

General Terms and Conditions for Deliveries and Services of viastore Group

1. Scope of application

- 1st1 These General Terms and Conditions for Deliveries and Services (hereinafter referred to as the "GTC") apply to the delivery of goods (such as machines, assemblies, spare parts, operating equipment) including the provision of software and the rendering of services (such as implementation of assembly and conversion work on conveyors and storage retrieval machines), with the exception of construction services, in the course of business transactions by **viastore SYSTEMS GmbH**, **viastore SOFTWARE GmbH** or any other **viastore** Company concluding the contract (hereinafter mutually referred to as "**viastore**"; the **viastore** company entering into the contract arises in each case from the individual contract, in particular from the proposal).
- 1st2 The GTC also apply as amended to all future contracts equivalent in nature on the provision of deliveries and services between **viastore** and the customer even if not expressly noted.
- 1st3 The subject matter of the deliveries, the nature and scope of the services as well as the amount of the compensation are specified in more detail in the **viastore** proposal and/or the order acknowledgment. Any provisions in customer-specific **viastore** contractual documents, in the proposal in particular, shall take priority over the provisions in this GTC in the event of contradictions.
- 1st4 Any of the customer's terms and conditions deviating from these GTC shall not become part of the contract, even if **viastore** should provide deliveries or services without expressly contradicting such conditions of the customer.

2nd Proposal and Conclusions of a Contract; Documents

- 2nd1 All proposals submitted by **viastore** are subject to confirmation and non-binding, unless they are expressly marked as binding or contain a specific acceptance period. **viastore** may accept orders or customer contracts within fourteen days after receipt thereof.
- 2nd2 Conclusion of the contract is subject to the proper and on-time delivery to **viastore** itself by its suppliers. This shall not apply if **viastore** is responsible for non-delivery or late delivery by a supplier, in particular if the reason for this was because **viastore** failed to conclude a congruent hedging transaction. **viastore** shall inform the customer immediately with respect to the unavailability of the goods and shall immediately reimburse the customer for any counter-services already provided.
- 2nd3 Any drawings, models and other documents provided to the customer - even such transferred electronically shall be subject to **viastore's** unlimited ownership rights, copyrights and industrial property rights; such documents may not be made accessible to third parties without the prior written consent of **viastore**. Upon request of **viastore** at any time, whereas no later than upon termination of the business relationship, any documents provided to the customer must be returned to **viastore**; the customer shall in this far not have any right of retention.

3. Delivery and Transfer of Risk

- 3rd1 Unless otherwise agreed, all deliveries shall be effected ex works (Incoterms 2020). The choice of shipping method, shipping route, packaging and carrier are subject to the due discretion of **viastore**. Upon the customer's request, **viastore** shall take out a transport insurance; the costs incurred for such insurance shall be borne by the customer.
- 3rd2 **viastore** shall be entitled to partial deliveries if said deliveries can be used independently by the customer, a complete delivery thereof is ensured and no significant additional effort or costs are incurred on the part the customer.
- 3rd3 The risk of accidental loss or accidental deterioration shall be transferred to the customer no later than when the goods are handed over to the carrier or shipping service provider. This shall also apply in the event of partial deliveries or if **viastore** has also assumed flanking services (such as machine installation and assembly). Where acceptance testing is required, the risk shall not be transferred to the customer until acceptance. Where shipping or delivery of the goods or rather acceptance of the services is delayed due to a cause for which the customer is responsible, the risk shall be transferred to the customer from the day on which the goods are ready for shipping or the services are ready for acceptance and **viastore** has notified the customer accordingly.

