



# TERMS FOR SALE, DELIVERY AND LICENSE

IGEL Technology GmbH, July 2009

## I. GENERAL PROVISIONS

### § 1 Scope of Application

(1) These Terms for Sale, Delivery and Licence shall be applicable to all sales and deliveries, respectively deliveries of hard- and software-products and all services like repair, consultancy, training and support of IGEL Technology GmbH (further referred to as: "IGEL") to undertakings in accordance with § 14 German Civil Code or legal entities of the public law (further referred to as: "Customers"). The bold – typed emphasises serve only for better orientation of the readers and have no subject-matter meaning.

(2) These Terms for Sale, Delivery and Licence are a substantial part of all offers, acceptances of contracts and sales contracts of IGEL. They are the exclusive contract regulations with each customer, as long as there are no specific individual rules for contracts.

(3) IGEL does not acknowledge general terms of trade of the Customers, as well as when in a particular case IGEL does not explicitly object, unless IGEL has approved the application of these Customer's terms explicitly and in writing. These Terms for Sale, Delivery and Licence also apply exclusively when IGEL starts performance of a particular contract without a specific reservation despite knowledge of Customers' terms of trade, which are contradictory or different from the present Terms.

[www.igel.com](http://www.igel.com)

Europe | Germany | United Kingdom | North America | USA | Asia | Singapore | Hong Kong

(4) These Terms for Sale, Delivery and Licence are also applicable for all future transactions with Customers and even if IGEL does not explicitly indicate that its terms shall apply; and until IGEL puts into effect new terms. The incorporation of the new terms into the business relation between IGEL and the customer becomes effective when IGEL indicates explicitly that there are new terms in effect and makes them available on the IGEL – webpage on the internet.

(5) With the exception of the managing director, the procurists and the trade representatives, the staff members of IGEL are not entitled to enter into agreements deviating from the present terms.

## **§ 2 Offers and Conclusion of Contracts**

(1) Offers by IGEL are always non-binding (the so called “invitatio ad offerendum”), unless they are indicated in writing as binding. Except that a binding agreement shall be reached when IGEL confirms explicitly in writing the order of the Customer or starts performance of delivery. The Customer is bound by its order/offer for one week, provided that there is not a longer binding period agreed or customary, or the Customer has declared in its order/offer explicitly a shorter binding period.

(2) For the determination of the articles of the delivery and the specific terms of the contract IGEL’s written confirmation of the order is solely authoritative. Collateral agreements have to be always approved in the form provided in § 26, Sec. 4 (final clauses) of these Terms of Sale, Delivery and Licence.

(3) IGEL reserves all rights, in particular the ownership and the copyright, on any preliminary estimate of costs, designs, plans or specific technical documentation, which IGEL provides to the Customer before or after the conclusion of the contract. Without the approval of IGEL the Customer is not allowed to provide, to copy, to duplicate, to deliver or otherwise to give any information to third parties. Those have to be returned to IGEL immediately upon request.

(4) In case that there were agreed special provisions for a particular order, they will expire with the completion of particular order and will not have any effectiveness to other orders

running at the same time or following ones.

### **§ 3 Prices**

(1) All prices appointed by IGEL as well as processing and printing expenses, unless otherwise agreed by the parties, are valid “net ex works” in terms of § 21 Sec. 2 (final clauses) of these Terms for Sale, Delivery and Licence, that is without the expenses for packing, loading, insurance (in particular transport insurance), duties and taxes, transport costs and turnover tax.

(2) All the prices are regarded as in EURO, unless another currency is explicitly appointed in IGEL’s confirmation of the order.

(3) In case costs increase unforeseeable and extraordinary like by means of price increases of the suppliers or currency fluctuations, IGEL is entitled to appoint further increasing prices to the Customers.

### **§ 4 Foreign trade**

(1) In case of deliveries to foreign countries these Terms for Sale, Delivery and Licence shall be applicable together with the “International Commercial Terms” (“Incoterms”) published by the International Chamber of Commerce in their newest redrafting (Incoterms 2000) provided that in the confirmation of the order, respectively in the binding offer, IGEL refers to one of the concerned Incoterms (for e.g. by means of the clauses “cif”, “ex work”, “fob”, etc.).

