

SWARCO

Cloud Solutions

Overall Cloud Services Conditions V2.1



ARTICLE 1 – DEFINITIONS AND INTERPRETATION

- 1.1 The following terms are defined in this contract and all enclosures, Special Conditions and Service Specifications as follows:
- “Application”** or “Cloud Software Solution” refers to the applicative functionalities which are specified in the Special Conditions which are provided to the Customer within the framework of the Subscription Services of this contract and for which SWARCO grants to the Customer the use as part of the Subscription Services. This shall include all individual adjustments, other adaptations, upgrades, releases, corrections, patches, etc. relating to the software which SWARCO shall develop or deploy during the term of this contract, this including all corresponding documentation.
- “Contract”** refers to these General Conditions and to the Subscription or, respectively, Cloud Services/Professional Services, Special Conditions and enclosures which are entered into pursuant to this contract and which, by means of reference, contain the General Terms and Conditions of this contract (jointly referred to as the “Special Conditions”);
- “ITS Infrastructure”** refers to all internal or external facilities which interact with the Application via one or multiple protocols, one or multiple networks or one or multiple adapters;
- “Client Software”** refers to SWARCO software which is sold by SWARCO by or for use with the services;
- “Data”** refers to the information, publications and, in general, to all data from the Customer database which is used for the performance of this contract and which can only be accessed by users of the Customer or of his agents;
- “Provision”** refers to the provision of the ID which enables access to the services and use of the Application;
- “Defect”** refers to a substantial error or defect in the Application which prevents the Application from being available to the Customers pursuant to the Service Level Agreement;
- “Documentation”** refers to all documents which are to be delivered pursuant to the Special Conditions and which contain the specifications published by SWARCO and the user manual of the Application;
- “Effective Date”** of the Special Conditions refers to the day on which the Customer signs the Special Conditions, unless stated otherwise in the Special Conditions;
- “ID”** refers to the personal login information of the authorised user of the Customer (“Login”) and the password (“Password”) which is communicated upon Provision;
- “Parties”** refers to SWARCO and the party mentioned above as Customer;
- “Professional Services”** refers to services which are provided by SWARCO to the Customer within the framework of this contract which are not included in the definition of the Subscription or, respectively, Cloud Services; Professional Services are defined in the service catalogue which SWARCO delivers as enclosure to the Special Conditions and/or part of the Special Conditions and which contains, amongst other things, consulting services, implementation, individual adjustment and other services which SWARCO provides to the Customer within the framework of this contract;
- “Services”** refers to the Professional and/or Subscription or, respectively, Cloud Services;
- “Subscription or, respectively, Cloud Services”** refers to the Customer’s access to and his use of the Application and the Provision to the Customer of the Application mentioned in the Special Conditions pursuant to the General Terms and Conditions of this contract;
- “Use”** refers to the access, use and representation of the services by the Customer pursuant to the documentation and limitations which result from the Special Conditions;
- 1.1. The headings in this contract solely serve the purpose of facilitating reference and are without prejudice to the interpretation. References to articles in this contract concern the articles of the General Terms and Conditions unless the context requires otherwise;
- 1.2. The words “contain”, “contained”, “containing” or “including” are to be understood as comprehensive insofar as nothing else results from the context.

ARTICLE 2 – CONTRACTUAL DOCUMENTS

- 2.1. This contract consists of these General Terms and Conditions and the Special Conditions which take precedence over these General Terms and Conditions to the extent that there are conflicts between these texts. In case of conflict between the provisions of two or more Special Conditions, the provisions of the most recent Special Conditions take precedence.
- 2.2. This contract constitutes the entire agreement between the parties regarding the subject-matter of this contract and shall replace all prior written or oral proposals, correspondence and agreements, including any General Terms and Conditions of Customers the applicability of which is herewith excluded.
- 2.3. All amendments, modifications, additions as well as any complete or partial dissolution or cancellation of this contract require a written agreement which has to be signed by the Customer and by SWARCO.
- 2.4. No documents or orders presented by the Customer shall change the provisions of this contract in any way.

ARTICLE 3 – TERM

This contract shall become effective on the Effective Date and shall apply for the initial term which is laid down in the Special Conditions (“Initial Term”). Unless, within a period of six (6) months prior to the expiry of the subscription term or the extension period, the Customer informs SWARCO in writing of his intention to terminate this contract or to conclude a new contract for the services, this contract will be automatically extended by one (1) year upon expiry of the Initial Term or of any extension period with each extension by 1 year representing an “Extension Period” in the sense of this contract. Payments become due in each case before the beginning of the new Extension Period.