4. Quality of the Contractual Objects

- 4th1 The condition and quality of the contractual objects is ultimately described with expressly agreed upon characteristics (such as in product descriptions, specifications, etc.). Any quality characteristics other than those expressly agreed upon are not owed. Assurances beyond the guarantee for this condition for a specific application or a particular suitability, duration of use or durability shall only be accepted by **viastore** where expressly agreed in writing; otherwise, the risk of suitability and use is the sole responsibility of the customer.
- 4th2 The customer bears the responsibility for the suitability of the contractual objects for the purpose it intended, including in a scenario in which customer plans for it to be further processed and / or any planned installation of the contractual object, such as in a building. In case of doubt, the customer will check the contractual objects, or test them, where applicable, in advance to ensure that they are suitable for the intended use. In this far, the customer shall also observe the specifications from **viastore** and its suppliers, such as those in the specific product instructions. In case of doubt, it will consult with **viastore** to obtain additional information. However, **viastore** shall only be contractually obligated to advise customer if this was expressly agreed in writing between the parties.
- 4th3 Information provided by **viastore** on the contractual objects (such as dimensions, utility values, load capacity, performance, tolerances and technical data) and any illustrations of the contractual objects (such as in drawings, models and/or photos) are only approximate, unless the suitability of the deliveries and services for the contractually intended purpose requires their precise conformity. In particular, they do not constitute guaranteed characteristics. Any customary deviations or adjustments in size, color, shape and quality or with regard to other properties made as a result of legal regulations or in the course of further technical development, as well as the replacement of components by equivalent parts, are permissible insofar they do not affect the usability of the contractual objects for the contractually intended purpose.



5. Deadlines and Dates

- 5th1 Deadlines and dates for deliveries and services provided by **viastore** are non-binding and only approximate, unless a binding deadline or a binding deadline has been expressly promised or agreed. If shipment of the goods has been agreed, deadlines and dates refer to the time they are handed over to the carrier or shipping service provider.
- 5th2 Agreed deadlines and dates for deliveries and services do not begin before clarification of all technical and commercial details nor before receipt of any agreed down payment. Such deadlines and dates shall extend or postpone the period in which **viastore** is prevented from delivering the contractual object or rendering the agreed upon service due to circumstances beyond **viastore's** control, and by an appropriate recovery period after removal of the obstacle. Among the circumstances beyond **viastore's** control are such events of force majeure and other unforeseeable events (including strikes and lockouts, lack of raw materials, difficulties in obtaining necessary regulatory approvals, official measures), the absence or delay of the participation of the customer as well as times during which **viastore** must wait for necessary information, documents or decisions by the customer.

6th Provision and Approval of Services; Customer Participation

- 6th1 If the object of the contract relates to the provision of services, the specialist and technical specifications from the customer regarding the services to be rendered shall always require the written confirmation from **viastore** to be binding. **viastore** shall provide all services accounting for the state of the art at the time the contract is entered into. The reference to technical standards is only for explanation or at best the performance description and does not constitute a guarantee.
- 6th2 **viastore** may engage independent subcontractors to perform services as vicarious agents, whereby **viastore** shall always remains directly liable to the customer. The customer may only object to engaging a subcontractor for important reasons.
- 6th3 The customer shall provide the cooperation services required to full the contract in a timely manner, properly and completely, without incurring any compensation. In particular, this includes the cooperation services listed below; further cooperation service may be required in particular from the appendices to the individual contract:
- a) The customer shall ensure that its employees possess the qualifications required to perform the cooperation services and the experience necessary and shall free them in the required scope from other duties.
 - b) To the extent necessary for the provision of services, the customer provides complete and consistent data, information and documents and participates in inspections and acceptance testing.
 - c) The customer must take the safety measures necessary for the protection of persons and property on its company premises. The customer shall inform the responsible contact person at **viastore** of all existing safety regulations in advance.
 - d) The customer is responsible for providing the necessary equipment, materials, resources and commodities. The provisions and technical cooperation by the customer must be such that the agreed deliveries and services can be performed by **viastore** without delays and interruptions.
 - e) If the object of the contractual services is the delivery and commissioning of machinery, the customer shall establish the necessary conditions of operation and use, and in particular ensure that the electrical and other equipment required for machinery installation and the connection thereof is available in a quality that complies with the current state-of-the-art.
 - f) Where equipment or conveyors are installed, the advance performances by the customer must be completed properly and in such good time that it can be ensured that **viastore** is able to provide trouble-free and uninterrupted service. The customer must obtain any required official permits in good time. Apart from that, **viastore's** specifications for on-site services apply in their latest stat of the art.
- 6th4 Additional costs resulting from missing, delayed, or incorrectly completed cooperative duties and waiting times on behalf of **viastore** shall be invoiced to the customer at cost. This also applies in such cases in which the required provisions do not match the requirements of **viastore** resulting in additional costs. Any further claims on the part of **viastore** because of a failure to cooperate, delayed, or improper cooperation shall remain unaffected by this.
- 6th5 If acceptance testing is required on the basis of legal regulations or the execution of an acceptance procedure between the parties is expressly agreed upon, acceptance testing shall be deemed to have taken place if
- a) the delivery and assembly have been completed or the other of **viastore's** contractual work results have been completed;
 - b) **viastore** has informed the customer of acceptance readiness and has requested acceptance by a reasonable deadline;
 - c) and the customer has not refused acceptance by this deadline, stating at least one material defect, or the customer has started to use the work results in production (for example, has not commissioned a delivered and installed machine for purely test purposes).

