

I. General Terms and Conditions (GTC) of SURFACE CONCEPT GmbH

1. Scope of Application, General

- a) The following General Terms and Conditions (GTC) apply to all legal transactions of SURFACE CONCEPT GmbH, Am Sägewerk 23a, 55124 Mainz, Germany (hereinafter referred to as "SURFACE CONCEPT"), with its respective contracting partner (hereinafter referred to as "Contracting Partner").
- b) Contracting Partners within the meaning of these GTC are exclusively entrepreneurs pursuant to Sec. 14 of the German Civil Code (*Bürgerliches Gesetzbuch, BGB*).
- c) These GTC apply exclusively, even if SURFACE CONCEPT provides services without reservation despite having knowledge of conflicting GTC of the Contracting Partner. Any of the Contracting Partner's GTC that deviate from these GTC in whole or in part will not be recognised by SURFACE CONCEPT, unless SURFACE CONCEPT has expressly agreed to such GTC in writing beforehand. Individual agreements between SURFACE CONCEPT and the Contracting Partners always take precedence.

2. Object of Performance and Service

- a) SURFACE CONCEPT offers for purchase as standard products, among other things, detectors and special electronics produced in-house for research in natural science and technology, but of course also produces these according to the Contracting Partner's specifications and provides corresponding support for the products offered (hereinafter referred to as the "Object of Performance and Service").
- b) In addition to these GTC, the special conditions of SURFACE CONCEPT apply as set out under [II. Special Conditions for Works and Services](#) :
- c) The specific performance and services owed under the contract are described in the underlying offers of SURFACE CONCEPT or project contracts and their annexes. In the event of contradictions, in case of doubt, deviating provisions in offers or in project contracts shall take precedence over these GTC.
- d) SURFACE CONCEPT may engage subcontractors to provide the services owed, provided that this does not conflict with the legitimate interests of the Contracting Partner.
- e) SURFACE CONCEPT is in principle free to choose the work equipment and technologies used and may also, for instance, use open-source software and software from third parties if this should be necessary for the provision of services and to the extent that the Contracting Partner can use these as agreed and the Services are free from defects of title. Clause 12. f) of these GTC applies to the use of open-source software.
- f) Unless otherwise agreed, performance and services shall be provided based on of the respective current state of the art.
- g) If SURFACE CONCEPT is commissioned to continue an already existing work and/or trade for the Contracting Partner, only the respective current processing status shall be decisive for the performance assessment of SURFACE CONCEPT, which shall be documented by the Contracting Partner prior to the start of the activity, including the corresponding versioning. The documentation must be made available to SURFACE CONCEPT at the latest at the start of the activity, at least in text form (e.g. by e-mail) in a common format (e.g. PDF, docx., Excel).
- h) Unless separately agreed in writing or regulated within the framework of a project contract, SURFACE CONCEPT is not obliged to hand over open project files (e.g. design files) and/or source code of software to

the Contracting Partner. Excluded are such open project files / source code that fall under the regulation of Clause 12. f) of these GTC.

3. Conclusion of Contract

- a) All offers made by SURFACE CONCEPT are always non-binding unless they are marked as binding.
- b) A contract is only concluded when SURFACE CONCEPT confirms the order in writing or in text form (e.g. by e-mail).
- c) The documents underlying an offer or an order confirmation, such as illustrations, drawings, specifications of dimensions and weights, are only to be understood as approximations, unless they are expressly specified by SURFACE CONCEPT as binding. The Contracting Partner is only entitled to pass on documents if this has been expressly granted by SURFACE CONCEPT.