ARTICLE 4 – USE OF THE SERVICES

- 4.1. As of the Effective Date of this contract, SWARCO shall grant to the Customer a non-exclusive and non-transferable right to use the services for the duration of this contract solely for the Customer’s own, internal business purposes in accordance with the provisions and conditions of this contract. In case of outstanding payments relating to this contract within the meaning

of Article 7 which go beyond the due date more than thirty (30) days, the Customer's right of use of the services is automatically suspended by SWARCO by means of a written notice. The services, including single parts and information or materials thereof, must not be used for purposes which constitute a violation against this contract. SWARCO reserves all rights which are not expressly treated in this contract. The Customer shall not be entitled to use the service to provide services for third parties, including ASP, Facilities Management and outsourcing, to the extent this is not expressly provided for in the Special Conditions.

- 4.2. Subject to deviating provisions in the Special Conditions, Client Software is not included in the services. If the Customer downloads Client Software from the services, this Client Software is subject to the written end user license agreement for software of the Customer with SWARCO, and if the Customer does not have a written end user license agreement of the Customer with SWARCO, the use of the Client Software is subject to the provisions and conditions of the end user license agreement included in the Client Software.

ARTICLE 5 – SUBSCRIPTION SERVICES LEVEL

- 5.1. SWARCO guarantees that the Subscription Services are provided pursuant to the provisions of the Service Level Agreement (SLA) which is attached to the Special Conditions as enclosure.
- 5.2. The Customer is familiar with the technical hazards associated with the internet, including an access interruption which can result as a consequence of these hazards. Therefore, SWARCO shall not be liable for the potential inaccessibility or slowdown of the Subscription Services. In addition, the Subscription Services may be suspended from time to time for maintenance work which is required for maintaining the operational capability of the servers and of other platforms which are used by SWARCO for the Subscription Services. In case of an interruption of the Subscription Services due to maintenance work, SWARCO undertakes to observe the procedure set out in the SLA so that the Customer is sufficiently informed about the interruption and that he can take the necessary measures in advance to avoid interruptions of his business activities.
- 5.3. SWARCO shall not be obliged to provide Subscription Services if
- (i) a modification has been carried out to the Subscription Services and/or Application or if attempts were made to do so (except for modifications which were done by SWARCO and made available as part of the Application and/or Subscription Services); or
 - (ii) the Application and/or Subscription Services have been improperly installed or operated or not used in accordance with this contract or the documentation; or
 - (iii) the Customer refuses, delays or otherwise refrains from implementing a release or other modification which is provided or recommended by SWARCO.

ARTICLE 6 – ADDITIONAL SERVICES

Depending on expertise and availability, SWARCO shall provide, following ordering on the part of the Customer, Professional Services for the Application or new or extended Subscription Services for the Customer, namely at such tariffs which are set out in the Special Conditions or – if no such tariffs are set out therein – at such tariffs which are in effect at that time at which the services concerned are provided.

ARTICLE 7 – TERMS OF PAYMENT AND PAYMENT CONDITIONS

- 7.1. The fees for the services are set out in the Special Conditions. In addition to the tariffs set out in the Special Conditions, the Customer is responsible for all property, sales, use, value added, withholding and similar taxes (except for taxes on the net profit of SWARCO) which are in relation to the operations described in this contract. Should the use of the Application of the utilisation of Professional Services by the Customer be exempt from sales or other taxes, the Customer shall provide to SWARCO an appropriate confirmation on such tax exemption. All amounts payable within the framework of this contract, are payable within thirty (30) days after the invoice date, unless stipulated otherwise in the Special Conditions.
- 7.2. The fees for Subscription Services are invoiced on the Effective Date and are due thirty (30) days after the invoice date, unless stipulated otherwise in the Special Conditions. The fees for Subscription Services can be adjusted on a yearly basis pursuant to the Special Conditions concerned.
- 7.3. Unless stipulated otherwise in the Special Conditions, the fees for Professional Services are invoiced at the end of the month in which they are provided. Travel and accommodation costs in relation to the provision of training, technical assistance, support and installation services, are invoiced on the basis of actual and appropriate costs incurred by SWARCO. Invoice documents are presented upon request. The fees for Professional Services can be adjusted on a yearly basis pursuant to the Special Conditions concerned.
- 7.4. Fees and other amounts which remain unpaid thirty (30) days after the invoice date, shall be deemed overdue and remain payable by the Customer plus default interests which are charged the threefold legal interest rate starting with the due date. In addition to the above-mentioned provisions regarding default in payment, SWARCO reserves the right to suspend use of the Application and/or provision of any Professional Services.