Preventive measures are only essential defects that cancel or severely limit the usability of the work results for the agreed or assumed purpose. Partial acceptances have the effect of acceptance; for such acceptances, the above regulations apply accordingly.

7. Rights of Use to Software

- 7th1 The software delivered by **viastore** is copyright protected. All rights to the software, to customized adjustments and additions, to the new program versions provided as part of the maintenance or supplementary performance, as well as to documentation and other documents provided are exclusively the responsibility of **viastore**.



- 7th2 Unless agreed otherwise, the software is provided to the customer in its current version as of the time of installation and in the object code only. Along with the software, the customer shall receive electronic user documentation (operating instructions as integrated online help) in German and English. The customer is owed no other documentation. The agreed upon scope of software functions arises from the production description and from the user documentation in addition.
- 7th3 Following complete payment of the agreed compensation, the customer shall receive a non-exclusive, temporally unlimited right, limited to the installation and use of the software on a customer's system yet to be designated, to use said software within the framework of its intended use for its own business purposes. The right of use is limited in its scope to the user licenses purchased and paid by the customer. In thus far, this relates to so-called concurrent users, i.e. the number of licensed users corresponds to the maximum number of users of the customer who are allowed to use the software at the same time. Deemed as users are all users who work on the production system, regardless of the end device used and the technical design of the access point (such as via a stationary PC, wireless or other terminal).
- 7th4 The customer shall be permitted to make duplicate copies of the software in the licensed scope. The customer may also make an additional backup copy of the software, as far as this is necessary to ensure the permanent usability of the software. The backup copy to the extent technically possible, must be provided with a **viastore** copyright note. Any rights beyond that, in particular the right to distribute the software, including the right to rent it, edit and further develop it, and to make it available to the public, shall remain **viastore**. Any legally mandatory exceptions shall remain unaffected by the above.
- 7th5 The customer may only share the software with third parties in the scope acquired and with the prior written consent of **viastore**. The customer may only pass along the software in its totality; any passing along of the software in part (such as single user licenses no longer required) is not permitted. **viastore** will grant permission to pass along the software if the customer assures in writing before passing it along that it will discontinue use thereof and retain no copy of the software, and if the third party agrees in writing vis-a-vis **viastore** to comply with the terms of the license and concludes the relevant maintenance and support contracts with **viastore**.
- 7th6 The use of any by **viastore** co-distributed third-party and/or open source software may be subject to conditions deviating from the above provisions of the respective manufacturer or deviating Open Source license conditions; such deviating license conditions shall take precedence over the license terms in these GTC.

8. Prices and Terms of Payment

- 8th1 All prices for deliveries and services are provided in the proposal from **viastore** and are, unless otherwise agreed, in Euro net, plus shipping costs and packaging, and for any export deliveries, plus any applicable duties, fees and other public levies.
- 8th2 The agreed prices are based on the cost of wages, material, energy and overhead expenses at the time of the contract was concluded. Should these costs increase within a period of four months from conclusion of the contract and delivery date, **viastore** shall have the right to price increase accordingly, unless said increase in costs was foreseeable at the time the parties concluded the contract, **viastore** is in default of delivery or bears the responsibility for the cost increase for any other reason.
- 8th3 Unless agreed otherwise, the purchase price of a delivered goods will be invoiced immediately after the goods have been delivered to the customer; same shall apply to licensed software as well. Delivered services shall be compensated according to the agreement at a flat rate or at cost and billed to the customer, subject to the activity report customary with **viastore**. If a flat rate is agreed, the agreed payment plan shall apply to its due date; where compensation is owed based on the expense, an invoice shall be issued monthly at the beginning of the month following the provision of the service. Unless the parties agree otherwise, **viastore** shall invoice the customer separately for any incidental costs incurred, in particular travel costs and travel times for on-site assignments at the customer's location based on actual cost or expense.
- 8th4 **viastore** shall send invoices to the customer by postal mail or electronically by email. Unless otherwise agreed, they shall be payable within 14 days after customer's receipt of the invoice with no deductions. If the customer is in default of payment of an invoice, **viastore** shall be entitled to all claims applicable by law without limitation.
- 8th5 **viastore** shall have the right to have any outstanding deliveries or services be subject to advance payment or the provision of security if, after the conclusion of the contract, it becomes aware of circumstances which significantly reduce the creditworthiness of the customer and as a result of which the open invoices from **viastore** relating to the current contractual relationship appear to be at risk by the customer's circumstances.
- 8th6 The customer may only offset undisputed or legally established claims and may only assert a right of retention to uncontested or legally established claims from the same contractual relationship.

