-party platforms, ELEMENTS shall only be obliged to perform professional execution suited for achievement of the agreed objectives but shall not be responsible for achievement of certain objectives as many platforms frequently perform random restrictions of the possibilities of use.

4.14. Printing. To the extent the services of ELEMENTS include preparation of printed items, the customer shall provide printing data which meet the requirements of ELEMENTS.

The customer shall accept deviations regarding colour and material due to technical reasons and in accordance with industry standards, unless specific requirements were agreed upon. If specific requirements were agreed upon, the additional costs necessary for implementing such requirements shall be compensated by the customer.

Excess and short deliveries of up to 5% shall be permissible for very simple works, of up to 10% for more difficult works and will be invoiced proportionately based on continued printing. If materials are provided, the limits of tolerance of the supplier industry shall be additionally taken into account.

For German orthography, the latest edition of the *Duden* [dictionary of the German language] ("new orthography") shall be relevant.

Proof copies shall only be provided to the customer if agreed upon.

However, ELEMENTS shall be entitled to provide proof copies without agreement.

5. Fees

5.1. Prices. All prices are ex place of business or office of ELEMENTS in EUR plus value-added tax in the statutory rate.

5.2. Price quotations. Price quotations of ELEMENTS shall be non-binding.

If it is foreseeable after a non-binding price quotation that the actual costs will exceed the price quoted in writing by more than 15%, ELEMENTS shall inform the customer of the higher costs in writing. The cost overrun is deemed approved by the customer if the customer does not object thereto in writing within one week after such notice, stating a more cost-effective alternative in writing together with such objection. In case of cost overrun up to 15%, no separate information shall be required. Such cost overrun is deemed approved by the customer from the outset.

5.3. Additional services. All services of ELEMENTS which are not explicitly covered by the agreed fees, in particular any additional services agreed subsequently, shall be remunerated separately.

5.4. Advance on costs. ELEMENTS shall be entitled to demand advances on costs to cover its own expenditures.

5.5. Partial services. ELEMENTS shall be entitled to account partial services.

5.6. Unjustified rescission. In case the customer rescinds from his order in whole or in part through no grossly negligent or intentional fault of ELEMENTS, ELEMENTS shall still be entitled to the agreed fees. In such case, ELEMENTS shall only have to take into account savings from purchases of goods and external services not effected. The same shall apply if ELEMENTS rescinds from the contract due to a reason in the customer's responsibility.

5.7. Price adjustment. For contracts with an unlimited term as well as contracts with automatic extension of the contractual term, ELEMENTS shall be entitled to perform a reasonable price adjustment on an annual basis taking into account factors such as inflation, consumer and producer price index, collective agreement conclusions, currency fluctuations as well as similar external factors which cannot be influenced by ELEMENTS.

Apart from that, ELEMENTS shall be entitled to perform reasonable price adjustments for individual services after conclusion of the contract if the costs of such services increase by more than 5% and if this cannot be influenced by ELEMENTS.

6. Payment

6.1. Maturity and payability. The invoices of ELEMENTS shall be due net cash without any deduction as of the invoice date and shall, in the case of online transactions, be payable upon ordering if no other payment terms were agreed upon, and, apart from that, within 14 days of receipt of the invoice. The handover or shipment of goods or performance of other services generally takes place after full payment only.

6.2. Retention of title. It is deemed agreed that the goods delivered by ELEMENTS shall be subject to retention of title in favour of ELEMENTS until full payment of the purchase price and any interest and costs related thereto by the customer.

In the event of default, ELEMENTS shall be entitled to assert its rights from such retention of title. For such case, the customer agrees to the goods being collected by ELEMENTS. Assertion of the right of retention by ELEMENTS shall not result in a rescission from the contract, unless ELEMENTS explicitly declares rescission from the contract.

In the event of resale of the goods by the customer, the customer shall assign to ELEMENTS his claim against the purchaser for collateral purposes. ELEMENTS shall be entitled to inform the purchaser of such assignment.

6.3. Prohibition on offsetting and withholding. Even in case of connected claims, the customer shall not be entitled to offset his own claims against claims of ELEMENTS, unless the customer's claim was accepted by ELEMENTS in writing or determined by a court.

Any right of withholding in favour of the customer shall be excluded.

6.4. Default in payment. In case of late payment, the statutory interest rates applicable among entrepreneurs, at least 9% p.a., shall be payable. The customer shall bear all costs and expenditures connected to collection of the claim, such as in particular collection expenses or other costs required for appropriate enforcement of rights.