(2) Import duties, fees for consultation and different levied taxes/fees based on regulations of the country of destination are generally not included in the appointed prices of IGEL (accordingly to the simultaneously applicable § 3 Sec. 1 of these Terms for Sale, Delivery and Licence). When in case of exception taxes shall explicitly be included in the price, the agreed price increases accordingly if the tax rate increases after the conclusion of the agreement.

(3) IGEL is only obliged to comply with foreign regulations for packing, weighting and duties if the Customer gave detailed information for that in advance.

## **§ 5 Permission for Export and Import**

(1) The delivered products and technical know-how of IGEL are designated exclusively for use and remaining in the country of destination as indicated by the Customer. The re-exportation of the goods appointed in the contract – individually or collectively – is governed exclusively by the regulations for foreign trade of the Federal Republic of Germany, respectively by the regulations of the country of destination agreed with the Customer.

(2) For the delivery of products, which are subject to a resale price fixing and/or a distribution restriction, the specific terms and regulations for export (for e.g. embargo) of the referred manufacturer shall be also applicable besides these Terms for Sale, Delivery and Licence. The Customer is obliged to inform itself autonomously for the corresponding regulations and namely for the German terms by the Federal Office For Export, 65760 Eschborn/Taunus and the US- terms by the US- Department of Commerce, OEA, Washington DC 20230.

(3) Not depending on whether the Customer has indicated a definite place of destination for the products, it is always incumbent on the Customer to obtain the required permission from the competent authority for foreign trade before the exportation of the products. The Customer is solely responsible for the compliance with the applicable regulations to the ultimate consumer.

## **II. CONTRACTUAL OBLIGATIONS**

### **§ 6 Payment, Delay**

(1) IGEL's contract claim for payment is due immediately at the delivery of the products and without deduction. The Customer is in delay for payment when he doesn't perform payment during the period of 14 days after the due date and after the receipt of the invoice but at latest 30 days after start of delivery. An earlier delay for payment based on the statutory legal regulations shall be unaffected.

(2) Provided there is nothing different agreed, IGEL is not obliged to perform first. When as a case of exception there is explicitly agreed an obligation of IGEL for performance in advance, § 321 of the German Civil Code shall apply under the additional condition that the

rule applies when the Customer has breached the agreed terms of payment of the same or other contracts of the respective business relation.

(3) IGEL reserves the right to reject cheques and bills of exchange from the Customers. The acceptance of similar surrogates of payment is always regarded as conditional performance. The bill of exchange will be accepted in every case only under the precondition of discount eligibility. Discounts, cancellation expenses and bill of exchange tax as well as other expenses in connection with the acceptance of the different surrogates of payment shall be charged to the Customer. Credit notes for bills of exchange or cheques are regarded as valid under the condition of receipt of the invoiced amount; that is the value date on which IGEL can dispose of the equivalent sum.

(4) In cases where IGEL issues its invoice to a person other than to its contract partner (the Customer) that shall not be considered as

- an alteration of the contract partner;
- a discharge of the Customer from its obligation for payment;
- as an acknowledgement of IGEL's consenting to a cumulative assumption of the debt or as
- as IGEL's consenting for a taking-over of the contract.

(5) The Customer will be charged with € 10,00 for each reminder for payment after the due date. This fee does not affect the legal rights of IGEL by law.

(6) In case of a delay in payment or of protest of the cheque or of the bill of exchange or in case of other circumstances, which entitle IGEL to demand a cash advance or provision of security, IGEL may terminate any agreement for extension and granted period of payment with the Customer regarding the entire business relation between IGEL and the Customer.

## **§ 7 Set-off, Retention, Assignment**

(1) The Customer is only entitled to set off a claim or to retain payment when its counter-claim is not contested by IGEL or it has been declared as final and conclusive by a German court. The same applies also for the Customers right to plea for non-performance of

the contract pursuant to § 320 of the German Civil Code.

(2) The Customer is not entitled to assign claims from the contract to third parties without the written approval of IGEL.

## **§ 8 Delivery**

(1) IGEL will perform delivery of the products or services as soon as possible. The appointed period/date of delivery is generally not binding, unless IGEL confirms explicitly and in writing the appointed period/date is to be binding. The time of the dispatch ex works or ex stock, or the notification for the readiness for dispatch, shall be authoritative for the determination of the adherence with the period of delivery in case the goods are not dispatched in due time without IGEL's fault. The period of delivery shall be prolonged to another individually agreed term, if the Customer does not perform the owed cooperation for delivery (see § 9 of these Terms for Sale, Delivery and Licence).