9. Liability for Defects

- 9.1 Delivered goods must be inspected for defects by the customer immediately after the delivery thereof. Any defects discovered must be reported by the customer in writing without delay and must be reasonably described and documented so that **viastore** can check and trace the defects that are alleged. § 377 German Commercial Code [HGB] shall apply without restriction otherwise.
- 9th2 **viastore** shall guarantee that the goods delivered and the services rendered or rather the work results correspond to the product or service description and that the contractually agreed upon use of the contractual objects does not conflict with any third-party rights.
- 9th3 Claims may only be enforced by the customer due to defects if they are reproducible or if they are able to be described comprehensibly by the customer. In particular, functional and other impairments of the contractual object resulting from improper use by the customer, improper assembly, natural wear, improper maintenance, use of unsuitable equipment, chemical, electrochemical or electrical interference or otherwise resulting from circumstances within the customer's area of responsibility. A warranty for material defects also requires that the customer has not used the contractual objects itself or had third parties altered the contractual objects unauthorized



or contrary to contractual specifications or to the operating instructions or the user's manual, unless the customer has proven that the defect is regardless of the aforementioned.

- 9th4 If a defect of the delivered contractual object is present at the time of the transfer of risk, **viastore** shall at its discretion have the right to subsequent performance in the form of an improvement or replacement delivery within a reasonable period of time. The customer must give **viastore** the time and opportunity necessary to undertake any work that may appear necessary as subsequent fulfillment. Correction of defects may also initially consist of indicating reasonable options to the customer to avoid or prevent the effects of the defect. Any parts replaced as part of subsequent fulfillment shall become the property of **viastore**. In the event of any defect in title, **viastore** shall provide the customer with a legally impeccable use option for the contractual objects; alternately, **viastore** may exchange the contractual objects of concern (in full or in part) in exchange for equivalent ones, provided this is reasonable for the customer.
- 9th5 If the contractual object is subsequently moved to a location other than the agreed place of delivery and if this increases the expenses required for the purpose of supplementary performance, in particular transport, material or labor costs, **viastore** shall not bear these costs. This restriction does not apply if the shipment of the contractual object to the place where it is located at the time a defect occurs corresponds to its intended use or was agreed between the parties. Otherwise, **viastore** may refuse supplementary performance if it involves disproportionate costs.
- 9th6 If subsequent fulfillment ultimately fails (at least two subsequent fulfillment attempts per defect), then the customer may demand, at its discretion, a reduction of the compensation (decrease) or to rescind from the contract. A rescission from the contract shall be excluded for insignificant defects. For claims for damages and compensation for futile expenses due to defects, clause 10 of these GTC shall apply.
- 9th7 If **viastore** renders services during troubleshooting or defect correction without an obligation to do so, **viastore** may demand compensation for this based on time an expense pursuant to applicable price list as amended. This shall apply especially if a defect reported by the customer is cannot be proven or cannot **viastore** cannot be held responsible for it. Compensation claims shall not be permitted if the customer did not recognize absence of a defect and it is also free of culpability in this regard.
- 9th8 The limitation period for customer claims according to this clause 9 is one (1) year and shall commence as of the date of delivery of the goods or with the acceptance of the work. The shortening of the limitation period does not apply in the case of intent or gross negligence of **viastore**, in particular if **viastore** has fraudulently concealed a defect, or if the defect relates to a third-party right in rem, on the basis of which surrender the goods can be demanded. The limitation period shall be extended by subsequent fulfillment on the part of **viastore**, at most with respect to the components exchanged by **viastore** (for example separate new components) of the contractual objects.
- 9th9 Used or technically obsolete machinery is delivered under exclusion of any material defect liability. Any claims of the customer due to defects in the new or refurbished components inserted into the machinery by **viastore** shall remain unaffected. **viastore's** liability for damages and reimbursement of expenses also remains unaffected in accordance with the provisions of clause 10.