6.5. Continued default in payment. After unsuccessful reminder of the customer, stipulating an extension period of at least 7 days, ELEMENTS may immediately declare due all services and partial services already performed in the course of other contracts entered into with the customer and temporarily suspend provision of services not paid yet until full payment of all outstanding remuneration claims. After fruitless expiry of another week, ELEMENTS shall be entitled to rescind from all contracts and to demand compensation for lost profits in addition to payment for the services already rendered. Thus, ELEMENTS shall also be entitled to suspend services already paid if suspension of the service results in savings. In such case, ELEMENTS shall be entitled to offset the savings against the outstanding claims. Regardless of such options, ELEMENTS can of course bring an action in court after expiry of the term of payment.

6.6. Payment by instalments. To the extent ELEMENTS and the customer enter into an instalment contract, it is deemed agreed that the entire amount owed becomes immediately payable even if only one instalment was not paid on time.

7. Data protection, secrecy & non-solicitation agreement

7.1. Data protection by ELEMENTS. The processing of personal data of the customer or his employees affected by ELEMENTS for the purpose of contract performance shall take place on the basis of voluntary consent of the customer (e.g. for special categories of personal data), the existing contractual relationship as well as statutory provisions. There shall be no obligation to provide the consent (e.g. for special categories of personal data) and to enter into the contract. However, failure to provide such consent or to enter into the contract would result in the consequence that the order cannot be accepted. There will be further processing of data by ELEMENTS in accordance with the purpose of contract performance for the purpose of direct marketing in forms not subject to consent such as addressed advertising by post.

Any further processing for the purpose of direct marketing in forms subject to consent such as sending adverts in electronic form or placement of personalised adverts shall take place only on the basis of an additional voluntary consent of the customer. There shall be no obligation to grant such consent. Failure to grant such consent would only lead to the consequence that the customer does not receive any advertising in forms subject to consent.

Any data shall be subject to the agreed and/or statutory confidentiality obligation and protection of personal data. Any disclosure of the customer's data shall, except for characteristic commercial recipients such as banks, tax consultants, lawyers, shipping providers etc., be made only in accordance with statutory provisions or in coordination with the customer.

The customer agrees to worldwide processing of his data, in particular for the purpose of remote access by ELEMENTS for the purpose of order-related processing activities, e.g. in cases of emergency during business travels of ELEMENTS.

The data of the customer shall be stored for no more than thirty years after completion of the order for the purpose of documentation and meeting legal requirements.

The customer shall be entitled to withdraw his consent at any time. In case of written granting of the consent, withdrawal can only be made in writing, in case of consent to the receipt of electronic advertising, this may be made by clicking on the unsubscribe button. In such case, processing shall cease to the extent there is no other legal basis. Lawfulness of the data processed before withdrawal shall not be affected by such withdrawal.

The customer shall be entitled to object to the processing of his personal data for the purpose of direct advertising.

In the event of objection, your personal data will not be processed for the purpose of direct advertising.

7.2. Data protection by the customer. The processing of personal data of ELEMENTS or its employees affected by the customer for the purpose of contract performance shall take place on the basis of the existing contractual relationship as well as statutory provisions.

There shall be no obligation to enter into the contract. However, failure to enter into the contract would result in the consequence that the order cannot be placed.

Any further processing of the data by the customer for other purposes shall not be permissible.

Any data shall be subject to the agreed and/or statutory confidentiality obligation and protection of personal data. Any disclosure of ELEMENTS' data shall, except for characteristic commercial recipients such as banks, tax consultants, lawyers, shipping providers etc., be made only in accordance with statutory provisions or with consent of ELEMENTS.

The customer shall be entitled to store the data of ELEMENTS for no more than thirty years after completion of the orders for the purpose of documentation and meeting legal obligations.

7.3. Rights of data subjects. ELEMENTS and the customer or their employees affected shall have the right to access, rectification and erasure of their personal data, right to restriction of data processing, right to data portability and the right to lodge a complaint with the data protection authority (*Österreichische Datenschutzbehörde* [Austrian Data Protection Authority], Wickenburggasse 8, 1080 Vienna, telephone: +43 1 531 15 – 202525, e-mail: dsb@dsb.gv.at).

7.4. Secrecy. The customer shall keep secret any information regarding ELEMENTS, their projects and other customers worth protecting and must not use them for himself. This agreement shall survive any termination of the contract. In the event of breach of this obligation, a contractual penalty of EUR 50,000.00 per breach shall be payable.

7.5. Non-solicitation agreement. The customer must not entice away or headhunt any other customers or employees of ELEMENTS. This agreement shall continue in effect for three years after any termination of the contract. In the event of breach of this obligation, a contractual penalty of EUR 50,000.00 per breach shall be payable.