ARTICLE 8 – RESPONSIBILITIES OF THE CUSTOMER

The Customer is responsible for:

- choosing the provider for network access, in particular with regard to the security options,
- meeting the technical minimum specifications recommended by SWARCO for using the Application,

- guaranteeing the confidentiality and secure storage of the ID communicated by SWARCO,
- securing the personal laptops which the Subscription Services access,
- the achieved results and all direct or indirect consequences thereof,
- providing qualified personnel for use of the Subscription Services; and
- designating one of his employees being available as primary contact person for SWARCO for any technical questions.

ARTICLE 9 – INTELLECTUAL PROPERTY

- 9.1. The Customer shall only be granted a temporary right to use the services; any extension of the right granted requires the prior written consent of SWARCO. SWARCO (and its partners) maintain all rights in and property of the services and/or Application, including all of its parts as well as in and of all information, materials and copies which are made thereof or of parts thereof, and the copyright in the services and/or the Application.
- 9.2. The Customer is neither directly nor through another person or corporation entitled to copy the services in any form or manner, to grant sublicenses, to lease, to transfer, to distribute, to reproduce, to integrate, to use or to give access to them or to modify these services or to create modified versions of them. The limitations in this Article 9 shall also remain in effect after termination of this contract.
- 9.3. The Customer undertakes to immediately inform SWARCO if he gains knowledge of any unauthorised use, communication, reproduction or distribution of the services or if he suspects any such activities.
- 9.4. The Customer hereby guarantees that he has obtained all necessary permits and licenses which are necessary for the performance of this contract and for the access to the program concerned and for the utilisation of the respective program as well as for the provision of the services. The Customer undertakes to present to SWARCO upon request and without delay all documentary evidence related thereto.
- 9.5. Except with respect to “Retained Works” (in the sense of the following definition), all rights in and the property of the results of the Professional Services belong to the Customer. SWARCO is proprietor of all Retained Works which, according to definition, include the following:
- (i) all already existing materials, including all existing software codes of SWARCO, own software tools and training materials which are included in the scope of delivery;
 - (ii) all individual modifications of the Subscription Services and/or the Application insofar as an order or service specification or another similar document relating thereto does not expressly state that such modifications are transferred to the Customer;
 - (iii) all programs of third parties which are integrated or included in the scope of delivery; SWARCO grants to the Customer in all Retained Works which are integrated in the scope of delivery, a non-exclusive, world-wide, royalty-free license for use of such Retained Works, namely to the same extent as the Customer has acquired a license for the use of the Subscription Services.

ARTICLE 10 – INDEMNITY

- 10.1. SWARCO undertakes to defend the Customer for and against all amounts payable by court order, against court injunctions or settlements which are obtained by a not related third party against the Customer, to obtain a settlement and to indemnify the Customer insofar as such procedures result from an actual or purported violation of the services. In relation to any purported violations of rights of third parties, the Customer undertakes in the sense of a condition that he be indemnified to:
- inform SWARCO immediately and in writing on the claims raised; and
 - leave to SWARCO the sole control over the defence and any settlement negotiations related thereto; and
 - collaborate in such a defence to the best knowledge and with best efforts and to comply with all appropriate requests on the part of SWARCO (at its expense) within the framework of defending or settling the claims raised.
- 10.2. Should the use of the services by the Customer be seen as a violation of the rights of third parties or should in SWARCO's view such a use probably be such a violation, SWARCO undertakes to make all efforts in order to take one of the following measures at its own discretion and expense:
- to procure to the Customer the right to continue to possess and/or to use the services,
 - to replace or modify the necessary parts of the services so that their use does not represent a violation and that they basically still provide the same functionality.

If the options mentioned above are, at the discretion of SWARCO, not reasonable in a commercial sense, SWARCO may cancel this contract insofar as it refers to the specific parts of the services and the respective rights of use. The Customer undertakes to destroy or return all components in relation to the services and/or the Application upon written request by SWARCO, and SWARCO then refunds the fees paid for the Subscription Services pro rata over a period of five (5) years from the date of provision by SWARCO.