10. Liability

- 10th1 **viastore** shall indemnify for property damage and pecuniary loss as well as for futile expenses, for whatever legal reason (for example based on or a relationship of trust similar to a contract, contract or tort) - also due to impossibility or delay as well as defects of the contractual objects - only to the following extent:
- a) In cases of intent and gross negligence in accordance with the statutory provisions and on the assumption of a guarantee equal to the protection purpose covered by the guarantee;
 - b) In all other cases only in the event of the violation of an essential contractual obligation, without which the fulfillment of the contractual purpose would be jeopardized, and on the fulfillment the customer should therefor generally rely (so-called cardinal obligation), and in thus far limited to compensation for the typical and foreseeable damage. The typical and foreseeable damage is thus limited by the parties to the amount of the relevant contract value of the individual contract concerned, with an order value of the individual contract of less than EUR 100,000, - but to a minimum of EUR 100,000, - (as the maximum upper limit).
- 10th2 Moreover, **viastore's** liability for data loss is limited to the typical recovery costs that would be incurred in case of regular and risk-related production of backup copies by the customer, unless **viastore** intentionally or gross negligently was the cause of the data loss.
- 10th3 The customer's claims for damages shall be time-barred one (1) year from the customer's knowledge of the circumstances giving rise to the claim or as of the date on which the customer, where no gross negligence is involved, should have become aware of the circumstances giving rise to the claim and of the person at fault. Excluded from the abbreviated limitation period shall be claims for intentional and grossly negligent breaches of duty.
- 10th4 The aforementioned limitations of liability shall apply to the same extent to the benefit of committees, legal representatives, employees and vicarious agents of **viastore**.
- 10th5 Legal liability for damages resulting from injury to life, limb or health as well as under the German Product Liability Act shall remain unaffected by the above provisions.

11. Retention of Title

- 11th1 The goods delivered by **viastore** to the customer (hereinafter "reserved goods") shall remain the property of **viastore** until complete fulfillment of all, including future claims by **viastore**, arising from the business relationship with the customer. The customer shall store the reserved goods free of charge on behalf of **viastore**. The customer shall be obligated to obtain adequate insurance coverage for the reserved goods against common risks such as fire, water, theft, etc. If maintenance and inspection work is required, the customer must perform such work in good time at its own expense, provided such services are not provided by agreement by **viastore** itself.



- 11th2 If third parties access the reserved goods, in particular by way of seizure, the customer shall immediately make said third party aware of **viastore's** ownership and shall inform **viastore** hereof in order to allow **viastore** to enforce their ownership rights.
- 11th3 In the event that the customer defaults in payment, discontinues payments or if its financial circumstances should suffer significant deterioration, thus making the **viastore** claims appear to be at risk, in particular if insolvency proceedings are initiated, **viastore** shall have the right to demand that the customer surrender the reserved goods. The demand to surrender the reserved goods shall be deemed a rescission from the contract. Setting a deadline in advance shall not be required. **viastore** shall reserve the right to assert damages.
- 11th4 The customer is entitled to resell the reserved goods during the course of normal business. The customer hereby assigns the claims against its customers from the resale of the reserved goods to **viastore** in the amount of the invoice amount (including VAT); **viastore** hereby accepts the assignment. The customer remains authorized to collect the claim even after such assignment. The authority of **viastore** to collect the claim itself shall remain unaffected; however, **viastore** shall not collect the customer's claim against its customers as long as the customer is not in default of payment and no insolvency proceedings have been initiated.
- 11th5 Any processing, connecting or converting of the reserved goods by the customer shall always be on behalf of and in the name of **viastore** as the manufacturer, without obliging **viastore** in this respect. If the reserved goods are processed or combined with other objects not belonging to **viastore**, **viastore** shall acquire co-ownership to the new object in proportion to the objective value of the goods it delivered to the other processed or combined objects at the time of the processing or the combination thereof.

