

General Terms and Conditions (GTC) Trade of otris systems GmbH

1. Contractual terms

1.1 These GTC apply to both the sale and/or delivery of hardware and the sale/licensing of software by otris systems GmbH. Other terms and conditions shall not become part of the contract, even if we do not expressly object to them.

1.2 If specified in the offer, otris systems GmbH shall deliver software to the customer. This software is supplied by third parties and is neither programmed by otris systems GmbH itself nor customized to individual customer requirements, unless this is expressly stated in the offer. Installation of the software is only required if this is expressly included in the offer.

1.3 The General Terms and Conditions of otris systems GmbH apply to the provision of IT services and cloud services.

2. Conclusion of the contract

2.1 Offers made by otris systems GmbH are always subject to change.

2.2 The customer's order for hardware or software is considered a binding contractual offer. Unless otherwise stated in the order, otris systems GmbH is entitled to accept this contractual offer within four weeks of its receipt. After this period has expired, the customer's offer expires unless otris systems GmbH has expressly accepted this offer.

2.3 Acceptance can be declared either in writing (e.g., by order confirmation) or by delivering the hardware or providing the software to the customer.

3. Scope of delivery

3.1 The scope of delivery shall be determined by the information contained in the order confirmation and, if no order confirmation is available, by the information contained in the offers made by otris systems GmbH.

3.2 otris systems GmbH shall be entitled to make technical changes to the delivery item if this does not impair its technical function.

4. Place of performance, prices, and terms of payment

4.1 The place of performance for all hardware deliveries to be made by otris systems GmbH is its registered office in Oldenburg. Delivery is ex works in accordance with the current Incoterms. All transport and delivery costs shall be borne by the customer, unless expressly agreed otherwise.

4.2 The place of performance for all software deliveries to be made by otris systems GmbH is its registered office in Oldenburg.

4.3 Unless otherwise agreed in individual cases, the prices of otris systems GmbH valid at the time of conclusion of the contract shall apply, plus the applicable statutory value added tax.

4.4 The prices are valid for a period of four months. In the event of a longer delivery period for which otris systems GmbH is not responsible, the prices valid at that time shall apply if the procurement costs of otris systems have changed. otris systems GmbH shall notify the customer of this in writing.

4.5 If 4.4 results in a price increase of more than four percent, the customer may withdraw from the contract by written declaration within two weeks of receipt of the notification of this price increase.

4.6 The fees incurred are due for immediate payment without deduction upon invoicing. The invoice amount must be credited to the account of otris systems GmbH within 14 days of receipt of the invoice.

5. Delivery time, delay in delivery, and reservation of self-supply

5.1 The delivery time is the date specified in writing in the order confirmation. If the customer does not provide the documents or other services to be procured by them in a timely manner, or if they do not provide the information to be provided by them in a timely manner, the delivery time shall be extended accordingly by the period of time required by otris systems GmbH to provide the delivery and service after receipt of this information and/or documents.

5.2 The delivery time shall be deemed to have been met if, in the case of hardware, the delivery item has been made available for delivery and the customer has been notified that it is ready for shipment by the end of the delivery time, or, in the case of software, if it has been made available for download or the download link and access data have been communicated to the customer.

5.3 In the event of a delay in delivery, otris systems GmbH shall be liable for damages within the scope of the statutory provisions if the delay in delivery is due to an intentional or grossly negligent breach of duty for which it is responsible. The fault of its representatives or vicarious agents shall be attributed to it.

5.4 If the delay in delivery is not due to an intentional or grossly negligent breach of duty for which otris systems GmbH is responsible, its liability for damages shall be limited to the damage typically occurring and foreseeable at the time of conclusion of the contract.

5.5 The customer's other legal claims due to a delay in delivery by otris systems GmbH remain unaffected.

5.6 otris systems GmbH is entitled to make partial deliveries, provided this is reasonable for the customer.

5.7 If otris systems GmbH proves that, despite careful selection of the supplier and despite concluding the necessary contracts on reasonable terms, it is not supplied on time by the supplier, the delivery period shall be extended by the period of delay caused by the late delivery by the supplier. If delivery by the supplier is impossible, otris systems GmbH shall be entitled to withdraw from the contract.