IN THIS ARTICLE 10, THE ENTIRE LIABILITY AND ALL LEGAL REMEDIES OF APPEAL OF THE CUSTOMER FOR ALL ACTUAL OR PURPORTED VIOLATIONS OF RIGHTS OF THIRD PARTIES IN RELATION WITH THE SERVICES ARE SET OUT AS PERMITTED BY LAW.

ARTICLE 11 – LIABILITY

- 11.1 . SWARCO shall only be liable in the case of the following events:
- a) for wilful intent, gross negligence and malicious withholding of information;
 - b) for slight negligence which leads to a violation of a substantial obligation (material contractual obligation) of this contract;
 - c) for personal damages or death;

- d) for liability under the product liability law.
To the extent permitted by law, any other liability is excluded.

THE AGGREGATE LIABILITY OF SWARCO PURSUANT TO ARTICLE 11.1 B) IS LIMITED TO THE AMOUNTS WHICH WERE ACTUALLY PAID IN THE FRAMEWORK OF THIS CONTRACT DURING THE TWELVE (12) MONTHS WHICH IMMEDIATELY PRECEDED THE EVENT PROVOKING THE CLAIM. SWARCO AND/OR ITS LICENSEES OR SUPPLIERS SHALL IN NO WAY BE LIABLE FOR INDIRECT DAMAGES, FINES, DAMAGES FOR ATYPICAL DAMAGES, PUNITIVE DAMAGES, DAMAGES FOR INCIDENTAL AND CONSEQUENTIAL COSTS, INDIRECT DAMAGES OR OTHER DAMAGES OF ANY KIND (INCLUDING, BUT NOT LIMITED TO, SALES LOSSES, BUSINESS LOSSES, LOST PROFITS, EXCEPT AS SET FORTH IN ARTICLE 11, ANY CLAIMS MADE BY THIRD PARTIES WHICH ARE ASSERTED AGAINST THE CUSTOMER, INACCURATE OR DAMAGED FILES OR DATA OR COSTS FOR A REPLACEMENT PRODUCT OR A REPLACEMENT SERVICE).

Furthermore, SWARCO shall not be liable for the accidental destruction, breaches of security, falsification or unauthorised change of the data by the Customer or third parties which had access to the services via the ID assigned to the Customer.

- 11.2. SWARCO makes efforts which are reasonable in a commercial sense in order to ensure that the service can be accessed via an internet connection.

THE SERVICE CAN BE ACCESSED VIA INTERNET AND IS THEREFORE SUBJECT TO CERTAIN RESTRICTIONS, DELAYS AND OTHER PROBLEMS WHICH ARE CONNECTED TO THE FUNCTIONALITY OF THE INTERNET AND OF ELECTRONIC MEANS OF COMMUNICATION. SWARCO SHALL NOT BE RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES WHICH RESULT FROM SUCH PROBLEMS. THE SERVICE CAN BE INTERRUPTED BY ROUTINE MAINTENANCE. SWARCO UNDERTAKES ALL EFFORTS WHICH ARE REASONABLE IN A COMMERCIAL SENSE TO MINIMISE SUCH INTERRUPTIONS AND TO SCHEDULE MAINTENANCE WORKS OUTSIDE OF PEAK TIMES.

- 11.3. This contract shall be binding upon the contracting parties and their legitimate assignees. Otherwise, a person who is not a party in this contract shall not be entitled to enforce any of the provisions of this contract or to refer thereto. The provisions of this Article 11 shall also remain in effect after termination of this contract.

ARTICLE 12 – GUARANTEE

- 12.1. As of the Effective Date and for the duration of this contract, SWARCO shall guarantee that the Subscription Services provided by SWARCO comply with the Service Level Agreement (“Guarantee”). If a defect occurs while the Customer is using the Subscription Services, SWARCO will take the following measures at its own discretion:

- performance of appropriate and several (at least three) attempts to remedy such defect within the time frame stated in the Service Level Agreement, insofar as the Customer has presented all necessary information to SWARCO for the remedy of this defect so that the Customer is able to use the Subscription Services pursuant to the Service Level Agreement, or
- provision to the Customer of new Subscription Services which correspond to the Service Level Agreement.

If SWARCO is not able to remedy, as described above, such a defect of the Subscription Services within the guarantee period, the particularly diligent party may cancel this contract in writing giving thirty (30) days notice. The Customer then ceases to use the Subscription Services and receives a pro rata reimbursement of the fees paid for the Subscription Services. Such reimbursement is calculated on the basis of the total amount of the fees which the Customer had paid up to the date on which he informed SWARCO on the defect, until the date of contract termination, less such sums SWARCO had already paid to the Customer.