4. Fixed Dates and Deliveries

- a) Fixed dates are only binding for SURFACE CONCEPT if they have been confirmed in advance in writing or in text form.
- b) In the event that SURFACE CONCEPT, for reasons for which it is not responsible, does not receive, does not receive correctly or does not receive in due time the delivery/deliveries or service(s) owed under the contract from its own subcontractors, despite proper and sufficient coverage prior to the conclusion of the contract with the Contracting Partner in accordance with the quantity and the quality under its own delivery or service agreement with the Contracting Partner, or if events of force majeure of a considerable duration occur, SURFACE CONCEPT will inform the Contracting Partner in due time in writing or in text form. In this case, SURFACE CONCEPT is entitled to postpone the delivery or the rendering of the service for the duration of the impediment or to withdraw from the contract in whole or in part with respect to the unfulfilled part of the contract, provided that SURFACE CONCEPT has complied with the aforementioned information obligations and has not assumed the procurement risk or a delivery guarantee.
Force majeure shall include strikes, lockouts, official interventions, shortages of energy and raw materials, transport bottlenecks or obstacles for which SURFACE CONCEPT is not responsible, operational hindrances such as fire, water and machine damage for which SURFACE CONCEPT is not responsible.
- c) The provisions of Clause 4. b) shall also apply *mutatis mutandis* if the delay(s) in performance or service is/are due to the Contracting Partner's failure to cooperate in a timely manner.
- d) In the event of a delay in delivery by SURFACE CONCEPT, the Contracting Partner shall first set a reasonable grace period of at least - unless inappropriate - 14 days for performance. Should SURFACE CONCEPT be in default of delivery, the Contracting Partner may claim a flat rate for damages caused by default. This flat rate amounts to 0.5% of the net price for each completed calendar week, but not more than a total of 5% of the delivery value of the delayed goods. SURFACE CONCEPT reserves the right to prove that the Contracting Partner has suffered either no damage at all or less damage than the flat rate. Any further reimbursement of the damage caused by the delay by SURFACE CONCEPT is excluded in this case. This does, however, not apply in the case of intentional, grossly negligent, or fraudulent action by SURFACE CONCEPT, in the case of claims for injury to life, body or health as well as in the case of the assumption of a performance guarantee and in the case of any imperative statutory liability.

5. Cooperation Obligations of the Contracting Partner

- a) The Contracting Partner shall ensure that all cooperation services necessary for the provision of the agreed service are provided in due time, in full and free of charge for SURFACE CONCEPT.

- b) At the beginning of each assignment, the Contracting Partner must name a specific contact person and their deputy vis-à-vis SURFACE CONCEPT in writing or in text form. These are the exclusive contact persons for SURFACE CONCEPT for all questions concerning the legal framework of the cooperation, for arrangements and agreements of all kinds. At the request of SURFACE CONCEPT, the Contracting Partner must assure in writing that the contact persons and deputies to be named by it are fully authorised to make all decisions concerning the cooperation.
- c) The Contracting Partner may replace the contact person named by it and the deputy at any time with other persons. SURFACE CONCEPT is to be immediately notified of any changes in writing or in text form. When making changes, the Contracting Partner will ensure that no disruptions occur in the cooperation and that newly appointed persons have all the necessary information and expertise required for the smooth further course of the project.
- d) If installation is performed at the Contracting Partner's premises, the Contracting Partner must ensure that all technical and other relevant conditions for the use of the relevant Object of Performance and Service, such as temperature and humidity, comply with SURFACE CONCEPT's specifications.
- e) The Contracting Partner must ensure that information is made available in good time, in particular on the climatic and other conditions of use. If the Contracting Partner does not provide any information in advance, the provision of services shall be based on the application conditions at SURFACE CONCEPT's location in Mainz, Germany.
- f) The Contracting Partner must ensure that, if necessary for the execution of the order, competent staff, means of communication and connections, as well as hardware and software, are made available to SURFACE CONCEPT. The Contracting Partner will allow SURFACE CONCEPT access to its premises (e.g. installation or training) and will provide detailed instructions regarding any circumstances to be observed when working on site and on its technical equipment.
- g) Insofar as necessary for the provision of services to SURFACE CONCEPT, the Contracting Partner must guarantee access to the communication and data processing systems/servers. Access is provided either via workstations at the Contracting Partner's premises and/or via a remote connection for IT service providers (e.g. via Remote Desktop Protocol (RDP)). If required for the installation of new software releases, the Contracting Partner shall grant SURFACE CONCEPT the necessary administration rights in due time and provide all necessary passwords.
- h) If the service or a part thereof is provided by SURFACE CONCEPT on a server environment provided by the Contracting Partner, the Contracting Partner must ensure overall adequate data security/backup. It shall regularly make appropriate back-up copies in particular regarding to the contractually relevant data.
- i) If the Contracting Partner fails to cooperate, any resulting increases in fees or postponements of deadlines shall be borne by the Contracting Partner.
- j) Further obligations to cooperate on the part of the Contracting Partner may also result from offers made by SURFACE CONCEPT, from project contracts and/or from their annexes.

