

General Sales Terms and Conditions of charismathics GmbH for End Users

1. Applicability

These General Terms and Conditions apply to all offers, deliveries, services and contracts regarding the purchase the software, hardware, modules or other products (together "**Product**" or "**Products**") of charismathics GmbH ("**charismathics**") to the buyer, who is an end user ("**Customer**") Any and all terms and conditions of the Customer that are contradictory to these Terms and Conditions are explicitly excluded. In addition, the actual price lists may form an integral part of our agreement.

2. Payment

(1) All prices and remuneration are net prices and exclusive of VAT. Expenses for travel, lodging, and other costs, including consulting, support and maintenance costs will be charged by charismathics separately.

(2) The fees invoiced for Products, consulting services or support and maintenance are due and payable net within 30 days from the date of the invoice. From the due date interest in the amount of 8% above the respective base interest rate p. a. shall accrue (§ 288 (2) German Civil Code). All rights to claim further damages for delay are reserved.

(3) The Customer shall not be entitled to set off any of its claims against claims of charismathics or to avail itself of a right of retention except where the Customer's claim is not disputed by charismathics or has been confirmed by a court judgment.

3. Offers and Delivery

(1) All offers by charismathics are non-binding. An order by the Customer shall be deemed to be the contractual offer which is accepted by charismathics with delivery of the ordered Products or in writing.

(2) All Products shall be delivered ex works Munich (Incoterms 2000).

(3) All proposed delivery dates are non-binding, unless a delivery date has been explicitly agreed by charismathics in writing. If a Product is temporarily out of stock, charismathics will notify the Customer accordingly and propose a new delivery date. If the Customer requests an amendment to the order after placing the order, and such amendment renders meeting of the delivery date impossible, the delivery date shall automatically be postponed by a reasonable time. If charismathics is unable to deliver in due time because of disturbances in procurement, manufacturing, delivery or other events within its own control or the control of one of its subcontractors, the principles of law shall apply provided that the Customer shall allot an additional grace period of six weeks after the agreed delivery date.

(4) All orders by the Customer must be submitted in writing. charismathics reserves a period of two weeks to confirm orders.

(5) Due to the statistical yield values of a silicon wafer process and/or of large volume printing processes, Customer accepts to receive and to pay a higher number of smart card IC based devices that have been ordered by Customer, regardless of the form factor, in case such excess delivery volume does not exceed 10% of the original order volume. For that same reason, Customer also accepts a delivery volume of at least 90% of the ordered volume as a fulfillment of the order. In any case charismathics will use its best efforts to conduct all such orders with the best possible accuracy, matching the actual order volume as close as possible.

4. Retention of Title

(1) charismathics retains title to the Products until receipt of all payments in full. In case of breach of contract by the Customer including, without limitation, default in payment, charismathics is entitled to take possession of the Products.

(2) Until final payment of the Products, the Customer shall handle the Products with due care, and maintain suitable insurance for the Products.

5. Examination obligation

The Customer has to examine the Products without undue delay as soon as the Customer, or a third party on behalf of the Customer, receives the Products. The Customer has to notify charismathics in writing of any defects thereof without delay. The Products are deemed accepted if in case of a defect such notice is not given at the earlier of the elapse of the payment period (section 2 (2)), or of the processing of the Products by the Customer or by a third party on behalf of the Customer. In case of a hidden defect the Customer has to notify charismathics in writing as soon as the defect has been discovered. Otherwise the Products are deemed accepted.

6. Limited Warranty

(1) charismathics warrants that the Products are provided in material parts in accordance with the product description. There is no claim under this warranty in case of minor or immaterial deviations from the agreed or assumed characteristics or in case of slight impairment of use. Product descriptions shall not be deemed guaranteed unless a guarantee is given by charismathics in writing. The Customer acknowledges that according to the current state of technology it is not possible to create absolutely error-free software. All other warranties, including, but not limited to, implied warranties or warranty of fitness for a particular purpose, are excluded.

(2) If the Customer demands replacement performance because of a defect, charismathics has the right to choose between remedying of the defect and replacement delivery. If the defect is not cured within a reasonable time limit and the Customer has set charismathics a reasonable second time limit without success, or if a reasonable number of attempts to remedy or of replacement deliveries are unsuccessful, then the Customer may, subject to the statutory prerequisites, at its option withdraw from the agreement or reduce the price to an amount that is reasonable in light of the defect. The remedying of the defect by charismathics may also take place through the delivery or installation of a new software version or the delivery of a new hardware component as part of the Product. If a software defect does not or not substantially impair the functionality, then charismathics is entitled, to the exclusion of further warranty rights, to remedy the defect by delivering a new version or an upgrade or an update.

(3) Defects must be notified in writing with a comprehensible description of the error symptoms (e.g. specification of error messages), as far as possible evidenced by written recordings, hard copies or other documents demonstrating the defect. The notification of the defect should enable the reproduction of the error.

(4) The warranty is limited to 12 months and shall begin on the date of delivery of the Product.

(5) Amendments or additions to the Product which the Customer carries out itself or through third parties, shall cause charismathics' warranties to be cancelled, unless the Customer proves that the amendment or addition did not cause the defect. charismathics shall not be responsible for defects which are caused by improper use or improper operation, improper storage or the use of unsuitable means of operation by the Customer.

(6) If the Customer holds charismathics liable concerning warranty and if it turns out that there is no defect or that charismathics is not liable for the defect, charismathics shall have the right to charge its corresponding costs to the Customer.