8. Liability

8.1. Transfer of risk. When shipping goods, risk shall always be transferred to the customer as soon as ELEMENTS handed over the goods to the transportation company. Shipping of goods is generally not insured, unless the customer instructed ELEMENTS to insure the goods at the customer's expense.

8.2. Obligation to make complaints. Upon request for interim acceptance by ELEMENTS, after handover and commencement of actual operation, the customer shall accept ("release") in writing the services handed over or to be accepted or make a written complaint regarding any defects or damage no later than within 14 days.

In case of interim acceptance, ELEMENTS may continue working only after successful interim acceptance / "release". If the acceptance or complaint does not take place in a timely manner, the services are automatically deemed accepted by the customer.

Hidden defects or damage occurring only after 14 days but within applicable guarantee, warranty or indemnity periods shall also be reported by the customer within 14 days after detection.

The obligation to make complaints shall cover any defects or damage which the customer should detect exercising due diligence of a prudent businessman in the course of an appropriate inspection.

For interim acceptances, the inspection has to be equivalent to a final, detailed and particularly careful inspection due to the special importance of interim acceptances in order to prevent defects which would affect all further service steps. During handover, the inspection has to be equivalent to a first but still thorough inspection. Upon commencement of actual operation, the inspection has to be equivalent to a final, detailed and particularly careful inspection

due to the special importance of commencement of actual operation in order to prevent any damage during operation.

The customer's complaint shall describe the defect or damage in a detailed and comprehensible manner. For any defects or damage not occurring permanently, the exact times and framework conditions of occurrence of the defect or damage shall be set forth. The customer shall enable ELEMENTS to perform all measures required to inspect and remedy the defects or damage.

If the customer does not report the defects in a timely manner, assertion of the customer's guarantee and warranty claims and claims for damages as well as claims under other liability regulations, in particular recourse claims shall be excluded.

8.3. Guarantee. To the extent the products distributed by ELEMENTS are subject to a manufacturer guarantee, claims from such manufacturer guarantee shall be directly asserted against the manufacturers.

In the event of a guarantee by ELEMENTS, the time period for the assertion of the guarantee claim shall start running upon handover. The guarantee claim shall lapse six months after the customer becomes aware of occurrence of the guarantee claim, however, no later than upon expiry of the guarantee period.

If the guarantee assurance does not state the contents of the guarantee, ELEMENTS shall be liable for the features which are usually expected.

8.4. Warranty. The right to warranty and the right to warranty recourse shall be limited to six months after handover. For used goods, the right to warranty shall be fully excluded.

The customer shall be entitled to the right to rectification or replacement and/or, for insignificant defects, price reduction or, for material defects, right of exchange, at ELEMENTS' option.

By removal of the defect, the warranty period shall neither be extended nor renewed for the service part affected by the defect.

8.5. Error, *laesio enormis*. The right to contestation due to error and due to *laesio enormis* shall be excluded.

8.6. Damages and other claims. ELEMENTS has a third-party liability insurance in place. The terms and conditions of insurance shall form an integral part of these General Terms and Conditions of Business. Any supplementary insurance shall be possible upon request and at the expense of the customer, subject to the insurance company's approval.

The customer's claims for damages and claims based upon other liability regulations, in particular recourse claims, shall be generally excluded in the event of slight negligence. In case of gross negligence, they shall be limited to the order value, however, to the coverage arising from the terms and conditions of insurance at maximum. Apart from that, the above claims shall be limited to extremely gross negligence and intent. The customer's claims shall be forfeited six months after he becomes aware of the damage and the damaging party, however, no later than three years after the damage effect. Claims arising from personal injuries and other liability provisions which are fixed and cannot be altered shall not be covered by this liability exclusion.

8.7. Burden of proof. Reversal of the burden of proof to the detriment of ELEMENTS shall be excluded. The customer shall in particular prove the existence of the defect upon handover, the point in time of identification of the defect, timeliness of the complaint notice as well as the existence and the degree of fault.

8.8. Extension period. If the contract is not performed as agreed, the customer shall be entitled to assert claims only if he granted to ELEMENTS a reasonable extension period in writing which has to be at least fourteen days. This shall also apply to termination of the contract for good cause.

8.9. Withdrawal from contract. The customer shall declare withdrawal from contract in writing by registered letter.

9. Final provisions

9.1. Governing law. All legal relationships and matters between the customer and ELEMENTS shall be exclusively subject to Austrian law, excluding the international reference provisions. The provisions under UN sales law shall not apply.

9.2. Place of jurisdiction. The materially competent Austrian court in Salzburg is agreed as place of jurisdiction for all disputes between ELEMENTS and the customer. However, ELEMENTS shall also be entitled to bring an action at the general place of jurisdiction of ELEMENTS and of the customer.