12th Confidentiality, Machine Data and Data Protection

- 12th1 The customer shall maintain confidentiality with respect to all knowledge, information and documents of technical, professional and commercial nature ("confidential information") that it receives from **viastore** during the course of the business relationship in its dealings with third parties and also extending beyond the duration of the business relationship with **viastore**, unless evidence can be provided that such confidential information (i) was already known or manifest to the customer at the time of its disclosure or subsequently became manifest to the customer through no fault of its own, or (ii) developed by the customer completely independently, or (iii) was obtained by a third party without infringing upon confidentiality obligations. The disclosure of confidential information does not give rise to copyrights and/or industrial property rights, including rights to the expertise incorporated in the confidential information. Any kind of license shall require a separate written agreement between the parties.
- 12th2 The customer hereby grants **viastore** all rights necessary for the fulfillment of the contract with respect to the operational data (equipment or machine) it transmits or makes accessible to **viastore**, in particular with respect to storing and processing of such data. Furthermore, **viastore** receives from the customer free of charge the unlimited right, in terms of time, space and content, to evaluate the data collected and processed via the customer's machine for its own business purposes, in particular for analysis, optimization and benchmarking purposes and for this purpose to combine, duplicate, edit and process it in any other form with other data (including data from other customers). **viastore** uses such data, in particular, to further improve the quality of its services. **viastore** ensures that the customer and its employees remain unidentifiable (indirectly as well) to third parties.
- 12th3 Personal data of the customer (such as name and email address of the customer's contact person) shall be collected, processed and utilized by **viastore** in compliance with the data protection regulations, in particular the General Data Protection Regulation (GDPR) and the German Federal Data Protection Act (BDSG). The data necessary for the business transaction are stored by **viastore** and, if necessary, shared with external service providers (such as transport companies) for the purpose of fulfilling the contract. Details on the handling of personal data at **viastore** arise from the current data protection instructions for customers, suppliers and other business partners respectively, which are handed over to the customer at the start of the business relationship and are otherwise provided at any time upon request.

13. Compliance and Export

- 13th1 The customer has no direct or indirect business links with terrorists, terrorist groups or other criminal organizations. The customer shall ensure compliance with embargoes, European Union anti- terrorism and anti-crime regulations as well as any applicable US or other applicable provisions in the course of doing business by implementing appropriate technical and organizational measures. The customer is solely responsible for adherence to the aforementioned provisions.
- 13th2 The customer alone is responsible for obtaining any necessary export license in the country of destination. For each resale, the customer is also responsible for observing the applicable export regulations and for obtaining any necessary permits and must in thus far hold **viastore** harmless from all obligations.
- 13th3 The customer further assures that it acts in accordance with all applicable legal provisions, in particular the regulations on the fight against corruption and money laundering and any other provisions under criminal law.
- 13th4 If, on the basis of concrete facts, there is a reasonable suspicion that the customer is violating or has violated any of the above obligations, **viastore** shall have the right to rescind from or terminate the contract at its discretion if **viastore** feels it would be unreasonable to continue to adhere to the contract. In the event of such termination, **viastore** shall be exempted from any obligation to perform.
- 13th5 The customer shall hold **viastore** harmless from any claims by third parties (including official fines), costs (including attorney's fees within reason) and damages insofar as such are based on a culpable breach of its obligations under this clause 13.

14. Final Provisions

- 14th1 Any amendments to or modifications to this contract must be in written form to be valid (fax is sufficient for this, email is not). The written form requirement itself can only be waived by the parties in writing.
- 14th2 The laws of the Federal Republic of Germany shall apply excluding the conflict of laws rules of international private law and to the exclusion of the UN Sales Convention (CISG). Jurisdiction for all disputes arising in connection with the contract is Stuttgart, Germany. **viastore** shall have the right to file suit at any other nationally or internationally competent court.



14th3 Should individual provisions of the contract or of these GTC be or become ineffective, or should the contract contain a loophole, this shall not affect the validity of the remaining provisions. The ineffective or missing provision shall be replaced by an effective provision, which comes closest in meaning to what the parties had intended economically at the time they concluded the contract.

