

Bitkom's contractual terms for the sale of hardware

-VH Bitkom-

(VH Bitkom, Version 3.0)

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1. Subject matter of the contract

- 1.1 The quality and scope of service of the hardware, including durability, functionality and compatibility, as well as the approved implementation environment, arise from the respective product description, as well as from the operating instructions, unless otherwise agreed. For the security of the hardware, the tried-and-tested rules of engineering on the market at the time of the transfer of risk are relevant, unless otherwise agreed or legally prescribed. Public statements can only be relevant for the quality owed, insofar as they relate to specific characteristics of the concretely arranged hardware.
- 1.2 The hardware is supplied together with an installation manual. An operating manual (user documentation or online help) is supplied only insofar as necessary for intended use. The operating manual and installation manual can be provided to the customer electronically at the provider's choice unless this is unreasonable for the customer. Additional instructions and accessories will only be delivered if this is concretely agreed, for instance in a bill of materials.
- 1.3 If delivery of hardware includes software which is absolutely necessary for its functioning, the customer is entitled to use the same solely with this hardware. Other software is governed by separate provisions.
- 1.4 Unless agreed otherwise, the hardware shall be installed and commissioned by the customer. All the provider's further services rendered at the customer's request (especially preparation for use, installation and demonstration of successful installation, briefing, training and consultation) are remunerated according to expenditure.

2. Price, transfer of risk

- 2.1 Prices are valid for three months following contract conclusion. Thereafter the provider can pass any increase in list prices by their suppliers on to the customer no later than one week before delivery. The customer can rescind the contract before delivery, however at the longest within one month after notification of the price increase, if the price increase exceeds 5%.
- 2.2 Risk passes to the customer directly from the delivery warehouse onward. The customer shall transport hardware entirely at their own expense, and exempts the provider fully from all transport and handling costs.

3. Customer's obligations

- 3.1 The customer shall create the necessary operating and deployment conditions (e.g. room, power supply, air-conditioning) for the hardware. The necessary conditions are determined by the contract and, if not governed therein, by the product description or operating manual.
- 3.2 Within the scope of the necessary support, the customer shall, in particular, give the provider free access to the hardware's location, make the necessary tools and equipment available there to a sufficient extent, and supply useful information (e.g. about operating conditions and changes to hardware).

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4. Customer's claims due to defects

- 4.1** The provider guarantees that the hardware, subject to use in accordance with the contract, complies with the agreements as stated in item 1.1.

Item 5 of the document titled 'AV Bitkom' applies additionally to defects of title.

For material defects, clause 4 of the 'AV Bitkom' apply on the basis of the following regulations in clause 4.2 to 4.4. Section 475a German Civil Code remains unaffected.

- 4.2** The customer may assert claims due to defects only if the reported defects are reproducible or otherwise demonstrable by the customer. Item 2.3 of 'AV Bitkom' applies, in particular, to reports about defects.

- 4.3** If the customer is entitled to claims due to defects, said customer initially only has a right to supplementary performance within a reasonable period. Supplementary performance comprises, at the provider's discretion, either repair or replacement. The customer's interests are to be considered adequately in the choice. The customer shall provide the provider with the hardware for the purpose of supplementary performance. The ownership of parts that are replaced on the basis of supplementary performance shall transfer to the provider; Section 439 (6) German Civil Code remains unaffected.

The customer shall enable installation and removal for the provider in the scope of supplementary performance, unless this is unreasonable for the customer. Before taking own measures to remedy defects, the customer shall consult the provider.

Any entitlement of the customer's to reimbursement of expenditure is limited to a reasonable extent, taking into consideration the value of the relevant performance in faultless condition and the significance of the defect.

- 4.4** If supplementary performance fails or cannot be implemented for other reasons, the customer can reduce remuneration subject to legal requirements, rescind the contract and/or request compensation for damages or expenditures - in accordance with item 6 of 'AV Bitkom'. The customer shall exercise a right of choice to which they are entitled regarding these claims due to defects within a reasonable period, generally within 14 calendar days from the time of being able to realize the customer's right of choice.

- 4.5** If the customer rescinds the contract, the provider shall take back the hardware and repay the remuneration paid by the customer, discounted by the opportunities of use granted to the customer, but no more than the common sale value of this hardware at the time of the return. In principle, these opportunities of use shall be calculated on the basis of reducing-balance depreciation over a three-year period of use. Both contractual partners are entitled to prove that a longer or shorter period of use should be applied.

5. Validity of 'AV Bitkom'

Bitkom's general contractual terms (document titled 'AV Bitkom') apply additionally.

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