(7) EXCEPT AS EXPRESSLY SET FORTH IN THESE TERMS AND CONDITIONS, CHARISMATHICS DOES NOT MAKE ANY WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES CONCERNING THE PRODUCT, PARTS THEREOF OR SOFTWARE OR ANY APPLICATION, OPERATION OR USE THEREOF, THE OUTPUT OR THE DATA GENERATED BY THE OPERATION OR USE THEREOF, OR ANY SUPPORT SERVICES RENDERED WITH RESPECT THERETO. CHARISMATHICS HEREBY EXCLUDES ALL IMPLIED WARRANTIES TO THE MAXIMUM EXTENT AUTHORIZED BY LAW, INCLUDING, SPECIFICALLY, ANY IMPLIED WARRANTY ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, OR OF MERCHANTABLE QUALITY, OR OF FITNESS FOR ANY PURPOSE, PARTICULAR, SPECIFIC OR OTHERWISE. NO WARRANTY EXISTS IF THE PRODUCTS HAVE BEEN ACCEPTED EXCEPT FOR HIDDEN DEFECTS THAT ARE NOTIFIED PROPERLY AND PROMPTLY IN ACCORDANCE WITH THESE GENERAL TERMS AND CONDITIONS.

7. Limitation of Liability

(1) charismathics shall be liable to the Customer only in accordance with the provisions set out in these Terms and Conditions.

(2) charismathics shall be liable for damages caused intentionally or with gross negligence by charismathics, its legal representatives or senior executives, and for losses caused intentionally by other assistants in performance (*Erfüllungsgehilfe*); in respect of gross negligence of other assistants in performance charismathics' liability shall be limited to the foreseeable damage. Liability for slight negligence is excluded. Irrespective of the limitation contained in this section, charismathics is liable for wrongful death and damages to body and health.

(3) ANY MORE EXTENSIVE LIABILITY, INCLUDING DIRECT, INDIRECT, CONSEQUENTIAL DAMAGES OR DAMAGES OF ANY KIND, OR FOR LOSS OF REVENUE OR PROFITS, LOSS OF BUSINESS, DAMAGE TO GOODWILL, LOSS OF INFORMATION OR DATA, OR OTHER FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE PRODUCT, INSTALLATION, MAINTENANCE, USE, PERFORMANCE, FAILURE, OR INTERRUPTION OF THE PRODUCTS OR PARTS, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE IS EXPRESSLY EXCLUDED. A LIABILITY ARISING OUT OF MANDATORY APPLICABLE LAW REMAINS UNAFFECTED.

8. Confidentiality

The Customer shall treat all trade secrets and all other confidential information received from charismathics in the course of the business relationship as confidential and not to pass on confidential information to third parties or to utilize it in any way other than allowed in accordance with these Terms and Conditions. The obligation of confidentiality does not apply to information which is or becomes publicly available through no fault of the receiving party or which was provably known to the receiving party prior to its disclosure. In addition it does not apply to confidential information which is required by mandatory law, or court order, to be disclosed.

9. Force Majeure

charismathics shall not be liable for any failure to comply with its obligations related to any circumstances beyond charismathics reasonable control including, but not

limited to, strikes or other labor conflicts, shortage of production resources, unavailability of transportation facilities, fire and explosions, acts of God, war and which prevent or restrict charismathics from complying with its obligations. charismathics may, where reasonable, and without liability, suspend or terminate all or some of its obligations under a contract if our ability to fulfill such obligation is materially impaired.

10. Export Restrictions

The Customer acknowledges that the Products, parts thereof, including Bundled Products (“**Restricted Products**”) may be subject to U.S. and EU export jurisdiction. The Customer agrees to comply with all applicable international and national laws with respect to export restrictions, including the U.S. Export Administration Regulations, the U.S. Treasury Department Regulations, the EU Common Foreign and Security Policy on external relations regarding sanctions and restrictive measures (regarding the US: <http://www.bis.doc.gov/>; regarding the EU: http://ec.europa.eu/external_relations/cfsp/sanctions/index.htm).

The Customer also acknowledges that these regulations specifically prohibit the export and re-export of the Restricted Products (i) into any of the sanctioned or embargoed countries; (ii) to any person or entity the Customer knows or has reason to know will utilize the Restricted Products in the design, development or production of nuclear, chemical or biological weapons; or (iii) to any person or entity who has been prohibited from participating in U.S. by any federal agency of the U.S. government or by EU export transactions.

11. Miscellaneous

(1) The laws of Germany without reference to its Conflict of Laws provisions, shall exclusively apply. The UN Sales Convention (United Nations Convention on Contracts for the International Sale of Goods dated 11. 4. 1980) shall not apply. The courts for charismathics' registered seat shall have exclusive jurisdiction over all disputes under and in connection with this Agreement, whereby charismathics may also file legal actions with the court that has jurisdiction at the seat of the Customer.

(2) If one or more provisions of these general terms and conditions are or become invalid or unenforceable, this shall not affect the remaining provisions. It will be replaced with a valid and enforceable provision which comes closest to the economic intention of the invalid or unenforceable provision.

(3) charismathics shall be entitled to amend these terms and conditions in its discretion and shall post such amended terms and conditions on its homepage at www.charismathics.com. Such amendment shall become effective, only for future contracts and agreements, four (4) weeks after its publication on the homepage.

(4) In case of contradicting provisions in these General Terms and Conditions and any individual contract between charismathics and the Customer, the provision of the individual contract shall prevail.