(2) In case that the parties have not agreed to a binding delivery term, respectively date of delivery, IGEL shall only be in delay with its obligation to deliver and to perform, when the Customer sends a reminder to IGEL indicating a reasonable period of grace and when the period has unsuccessfully expired and the further legal preconditions have been met.

(3) IGEL shall perform delivery under the condition of exact supply in good time through IGEL's suppliers. A delay of delivery or non-performance of delivery that results from a failure of IGEL's suppliers (without any cooperative fault of IGEL) shall not be considered as a fault of IGEL.

(4) IGEL shall not be responsible for any delay of the delivery/performance resulting from a force majeure or similar circumstances, which derive from circumstances which IGEL cannot influence after the conclusion of the contract, e.g. industrial action, official directive, and also when these circumstances appear in the sphere of IGEL's suppliers or sub-suppliers. In these cases the period of delivery is prolonged until the duration of the obstacle including a reasonable initial period, but not longer than six months. After the expiry of its period both parties are insofar entitled to withdraw from the contract. The same applies if a party suffers significant disadvantages by the delay or non-performance.

(5) IGEL is entitled to partial delivery as long as it is appropriate for the Customer. In such cases IGEL is entitled to issue partial invoices.

(6) In case that the supply according to the request of the Customer is delayed as a result of a Customer's failure to perform a required cooperative act (for e.g. delivery of additional devices and parts for reconstruction), or the Customer does not accept the delivered item, or the delivery is not performed because the Customer fails to perform its obligation for payment, then IGEL is entitled to demand for a compensation for the additional expenses which occur, and in particular the expenses for storage. The expenses for storage can be charged from the beginning of one week after the notification of the readiness to dispatch with 0,5% lump sum of the invoiced sum for every month. The Customer is entitled to prove to IGEL that there are not any expenses or that the occurred expenses for storage are considerably minor. IGEL reserves the right to prove higher expenses. Except that, IGEL's right to withdraw from the contract or to claim compensation on the ground of statutory law shall not be affected.

### **§ 9 Duties and Obligations of the Customer to Cooperate**

(1) In case the effectiveness of the contract or the performance of the contract requires specific permissions or licences (for e.g. licences for import or export) or similar, they are to be obtained by the Customer, unless the parties agreed explicitly something else.

(2) The customer is furthermore obliged to cooperate timely in accordance with the contract and in good faith, in particular to obtain the required permissions and to provide the additional devices and parts for reconstruction.

(3) IGEL is entitled to fix a reasonable time period to the Customer for the performance of the act of cooperation (for e.g. the request for a necessary permission). After the unsuccessful expiry of the period IGEL is entitled to withdraw from the contract. When the required licences or permissions are not provided before the expiry of three (3) months after the conclusion of the contract IGEL is entitled without further preconditions to withdraw from the contract.

### **§ 10 Passage of the Risk**

(1) The risk passes to the Customer when the products are handed over to the first carrier for transmission to the customer (for e.g. forwarding agent, carrier or similar) for loading, if transportation through IGEL is agreed the risk passes to the customer when loading begins, but at latest when the goods leave the factory as place of performance (comp. § 27, Sec. 2 of these Terms for Sale, Delivery and Licence). The same applies even if IGEL has undertaken the expenses for the transport or has undertaken another performance like the installation.

(2) If IGEL performs the dispatch of the products later than the first possible date of delivery upon request of the customer or on similar grounds deriving from the Customer's sphere, then the risk shall pass to the Customer at the moment of notification of the readiness for dispatch by IGEL.

(3) An insurance of the products, for e.g. against theft, break, transport, fire or water damages or similar risks, will be provided by IGEL only upon explicit request of the Customer and will always be at the expense of the Customer.

(4) Return of the products to IGEL - reserving other explicit agreements – will be at the expense and under the risk of the Customer.