6. Deliveries

- a) The risk of accidental loss or accidental deterioration of goods under purchase contracts and contracts for work and materials passes to the Contracting Partner, in the case of agreed shipment, upon handover by SURFACE CONCEPT to the company designated to carry out the shipment, but at the latest when the goods leave SURFACE CONCEPT's warehouse. This will also apply if an agreed partial delivery is made.
- b) Delivery dates are only binding if they are designated as such.
- c) In the event of a delay in delivery by SURFACE CONCEPT, the Contracting Partner shall first set a reasonable grace period of at least - unless inappropriate - 14 days for performance. If this period expires without result, the Contracting Partner shall be entitled to claim damages for breach of duty in accordance with the provisions set out in these GTC.

7. Obligations to Give Notice of Defects

- a) In the case of a contract for work and services or a purchase contract, the results of performance and services delivered shall be inspected by the Contracting Partner immediately after delivery, insofar as this is feasible in the ordinary course of business, unless a test is carried out in accordance with [Section II, Clause 3](#) of these General Terms and Conditions. SURFACE CONCEPT must be notified immediately in writing or in text form of any recognisable defects.
- d) If no notification is made, the service results or the delivered goods shall be deemed to have been approved, unless the defect was not recognisable during inspection.
- e) Should such a defect become apparent, irrespective of a test in accordance with [Section II, Clause 3](#), the notification must be made immediately after discovery; otherwise the relevant service results or the goods shall be deemed to have been approved also in view of this defect. The timely dispatch of the notification shall be sufficient to preserve the rights of the Contracting Partner. If the defect was fraudulently concealed by SURFACE CONCEPT, SURFACE CONCEPT cannot invoke the above provisions.

8. Prices, Terms of Payment and Pleas of Uncertainty

- a) The remuneration agreed between the Contracting Partner and SURFACE CONCEPT in accordance with the underlying offer or project contract shall apply.
- b) If in the underlying offer or project contract the provision of services according to performance phases is agreed, the relevant remuneration is due for payment upon release of a performance phase by the Contracting Partner, unless otherwise agreed.
- c) If no remuneration has been agreed, the rates usually quoted by SURFACE CONCEPT shall apply. Unless otherwise agreed, product presentations by SURFACE CONCEPT will be invoiced according to SURFACE CONCEPT's time and effort.
- d) As a rule, invoices are issued monthly at the end of each month. Unless otherwise agreed, for instance in accordance with the offer, payments are due 10 days after invoicing.
- e) In the event of default, SURFACE CONCEPT shall be entitled to assert a right of retention regarding services to be provided for the Contracting Partner under the same contractual relationship.
- f) Travel expenses: The Contracting Partner shall bear all out-of-pocket expenses such as travel and accommodation costs, expenses and claims for remuneration from third parties arising during the performance of the contract against proof. Travel time of SURFACE CONCEPT shall be reimbursed.
- g) Expenses and special costs incurred by SURFACE CONCEPT at the express request of the Contracting Partner will be charged at cost price. These include, for instance, communication, shipping, and reproduction costs.
- h) All prices are ex warehouse and in principle in Euro net excluding sea or air transport packaging, freight, postage and, if transport insurance has been agreed, insurance costs, plus value added tax to be borne by the Contracting Partner (insofar as legally applicable) in the respective legally prescribed amount plus any country-specific duties in the case of deliveries to countries other than the Federal Republic of Germany and plus customs and other fees and public charges for deliveries and services.
- i) SURFACE CONCEPT shall be entitled to increase the remuneration unilaterally in the event of an increase in material production and/or material and/or product procurement costs as well as energy costs and costs due to environmental requirements and/or public charges if these directly or indirectly influence goods production or procurement costs or costs of the contractually agreed performance and services and if there are more than 6 months between conclusion of the contract and delivery. However, this shall not apply if the cost increase in any or all the factors is offset by a cost reduction in any other of the said factors in relation to SURFACE CONCEPT's overall cost burden for the relevant delivery. If the aforementioned cost factors are reduced without the cost reduction being offset by the increase in other of the cost factors, the cost reduction shall be passed on to the Contracting Partner as part of the price reduction.

Should the new price be 20% or more higher than the original price due to the right to adjust prices pursuant to Clause 8 i), the Contracting Partner shall be entitled to withdraw from contracts that have not yet been fully performed. However, the Contracting Partner must assert this right immediately after notification of the increased price.