6. Transfer of risk

6.1 The risk of accidental loss and accidental deterioration of the delivery item shall pass to the customer upon provision of the delivery item and corresponding notification to the customer.

6.2 If the goods are sent to the customer at the customer's request, the risk of accidental loss and accidental deterioration of the delivery item shall pass to the customer upon handover of the delivery item to the forwarding agent, carrier, shipping agent, or collector.

6.3 This shall also apply if the shipment is not made from the place of performance and/or if otris systems GmbH bears the freight costs and/or carries out the shipment itself in accordance with the agreement.

6.4 This shall not apply if and to the extent that it concerns a purchase of consumer goods within the meaning of §474 BGB (German Civil Code). In this case, the transfer of risk shall be governed by the statutory provisions of §475 BGB.

7. Default of acceptance

7.1 The customer shall be in default of acceptance with regard to the service to be provided by otris systems GmbH if the latter offers the service in writing or in fact on or after the due delivery date and the customer rejects the service and/or, despite an express request, does not confirm its willingness to accept the service within three days of receipt of the letter.

7.2 In all other respects, the statutory provisions on default of acceptance shall apply.

7.3 In the event of default of acceptance, the customer shall compensate otris systems GmbH for the damage incurred.

8. Retention of title

8.1 All delivered hardware and software shall remain the property of otris systems GmbH (reserved goods) until the respective payment claims against the customer have been fulfilled in full.

8.2 Unless otherwise specified below, the customer is not permitted to resell the reserved goods before the purchase price has been paid in full.

8.3 If it is part of the customer's normal business operations to resell delivery items to third parties, the customer hereby assigns to otris systems GmbH all claims in the amount of the invoice amount (including VAT) that accrue to the customer from the sale to its customers or third parties. The customer is authorized to collect these claims after their assignment. The authority of otris systems GmbH to collect the claims itself remains unaffected by this; however, otris systems GmbH undertakes not to collect the claim as long as the customer resells the delivery item in a justified manner and duly meets its payment obligations. If claims are collected by otris systems GmbH, they shall be offset against the purchase price and the surplus shall be paid to the customer.

8.4 If the customer defaults on payment for the goods subject to retention of title, or suspends payments, or if insolvency proceedings are opened against their assets or company, otris systems GmbH shall be entitled to

- revoke the authorization to sell or install the goods subject to retention of title
- demand the return of the goods subject to retention of title
- inform third-party debtors of the assignment, if applicable.

9. Right of set-off and retention

9.1. The customer may only offset claims of otris systems GmbH with undisputed or legally established claims.

9.2 The customer is only entitled to assert a right of retention on the basis of counterclaims arising from the same contractual relationship as those claims against which the right of retention is asserted.

10. Complaints / warranty / right of revocation and return

10.1 The customer must inspect the goods immediately upon receipt for completeness and any defects.

10.2 Defects that are obvious, so that they are noticeable even to a non-expert customer without special attention, must be reported to otris systems GmbH in writing within a period of 4 working days after delivery.

10.3 Non-obvious defects must be reported to otris systems GmbH in writing within four working days of their discovery.

10.4 The limitation period for asserting claims for defects is two years from delivery of the purchased item (§438 BGB), unless a case under §444 BGB applies.

10.5 In the case of a bilateral commercial transaction within the meaning of § 1 HGB (German Commercial Code), the provisions of §§ 377 ff HGB apply exclusively.

10.6 The customer shall have no warranty claims

- in the case of defects caused by improper handling or overuse by the customer or its customers
- if the delivery item was manufactured according to the customer's specifications and the defect in the delivery item is attributable to these specifications.

11. Manufacturer's warranty

If the manufacturer grants the buyer a voluntary warranty for the delivery item, the type and scope of the warranty services shall be governed exclusively by the content of the manufacturer's warranty. Only the manufacturer can be held liable under this warranty. The warranty obligation incumbent on otris systems GmbH as the seller in accordance with Section 9 remains unaffected by this.