### **§ 11 Retention of Title**

(1) IGEL retains the title of the goods until full payment of all accounts receivable which are existing and which can accrue in the future from the business relation with the Customer. At the start of a running account with the Customer, the entire retained property serves to secure the claim for the balance of the account. As long as according to the Cus-

customer's national law the validity of its retention of title depends on particular preconditions or formal requirements (for e.g. on a registration), the Customer is obliged to fulfil at its own expenses the preconditions or the formal requirements for the validity of the retention of the title.

(2) In case of a breach of the contract by the Customer, in particular in case of a delay for payment or in case of an application for a proceeding for insolvency, IGEL is entitled to request from the Customer the purchased objects back without any grace period to be fixed, or in the same case, to request the assignment of the claim for return of property against third parties. The withdrawal of the goods and the seizure of the reserved goods by IGEL shall not be regarded as a withdrawal of the contract by IGEL, unless it is declared explicitly and in writing. The Customer shall undertake the expenses for the withdrawal. IGEL is entitled to utilize the revoked reserved goods after a single warning. The difference between the profits of utilisation and the expenses for the utilisation will be at the expense of the Customer.

(3) The Customer is entitled to resell the retained products within the scope of an orderly business operation, as long as he is not in delay, and/or there is not a filed application for beginning of insolvency proceedings over its property or he is obliged to apply for insolvency proceedings. In case of resell of the reserved goods on credit, the Customer is obliged to secure the rights of IGEL on the reserved goods. Hypothecation, transfer of ownership by way of security, further transfer to the financing of the goods (for e.g. to leasing company) or transfer of the use to third parties are allowed to the Customer only by prior written approval by IGEL.

(4) If the Customer resells the reserved products, he thus assigns to IGEL his claim for payment against the subsequent buyer together with all the accessory rights in order to secure the claim of IGEL. However, IGEL can request that the Customer notifies its debtors of the assignment. The Customer is authorised to collect the sum from the subsequent buyer until revocation by IGEL. With the revocation of the authorisation to collect payments, the Customer has to provide IGEL with the required data needed for the collection of the claim and in the same case the customer has to support IGEL in claiming the accounts receivable.

(5) The Customer is obliged to keep diligently and at its own expense the products in their custody with (co-)ownership of IGEL, particularly to insure them against theft, break, fire, water or similar damages and to prove the existence of the insurance upon IGEL's request.

(6) The Customer has the further duty during the retention of the property to keep the purchased objects in proper conditions and to admit necessary repairs immediately and to be performed in one of the IGEL's authorised qualified workshops.

(7) Seizures by third parties over the retained products have to be reported by the Customer to IGEL immediately after the Customer becomes aware of such. In such a case the Customer shall transfer all the necessary information and documents for each seizure to IGEL. The Customer is liable for the expenses which arise from the lift of the seizure, in particular for the costs of IGEL'S lodgement of intervention on the seizure, as long as they cannot be attained by the creditors.

(8) In case of connection of the retained products with other new integrative products, the co-ownership of the new product is due to IGEL. The share in the co-ownership is defined according to the proportion of the value of the reserved objects towards the invoice value of the other objects.

(9) If on the ground of legal provisions the Customer acquires the sole ownership over the new product, then the customer and IGEL shall agree that IGEL will keep the co-ownership of the new product in proportion of the value of the integrated purchased objects towards the invoice value of the other product. The Customer shall keep in custody in accordance with § 11(5) of this Terms the new objects for IGEL free of charge.

### **III. DEFECTS, WITHDRAWAL AND COMPENSATION FOR DAMAGES**

#### **§ 12 Defects and Guarantees**

(1) IGEL guarantees that the delivered goods and services have no considerable defects at the passage of the risk.

(2) Details of the subject matter of the delivery, the appearance, capacity, measurement and weight of the products, etc. that were made at the conclusion of the contract in valid descriptions of the products represent no guarantee, but only a description of the products, which are only to be regarded as approximate. A guarantee is available only when IGEL has appointed it explicitly and in writing as such.

(3) When after the conclusion of the contract alterations are carried out on any of the products concerning construction, material, and model, these alterations do not represent a defect of the purchased products, as long as no deduction of the value occurs from that.

(4) IGEL is not liable for public statements of third parties (including the suppliers of IGEL or the manufacturers) when IGEL did not know about these statements or was not obliged to know. IGEL is not liable for public statements through IGEL or third parties when the statement at the moment of the conclusion of the contract was already corrected or when the Customer could not prove that the respective statement has influenced its decision to purchase.