9. Retention of Title

1. SURFACE CONCEPT retains title to all goods delivered by SURFACE CONCEPT until all claims against SURFACE CONCEPT arising from the ongoing business relationship with the Contracting Partner have been settled.
2. As long as the Contracting Partner is not in default of payment to SURFACE CONCEPT, the Contracting Partner is entitled to resell delivered goods in the ordinary course of business. Other dispositions, in particular pledging or granting of collateral property, are not permitted.

10. Warranty

- a) For a commission under a contract for work and services, a contract for work and materials or a purchase contract, SURFACE CONCEPT's warranty shall be governed by the following provisions:
- b) SURFACE CONCEPT warrants that the results of the performance essentially meet the contractual requirements and comply with the recognised rules of technology and are not afflicted with defects that nullify or reduce the value or fitness for the customary use or the use assumed under the contract.
- c) The enforcement of warranty claims for defects is subject to the condition that defects have been notified to SURFACE CONCEPT in writing and can be reproducibly reported in writing and comprehended immediately after their first detection.
- d) SURFACE CONCEPT's warranty period is 12 months. With regard to contracts for work and services, the warranty period shall commence upon acceptance by the Contracting Partner. With regard to purchase contracts and contracts for work and materials, the warranty period shall commence with the delivery of the Objects of Performance and Service. Longer statutory limitation periods for liability and warranty claims shall remain unaffected.

11. Liability

- a) SURFACE CONCEPT shall be liable without limitation for intent and gross negligence.
- b) In case of slight negligence, SURFACE CONCEPT shall only be liable for the violation of an essential contractual obligation, the fulfilment of which allows the proper performance of the contract in the first place and on the observance of which the customer may regularly rely. The liability is limited to the amount of the foreseeable damage typical for the contract.
- c) The above limitations of liability do not apply to damages resulting from bodily injuries. Claims under the German Product Liability Act shall remain unaffected.
- d) The above provisions shall also apply for the benefit of any vicarious agents of SURFACE CONCEPT.

12. Rights of Use and Copyright

- a) SURFACE CONCEPT reserves all intellectual property rights and copyrights to all illustrations, drawings, data, cost estimates and other documents relating to SURFACE CONCEPT's products and services provided to the Contracting Partner. The Contracting Partner will not make such information and content accessible to third parties unless SURFACE CONCEPT has given its express written consent to do so. Such documents must in

any case be returned to SURFACE CONCEPT if an offer made on the basis thereof is not accepted by the Contracting Partner.

- b) If the service also includes the development or provision of software, e.g. for the operation of detectors or special electronics that are the subject matter of the contract, the following applies to the licence rights to such software:
- c) Unless otherwise agreed in writing, the Contracting Partner shall be granted an exclusive licence, unlimited in terms of time and territory, to all individually produced results of performance of an individual contract concluded for the intended purpose.
- d) The Contracting Partner acquires a non-exclusive licence for the intended purpose, unlimited in time and territory, for all software tools and software modules developed by SURFACE CONCEPT itself independently of any concrete commissioning by SURFACE CONCEPT, and which SURFACE CONCEPT regularly uses for the development of software.
- e) The Contracting Partner shall be granted a licence for standard software and standard software modules from third-party providers in accordance with the respective licence conditions of the third-party provider. This shall also apply if SURFACE CONCEPT uses services of external service providers, such as actors, speakers or similar, for the Contracting Partner, unless otherwise stipulated in the offer or in an individual agreement between the parties.
- f) The Contracting Partner shall also be granted the licence to use open-source software in accordance with the relevant licensing provisions.
- g) The granting of the rights of use shall only become effective upon full payment of the agreed remuneration from the underlying commission or in accordance with these GTC.
- h) Except for software covered by the provisions of Clause 12. f), the above concession of rights shall not give rise to any claim to the transfer of source codes or other open project files underlying the software provided. The surrender of the respective source code or the open project file is to be arranged in a separate agreement.

13. Written Form, Place of Performance, Applicable Law and Place of Jurisdiction

- a) All amendments and supplements to contractual agreements must be recorded in writing for evidential purposes. This shall also apply to any amendment of the written form requirement.
- b) The contract language is German.
- c) The place of performance for all contractual obligations of SURFACE CONCEPT is the registered office of SURFACE CONCEPT in Mainz, Germany, except for the case of the assumption of a debt to be performed at creditor's domicile or otherwise agreed.
- d) The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods.
- e) The exclusive place of jurisdiction for all legal disputes arising from or in connection with this contract is Mainz, provided that the Contracting Partner is a merchant, a legal entity under public law or a fund under public law.