- 12.2. The provisions and conditions of the guarantee pursuant to Article 12.1 shall not apply if the Customer has used the Subscription Services

- (i) in a way which is not compatible with the Service Level Agreement and/or the documentation presented to the Customer by SWARCO, or
- (ii) as free test Subscription Services

- 12.3. Without prejudice to the rights under this Article 12, all other guarantees shall be excluded.

ARTICLE 13 – ADVERTISING

The Customer shall always mention the name SWARCO if he refers to the Application. The Customer herewith permits SWARCO to include his name into a list of customers.

ARTICLE 14 – ADMINISTRATIVE PROVISIONS

The Customer is responsible for obtaining all necessary legal permits which result from his specific use of the Application, and he is responsible for complying with the respective applicable data protection laws.

ARTICLE 15 – CONFIDENTIALITY

- 15.1. Both parties confirm that, under this contract, they have access to company secrets and to information of the other party which is confidential or protected by property rights or that they otherwise obtain such information, including information on products, such as for example the names of the Customer's clients or financial or contractual agreements. Any such information represents “confidential information”. The services, including all documentation or parts of it as well as information, material or copies deducted thereof, are the property of SWARCO and represent confidential information. Both parties undertake to use the confidential information of the other party solely for the purposes for which it is disclosed or announced, and to restrict the disclosure of such information to such of its employees and independent contractors for whom this information is absolutely necessary, and to make all reasonable efforts to prevent the disclosure of such information to or the access by any third parties without the prior written consent of the disclosing party.

- 15.2. The following information shall not be confidential Information:

- (i) information that is or becomes publicly known by no act or omission of the receiving party;
- (ii) information that was legitimately in the possession of the receiving party and that the receiving party has neither directly nor indirectly received from the disclosing party;
- (iii) information that was legitimately disclosed by third parties, who, in this regard, are not subject to any disclosure restrictions, vis-à-vis the receiving party;
- (iv) information that was developed by the receiving party independently and without reference to the confidential information of the disclosing party; or
- (v) information that is to be disclosed by order of a competent court or by order of a regulatory authority or insofar as there is a legal claim, an obligation or a requirement for disclosure.

In such case, the receiving party is obliged to, without violating the legal provisions or the administrative orders and to the extent practicable, immediately inform the disclosing party in writing on the disclosure obligation.

15.3. The rights and obligations of the parties pursuant to Article 15 shall remain in effect for three (3) years after expiry or termination of this contract through cancellation.

15.4. Insofar as personal data has to be created while providing the services, the Customer has ensure that such personal data is collected, processed and used in accordance with the law. Provided that the Customer makes available personal data, he must ensure that this data is, in accordance with the law, collected, processed and used for the intended purpose and that it can be forwarded to SWARCO. SWARCO may collect, process and use personal data of the consultants and employees of the Customer only to extent that is necessary for providing the services. SWARCO is not obliged to verify whether collecting, processing or using the data is legal and/or in compliance with the applicable laws. The Customer is obliged to indemnify SWARCO for all claims of third persons the assertion of which relies on the allegation that collecting, processing or using the personal data in connection with the services was illegal and/or not in compliance with the applicable laws. The indemnity mentioned above shall also extend to the costs for legal defence.

ARTICLE 16 – NON-SOLICITATION

16.1. During the term of this contract and for a period of twelve (12) months after its expiry or after its cancellation becoming effective, no party is, without the prior written consent of the other party, entitled to actively solicit any persons who, in connection with the performance or administration of this contract, are employed by the other party or who work for this party.

16.2. If one party violates the obligation mentioned above, the violating party shall pay to the other party twelve times the amount of the previous monthly basic salary of the person concerned. Such sum is deemed by both parties to be an appropriate compensation for the loss sustained through the breach of contract.

ARTICLE 17 – CANCELLATION

17.1. This contract may be cancelled with immediate effect by both parties by giving written notice to the other party if the other party commits a substantial breach of contract or if it constantly violates its obligations under this contract and if it refrains from remedying this breach (insofar as remedy is possible) within thirty (30) days after the date of receipt of a respective written request.

17.2. Both parties may cancel this contract with immediate effect by giving written notice to the other party if a bankruptcy trustee or an official receiver has been appointed for the respective party's entire business or any parts thereof or of its assets or if a resolution on the dissolution is passed or if a competent court passes an order concerning this matter or if the other party reaches a voluntary settlement with its creditors or becomes a party in insolvency proceedings or if it ceases its business activities.