(5) The guarantee for defects and damages is excluded when they arise

- because a certain construction or a certain material for the purchased product was chosen under the instruction of the Customer,
- because the Customer has installed the purchased product or put it in operation incorrectly,
- because the Customer operates the purchased product incorrectly or he does not use appropriate operating instruments,
- because the Customer has not considered user manual or the rules for maintenance,
- because the Customer does not use the purchased product competently or has overstrained the product,
- because the Customer has attached external parts or components (products by other manufacturers), although they were not permitted in the user manual or by a written explanation by IGEL,

- because the Customer has decomposed or changed the purchased product without the prior approval of IGEL,
- because the Customer has installed incorrectly the purchased product into another item ( even if the installation into the other item might be allowed).

### **§ 13 Notice of a lack of conformity**

(1) The Customer loses the right to rely on a lack of conformity of the product, when the Customer does not give notice to IGEL specifying the kind and nature of the lack of conformity in accordance with the following rules:

- any lack of conformity, which at the inspection of the product are recognizable, has to be noticed in writing to IGEL within at latest in five working days after the delivery of the product and before further manufacturing/ processing/ usage (if possible under the dispatch of the provided printed forms by IGEL),
- any hidden lack of conformity, which at the inspection of the product could not be discovered, has to be noticed in writing to IGEL within five working days after the defect is discovered or should have been discovered through due diligence. For the adherence to the term for notice, it is sufficient to dispatch the notification of the lack of conformity in due time.

(2) A notice of a lack of conformity does not abolish the duties of the Customer for acceptance and payment of the products, unless the defectiveness of the products is not controversial or has already become res judicata.

### **§ 14 Remedies**

(1) If there is a lack of conformity in the purchased products, IGEL is entitled to its own choice to remove the defects, by means of for example extra work/improvement of the products, or replacement of the complained parts or to deliver another product without defects. If one of these forms of additional performance is connected with considerable disadvantages for the Customer, the Customer is entitled to request another type of additional performance.

(2) IGEL is entitled to install as spare parts either new parts or used parts considered good as new.

(3) In case of remedying a defect, the repairing of the product, respectively the substitute delivery, IGEL bears the necessary expenses, in particular the wage, material and freight expenses. Exchanged old parts of the goods become property of IGEL.

(4) In cases of guarantees with foreign Customers, IGEL shall not generally bear the expenses and similar specific expenses, which are connected with the place of usage, respectively the exporting country of the purchased objects.

(5) When the delivery of a substitute product fails, the Customer is entitled to proceed to the other legal claims for lacks of conformity, in particular to reduce the purchase price or to withdraw from the contract. In case of partial performance the Customer may withdraw from the whole contract only if he has no provable interest of partial performance and the breach of the duty is considerable. Claims for compensation for damages due to the lack of conformity may be established only under the preconditions appointed in § 17.

(6) If an inspection of the products confirms that the purchased products do not represent a lack of conformity, IGEL is entitled to charge its expenses for the inspection according to its general hourly rates of payment on the account of the Customer.

### **§ 15 Limitation period**

(1) The limitation period for claims for a lack of conformity amounts to one year from the delivery. IGEL reserves the right to grant a product guarantee for a longer period.

(2) The running of the limitation period shall not be interrupted when IGEL performs remedies, regardless if IGEL remedies the lack of conformity by delivery of a substitute part or product or if IGEL remedies the lack of conformity by repair. The limitation period of the replaced parts applies also to the installed spare part.

### **§ 16 Withdrawal**

(1) The statutory legal regulations apply to the right of the Customer to withdraw from the contract. In cases where the Customer claims a breach of the contract, excluding claims of defect of the product, the Customer has a right to withdraw from the contract only when IGEL is responsible for the breach of contract.

(2) IGEL is entitled in case of withdrawal to calculate a monthly lump sum of 3% of the purchase price for the realized profits from the use, as far as the buyer does not prove a smaller value of the emerged profits. The right of IGEL to prove a higher value of the emerged profits shall be unaffected.

### **§ 17 Duty of IGEL to Compensate the Damages**

(1) IGEL is liable for a breach of duty in cases of intent and culpable negligence. In cases of simple negligence IGEL is only liable when it has committed a breach of an obligation of the contract which is essential for the performance of the contract. In other cases the claims for compensation of the damages are excluded.