II. Special Conditions for Works and Services

If SURFACE CONCEPT provides works and/or services, the following "Special Terms and Conditions for Works and Services" shall apply in addition.

1. Additional Expense and Change Requests

- a) SURFACE CONCEPT must be notified in writing or by e-mail of any requests for changes to performance and services already ordered, e.g. changes and/or extensions.
- b) SURFACE CONCEPT shall then review any effects of the change request on the current project, especially in terms of feasibility, the estimated additional expenditure and regarding the time schedule.
- c) After review of the change request, SURFACE CONCEPT will explain to the Contracting Partner its effects on the previous agreements. This will contain either a detailed proposal for the implementation of the change request or information as to why the change request cannot be implemented.
- d) SURFACE CONCEPT may refuse to carry out a change or extension request of the Contracting Partner if these are not practicable, or their execution is unreasonable within the scope of its operational capacity. Should SURFACE CONCEPT recognise that performance and services to be provided cannot be carried out or can only be carried out with delay due to the review, SURFACE CONCEPT will inform the Contracting Partner accordingly. The Contracting Partner will then decide whether the change procedure is to be continued or terminated.
- e) The Contracting Partner and SURFACE CONCEPT will immediately agree on the content of a proposal for the implementation of the change request in case of a positive result of the review and document the result in writing or in text form.
- f) If no agreement is reached or if the change procedure ends for any other reason, the original scope of performance and service will be maintained.
- g) Deadlines affected by a change procedure shall be postponed with due consideration of the duration of the review, the duration of the vote on the change proposal and, if applicable, the duration of the change requests to be executed plus a reasonable start-up period, if necessary.
- h) The Contracting Partner shall bear the expenses incurred as a result of the change request. This includes the review of the change request, the preparation of a change proposal and any downtimes. The expenses will be charged according to SURFACE CONCEPT's usual remuneration.
- i) SURFACE CONCEPT is only obliged to comply with the Contracting Partner's requests for changes or extensions if it has given its express consent. Consent must always be given in writing or in text form.

2. Releases

- a) As soon as SURFACE CONCEPT notifies the Contracting Partner of the completion of the services relating to a phase and makes them accessible, the Contracting Partner will immediately examine this phase to determine whether the performance and services have essentially been provided in accordance with the contract. If performance and services have been performed essentially in accordance with the contract, the Contracting Partner shall immediately approve and release the performance and services or the relevant section in writing or in text form.
- b) Should the examined performance and services, in the opinion of the Contracting Partner, not be essentially in conformity with the contract, the Contracting Partner must notify SURFACE CONCEPT of its complaints in writing or in text form without delay, at the latest, however, within two weeks after the services have been made accessible.
- c) If the Contracting Partner does not raise any objections within the two weeks, the release shall be deemed to have been tacitly granted. SURFACE CONCEPT will specifically inform the Contracting Partner to this significance of its conduct when notifying it of completion.
- d) In the event of a complaint by the Contracting Partner within the time limit, SURFACE CONCEPT will respond and comment without delay. The parties will then try to reach an agreement on the further procedure.

3. Acceptances of Contractual Works and Services

- a) If the contractual subject matter refers to performance and services rendered by SURFACE CONCEPT, the provisions of this Clause 3 shall also apply.
- b) If it concerns the contractually owed final performance phase, the Contracting Partner must declare its acceptance to SURFACE CONCEPT in writing or in text form, provided that performance and services have been rendered in accordance with the contract. SURFACE CONCEPT will request the Contracting Partner to accept in writing or in text form.
- c) If the Contracting Partner fails to notify SURFACE CONCEPT in writing or in text form of adverse deviations of the performance and services from the agreed quality that it has detected during an acceptance process or that it has failed to detect due to gross negligence, the performance and services will be deemed to have been provided in accordance with the contract as far as these unreported deviations are concerned. If the Contracting Partner does not or not fully comply with its obligation to accept, the performance and services shall be deemed to have been provided in accordance with the contract, insofar as there are no deviations that would have been identifiable in the course of a proper and dutiful acceptance.
- d) Prior to acceptance, SURFACE CONCEPT will inform the Contracting Partner of the significance of its conduct within the scope of the request in accordance with Clause 3. Insofar as SURFACE CONCEPT has fraudulently concealed deviations in quality, it is not possible to invoke the provisions of this paragraph.