17.3. Upon cancellation of this contract, the Customer undertakes to cease use of the services and, in general, to destroy all components provided by SWARCO for using the services. Pursuant to the provisions under Article 21, transmission services are established

17.4. After the Initial Term or after an annual extension, both parties may cancel the services in writing observing a period of six (6) months.

ARTICLE 18 – WAIVER

The fact that one party does not, after a breach of contract by the other party, take the appropriate steps, shall not be deemed as a waiver of the performance of the respective obligation or as a waiver in connection with a later breach of contract and shall not take any corresponding effect.

ARTICLE 19 – SEVERABILITY

If one provision of this contract or parts of its provisions are found to be illegal or not enforceable, the other provisions shall remain in force and shall remain in full effect and shall not be affected thereby, unless the substantial purpose of this contract is affected thereby. In such case, both parties may cancel this contract in writing with immediate effect.

ARTICLE 20 – ASSIGNMENT

This contract and the license granted herewith may not be assigned or transferred by the Customer in whole or in part without the prior written consent of SWARCO. SWARCO is entitled to assign or transfer all of its rights and obligations under this contract without the consent of the Customer to any company which is a 100 % subsidiary or parent or affiliate company of SWARCO.

ARTICLE 21 – ASSISTANCE UPON TERMINATION OF THE CONTRACT

21.1. Upon expiry or termination through cancellation of the services and upon request of the Customer, SWARCO offers the following transfer assistance at the Customer's expense and only during the time which is deemed necessary for an effective transfer (but not for more than thirty [30] days after the cancellation becomes effective): after verification of the SLA, SWARCO shall continue to provide the Subscription Services and the Professional Services which SWARCO provided prior to the cancellation as well as to provide any Professional Services the Customer requests and which may be necessary in order to facilitate the transfer of the services concerned to the Customer, a third-party supplier or any other person designated by the Customer.

21.2. Upon expiry or cancellation of this contract, SWARCO undertakes – according to the Customer's choice and at the tariff in force at the time of the transfer notice, upon first request delivered by the Customer by registered letter with return receipt and within a period of thirty (30) days after receipt of such notice – to destroy the data of the Customer or to hand it over in such a format that it is readable in an equivalent technical environment.

ARTICLE 22 – SECURITY

22.1. SWARCO shall implement the technical and organisational measures described in the enclosure to the Special Conditions in order to prevent any unauthorised access or use of the data and to prevent any losses, modifications or destruction of the data. SWARCO reserves its right to change its security measures and procedures at any time.

22.2. The Customer, however, shall remain solely responsible for the quality, the legal conformity and the aptitude of the data and of all contents that the Customer transfers during the use of the services. The Customer declares that he is the legitimate holder of all intellectual property rights for the use of the data and contents. Therefore, SWARCO shall not assume any liability for the non-conformity of the data and/or contents with laws and regulations, the public order or the needs of the Customer.

ARTICLE 23 – NOTICES

All notices, requirements, consents, approvals and other communications require written form and have to be delivered to the other party by means of telefax (with postage on the same day) or by prepaid registered letter with return receipt or by overnight courier to the address stated by the other party in the Special Conditions or to another delivery address which the party concerned communicates to the other party subsequently in writing. Such notices are considered as delivered:

- (i) in the case of personal delivery or special delivery, at the time of actual receipt; or
- (ii) in the case of dispatch by registered letter, after a period of forty-eight (48) hours after dispatch has elapsed, and as proof for dispatch it is sufficient to create a copy of the duly addressed notice together with the proof of receipt of the post office concerned.

ARTICLE 24 – APPLICABLE LAW AND DISPUTE RESOLUTION

24.1. This contract shall be governed by and construed in accordance with the laws of the Federal Republic of Germany under exclusion of conflict of laws and the UN Sales Convention (CISG). In any disputes, the parties shall make all reasonable efforts to settle the disputes in good faith through negotiations on management level. Disputes are to be indicated in writing to senior executives of both parties who are entitled to settle the dispute and who are not directly involved in the subject-matter of this contract. These executives shall meet within fifteen (15) days after the written notice has been sent in order to settle the dispute.

24.2. If the dispute is not settled by negotiation, the parties submit all disputes arising out of or in connection with this contract to the exclusive jurisdiction of the court competent in subject-matter in Berlin.