(2) When IGEL is liable for culpable negligence as per § 17 (1), the liability of IGEL is limited to only those damages which IGEL could have reasonably expected as consequence of the act under the known circumstances.

The limitation of the liability shall not apply (a) when IGEL has given a guarantee for damages, which have to be compensated under the Law for Product Liability, and (b) for damages of life, body and health. (3) When IGEL is liable for simple negligence or culpable negligence of the employees of IGEL or its representatives who are part of the directors or the managerial employees, the liability is limited to double the sum of the respective purchase price. Additionally IGEL is not liable for indirect damages, or damages occurred by defects, or for lost profits.

(4) The proof of a fault of IGEL, in the scope of the liability to compensate for damages, has to be conducted by the Customer who requests the compensation for damages.

(5) IGEL is not liable for claims of defective products which are based on a defectiveness of supplied parts, unless IGEL has given a guarantee referring to the supplied part or the defect of the supplied part is evident. IGEL is not obliged to inspect supplied parts.

(6) Any provision through which the liability of IGEL is excluded or limited shall also apply to the personal liability of the employees or the freelancers of IGEL.

(7) The Customer is obliged to give notice immediately and in writing to IGEL of the damages for which it wants to make IGEL liable, and if necessary to allow an inspection of the damages.

### **§ 18 Duty of the Customer to Compensate the Damages**

As for IGEL's entitlement to request from the Customer compensation for damages instead of performance, IGEL is entitled to request a lump sum for compensation for damages in the amount of 15% of the purchase price, as long as the Customer does not prove smaller damages. IGEL reserves the right to claim for higher damages according to the statutory provisions of law.

## **IV. SPECIFIC PROVISIONS FOR SOFTWARE PRODUCTS**

### **§ 19 Type of licenses**

(1) If the Customer buys IGEL hardware products such as thin clients, terminals and thin client cards which include IGEL software, the right of usage of this software is limited to the usage of the Software only with the delivered IGEL hardware. The customer is not entitled to copy or load this software onto a third party's hardware products in total or in parts.

(2) If the customer buys IGEL software on an IGEL data carrier (e.g. an USB stick), the right of usage of this software only includes the right to copy and load the software on third party's hardware which is officially approved by IGEL.

### **§ 20 Scope of the usage**

(1) The right of use contains every permanent and temporary, whole or partial, duplicating (copying) through loading, display, run down, transmission or storage for the purpose of execution of the software. The execution of appointed actions for the purpose of observation, examination or test of the specified software is also included in the usage.

(2) The software should not be processed or altered. The company names, trademarks, notes for copyrights or different notes for reserved rights contained in the software should not be altered and should not be removed from modified and/or processed versions of the software.

(3) A decompilation of the software code is admitted only under compliance with the limitations in §69e of the Copyright Law.

## **§ 21 Guarantee/ Liability**

(1) The following provisions under (2) to (7) are applicable supplementary to III. Defects, Withdrawal and Compensation for Damages.

(2) The Customer understands that it is not possible to develop software to the extent that, for all conditions of the application, the software is free of any errors. IGEL undertakes no guarantee that the software in all areas and applications will function without interruption or insignificant errors.

(3) IGEL guarantees that the software has the particular functions and characteristics which are indicated in the general product descriptions and catalogues. IGEL undertakes no guarantee that the software will correspond to the individual requests of the Customers. The Customer bears the sole responsibility for the selection and the usage of the software as well as for the thereby intended results. There is also no guarantee for altered or processed versions of the software unless the Customer proves that the available defects have absolutely no connection with the alteration or the processing.

(4) Each and every liability of IGEL is excluded in the event that the customer does not use or run the software with or in connection with IGEL-Hardware (namely terminal, thin client, thin client cards and thin client upgrade kits) or with third party hardware approved by IGEL.

(5) IGEL delivers the software "as is" and undertakes in particular no guarantee, namely neither explicit, nor implied.

(6) IGEL is not liable for the loss of data or its restoration, unless the Customer proves that a specific loss of data could not have been avoided through appropriate measures for securing the data on the part of the Customer, such as the daily preparation of security copies of all data and software.

(7) IGEL is not liable for defected economic result, lost profits, indirect damages, damages as result of defects and claims of third parties.