12. Liability and limitations of liability

12.1 otris systems GmbH shall be liable in cases of intent and gross negligence in accordance with the statutory provisions. Liability for warranties shall be independent of fault. In cases of slight negligence, otris systems GmbH shall be liable exclusively in accordance with the provisions of the Product Liability Act for injury to life, limb, or health or for breach of essential contractual

obligations. However, claims for damages for the slightly negligent breach of essential contractual obligations are limited to typical, foreseeable damage, unless liability exists for injury to life, limb, or health. otris systems GmbH is liable to the same extent for the fault of vicarious agents and representatives.

12.2 The provision in the preceding paragraph extends to damages in addition to performance, damages in lieu of performance, and claims for compensation for futile expenses, regardless of the legal basis.

13. Copyright and rights of use

13.1 Software supplied by otris systems GmbH is protected by copyright and international agreements on the protection of intellectual property. All rights to the software and other documents and data provided in the course of contract initiation and execution are exclusively reserved to otris systems GmbH and its respective licensors.

13.2 The customer does not acquire any intellectual property rights to the software. The source code of the software is not part of the software provided.

13.3 otris systems GmbH grants the customer a non-exclusive, unlimited right to use the delivered software in the agreed hardware and software environment to the extent agreed upon or, in the absence of a specific agreement, to the extent that it corresponds to the purpose of the contract. This granting of rights shall only take effect once the customer has paid the remuneration owed in full.

13.4 If the customer violates the agreed rights of use so seriously that otris systems GmbH cannot reasonably be expected to continue to adhere to the contract, otris systems GmbH may terminate the agreement granting rights of use to the software for cause. If this occurs, the customer is obliged to surrender the software and any existing copies of the software and to delete any stored programs. At the request of otris systems GmbH, the customer is obliged to confirm the surrender and deletion in writing.

13.5 If claims are made against the customer due to the infringement of third-party property rights or for the cessation of further use of the delivery item, the customer must inform otris systems GmbH of this immediately.

14. Default of payment

14.1 In the event of default of payment, otris systems GmbH is entitled to charge default interest at the rate specified in §288 BGB (German Civil Code). If otris systems GmbH is able to prove that the damage caused by the default is higher, it is entitled to claim this damage. The customer is entitled to prove to otris systems GmbH that no damage or significantly less damage has been incurred as a result of the default in payment.

14.2 otris systems GmbH reserves the right to assert further legal claims.

15. Data protection

15.1 The customer is hereby informed in accordance with §33 (1) of the Federal Data Protection Act (BDSG) that otris systems GmbH processes personal data in machine-readable form and for tasks arising from the contract.

15.2 Insofar as otris systems GmbH uses third parties to provide the services offered, otris systems GmbH is entitled to disclose the participant data in compliance with the provisions of §28 BDSG. In addition, otris systems GmbH is entitled to do so in cases where the detection, limitation, and elimination of malfunctions and errors in the systems of otris systems GmbH and the systems of third parties used require the transmission of data.

15.3 otris systems GmbH declares that its employees have been bound to data secrecy in accordance with §5 BDSG and that otris systems GmbH has taken the technical and organizational measures required by §9 BDSG to ensure compliance with the provisions of the BDSG.

16. Severability clause and written form requirement

16.1 Should individual provisions of the General Terms and Conditions be invalid, the remaining provisions shall remain unaffected. The parties undertake to replace the invalid provisions in writing with provisions of equivalent economic value.

16.2 Subsidiary agreements to the contract concluded with reference to these General Terms and Conditions must be made in writing. Amendments and supplements to the contract must also be made in writing. This formal requirement can only be waived by agreement in writing.

17. Final provisions

17.1 Contracts concluded on the basis of these General Terms and Conditions are subject exclusively to the laws of the Federal Republic of Germany. Provisions of the international uniform sales law (UN Sales Convention) are excluded to the extent permissible.

17.2 For commercial customers, the registered office of otris systems GmbH shall be the place of jurisdiction for all disputes arising from this contractual relationship. This also applies to legal entities under public law or special funds under public law. However, otris systems GmbH is also entitled to bring legal action at the customer's place of residence.