## **V. SPECIFIC PROVISIONS FOR REPAIR SERVICES**

### **§ 22 Limitation Period**

The limitation period for claims of a lack of conformity in repair services rendered by IGEL amounts to one year beginning from the time of delivery.

### **§ 23 Spare Parts**

If it is necessary to install a spare part IGEL is entitled to install either new parts or used parts to be a good as new parts.

## **VI. MISCELLANEOUS**

### **§ 24 Intellectual Property rights and Copyrights of Third Parties**

(1) In cases where the delivered products were manufactured in accordance with the drafts or designation of the Customer, the Customer has to indemnify IGEL against all claims, arising from the breach of intellectual property rights and/or copyrights which are exploited by third parties.

(2) In cases where the products were delivered to other countries than Germany, IGEL is only liable for a breach of a patent, when the conflicting patent right is granted in Germany and when the product is manufactured in IGEL's own factories. In such a case the liability of IGEL is limited

- to support to the Customer in and out of court and in judicial proceedings against the patent holder, and
- to compensate the Customer for the expenses for proceedings, and
- to indemnify the Customer against the final judgement for compensation for damages to the patent holder.

In cases of delivered products, which were not wholly manufactured in IGEL's own factories, the liability of IGEL is limited by IGEL assigning IGEL's claim against its suppliers to the Customer.

## **§ 25 Spare parts**

(1) For the delivery of spare parts and accessories in exchange for old parts at a special spare part price (so called "spare part delivery"), the following specific provisions in Sections 2-4 shall be simultaneously applicable.

(2) The old parts shall be supplied to IGEL completely freight paid by the Customer and free of charge to IGEL.

(3) If the spare part is delivered by IGEL before the Customer has delivered the old part, then IGEL, instead of the spare part price, shall for the moment charge the valid price of a new spare part. After the arrival of the old parts, IGEL will credit the difference between the new price and the price for replacement to the Customer.

(4) The old parts become property of IGEL upon delivery. Through performance of delivery of such old parts the Customer declares implicitly that the Customer was owner of the old part, respectively that the Customer is authorized to pass over the ownership of its old part to IGEL, and that there are no existing rights of third parties over its old part.

## **§ 26 Orders for Printing and Stamping**

(1) The customer shall inspect galleys and imprints for mistakes and shall return them to IGEL cleared and ready for press. IGEL is not liable for mistakes the Customer is responsible for. Telephonically transmitted texts or alterations demand prior written approval of the Customer.

(2) IGEL's liability is excluded for documents handed over by the Customer for the performance of the order, in particular films, clichés, data carriers etc. (further called as "patterns"). After the expiry of a term of two years IGEL is authorised to demolish the archived documents without particular notification of the Customer.

(3) Through the placing of the order the Customer shall not acquire ownership on the crea-

tion of the copies and stamps, and similar needed tools. The erasing or demolishing of these tools by IGEL follows after the completion of the order.

## **§ 27 Final clauses**

(1) These Terms for Sale, Delivery and Licence are governed by the Law of the Federal Republic of Germany. The application of uniform UN- rights of purchase (CISG) is excluded.

(2) The place of performance for all obligations in connection with these Terms for Sale, Delivery and Licence is the factory as pointed out by IGEL in the confirmation of the order (industrial premises). When the dispatch according to the agreement between the parties has to be performed from the factory of a third party, the third party's factory shall be the place of performance.

(3) Exclusive court of jurisdiction for all litigation consequent from this business relation is Bremen. IGEL is entitled also on its part to sue at the place of the registered office of the Customer.

(4) Alterations of these Terms for Sale, Delivery and Licence, supplements and representations demand written form for their effectiveness. The same is also valid and in particular for annulment or alteration of these written clauses. As far as the adherence of the written form is required, the transmission by facsimile is sufficient also. An electronic data transmission (e- mail) is only sufficient as far as these are provided with a qualified electronic signature according to the German Law for signature.

(5) If one or more provisions of these Terms for Sale, Delivery and Licence have to be or become ineffective or if these Terms for Sale, Delivery and Licence include a gap in provisions, the validity of the remaining provisions shall be unaffected. The ineffective or incomplete provision will be replaced through a similar rule, which meets closest the term and the purpose of the desired provision efficiently.