



Standard Terms of Sale of Amptown System Company GmbH (as on 18.10.2016)

1. **Scope of Application**
 - 1.1 These Standard Terms of Sale of Amptown System Company GmbH (hereinafter referred to as "ASC") apply to all contracts concluded by ASC and its customers on the sale and delivery of media-technical systems and all related services and performance (hereinafter also referred to in general as "products and performance"), given that the customer is
 - a) a corporate body or a natural person which or who, at the time of conclusion of the contract, is exercising its commercial or self-employed professional activities (businessman), or
 - b) a public-law corporate body or public special assets.
 - 1.2 These terms of sale apply exclusively. Standard terms of business of the customer apply only if and to the extent that ASC has explicitly recognized these, and in writing. In particular, the silence of ASC with respect to such deviating conditions is not to be regarded as recognition or consent, not even in the event of future contracts. These terms of sale also apply instead of any standard terms of business of the customer (e.g. Terms of Purchase) even if, in keeping with these, the acceptance of order is foreseen as unconditional recognition of the standard terms of business.
 - 1.3 These terms of sale apply, in their respective version, as framework agreements, also for future contracts on the sale and/or delivery of moveable assets with the same customer, without ASC having to draw attention to this in each individual case.
 - 1.4 To the extent that individual agreements are concluded with the customer in individual cases, such agreements take priority over these terms of sale. A written contract, or the written confirmation of ASC, is determinative as regards the content of such agreements.
 - 1.5 Legally relevant declarations and notifications to be made by the customer vis-à-vis ASC after conclusion of contract (e.g. setting of deadlines, notification of defects, declarations of withdrawal or price reduction) require the written form, if they are to be effective.
2. **Information, Advice, Product Characteristics, Guarantees**
 - 2.1 Information and advice, as well as other performance provided by ASC, are based solely on previous experience. All information on the products and performance of ASC, especially the illustrations, drawings, content and performance details, and information contained in ASC's offers and printed material, are to be seen as approximate average values.
 - 2.2 Technical changes, deviations and errors in connection with brochures, catalogues, illustrations and price lists are subject to change without notice.
 - 2.3 The instructions for use are drawn up by ASC with the care and diligence customary to the branch, though this does not release the customer from the duty to check the suitability of the product for the intended purposes.
 - 2.4 Documents associated with the offer, such as drawings, photos, technical data, references to standards and assertions made in advertising material are not declarations as to characteristics, avowed attributes or guarantees, unless they are explicitly described as such in writing.
 - 2.5 ASC explicitly retains all rights of ownership, as well as the copyright, to catalogues, technical documentation (e.g. drawings, plans, details as to weights and measurements, computations, calculations) and other product descriptions or material – even in electronic form. The customer undertakes not to disclose the documents, etc. mentioned in the preceding sentence to third parties, unless ASC gives its explicit written consent.
3. **Conclusion of Contract**
 - 3.1 The communications of ASC made to the customer and designated as an "offer" are provisional and subject to change without notice, and are non-binding. They are invitations to the customer to order or to place an order.
 - 3.2 The ordering of the products and/or performance from ASC by the customer is held as a binding offer of contract by the customer vis-à-vis ASC. Unless some alternative is contained in the customer's order / offer of contract, ASC is entitled to state its acceptance of this offer of contract of the customer, vis-à-vis the latter, within three weeks of its arrival at ASC. As regards the timeliness of the declaration of acceptance, the date of its sending to the customer is decisive.
 - 3.3 Even in the context of ongoing business transactions, a contract is first concluded when ASC accepts customer's placing of the order or the order as such. The acceptance can be declared either in writing (e.g. by confirmation of order) or by delivery of the products to the customer, or by rendering of the performance. As regards the content of the contract, ASC's confirmation of order is determinative.
 - 3.4 In the event that ASC accepts the contract after expiry of the period of acceptance of three weeks given under point 3.2, a contract should nonetheless be concluded on the basis of the conditions of the confirmation of order, unless the customer rejects the conclusion of contract vis-à-vis ASC immediately after receipt of the confirmation of order, in writing.
4. **Scope of Performance, Performance Risk**
 - 4.1 Unless some other agreement has been explicitly reached in writing, ASC is only obliged to make deliveries from its stocks. In particular, the acceptance of a procurement risk is not solely founded by the obligation of ASC to deliver a certain type of thing only.
 - 4.2 The customer is to notify ASC in writing, in good time before conclusion of contract, about any special requirements wanted, as regards the performance and/or products desired from ASC.
5. **Delivery Deadline, Delay in Delivery**
 - 5.1 Delivery and performance deadlines are only binding if they have been explicitly confirmed in writing by ASC as binding. They begin with the date of the confirmation of order. If no other agreement has been reached, the delivery deadline is regarded as having been observed if the customer has been sent notification of the readiness for dispatch of the delivery item at the agreed point in time or within the agreed deadline; in the case of other performance, if the rendering of performance is begun before the deadline. Deliveries and performance before expiry of the delivery/performance period are permissible.
 - 5.2 Compliance with delivery and performance deadlines presupposes the clarification of all technical questions, particularly the timely receipt of all documents, necessary authorizations and approval to be provided by the customer, as well as compliance with the agreed terms of payment and other obligations of the customer. If the above-mentioned prerequisites have not been satisfied, the deadlines extend appropriately. This does not apply if ASC is responsible for the delay.
 - 5.3 ASC reserves the right, to a reasonable extent, to make part deliveries.
 - 5.4 If the deadline for delivery or performance is exceeded for reasons for which ASC is responsible, the customer, after expiry of a reasonable period of grace, is entitled to
- 5.5 withdrawal from the contract. Claims to compensation are regulated in keeping with the regulations of point 13 of these terms of sale.
- 5.6 If the customer causes a delay in delivery, or the delivery of the delivery item as such, or the execution of other performance, ASC is then entitled to demand reimbursement of any resulting damage, including any additional costs incurred. Farther-reaching claims or rights are retained.
- 5.7 In cases of default on payment by the customer, ASC is entitled to exercise right of retention in connection with further deliveries or other performance.
6. **Reservation of Self-Supply, Force Majeure**
 - 6.1 If ASC is unable to meet binding delivery deadlines for reasons for which it is not answerable (non-availability of the performance), it will inform the customer of this immediately and will give notification, at the same time, of the anticipated new delivery deadline. If the performance still cannot be rendered before the new delivery deadline, ASC is entitled to withdraw from the contract, wholly or partly. Any counter-performance of the customer already rendered will be reimbursed by ASC immediately.
 - 6.2 In particular, ASC is entitled to withdraw from the purchase contract if, despite the conclusion of a corresponding covering transaction, it has not been supplied correctly and in good time by its suppliers for reasons for which it is not answerable.
 - 6.3 In the case of the occurrence of force majeure, the regulations outlined under point 6.1 apply accordingly. The term "force majeure" applies to war, riots, labour disputes, strikes, lockouts, official directives or measures, unavoidable shortages of energy or raw materials, transportation shortages through no fault of ASC, unforeseeable disturbance of operations – as in the case of damage caused by fire, or water, or to machine damage – and all other hindrances that, seen objectively, have not been intentionally brought about by ASC.
 - 6.4 If a binding delivery date or delivery deadline has been agreed to and if, due to occurrences in keeping with points 6.1 to 6.3, the agreed delivery date or delivery deadline is exceeded, the customer is entitled, after fruitless expiry of a reasonable period of grace, to withdraw from that part of the contract that has still not been fulfilled, should further abidance by the contract be objectively unreasonable. Farther-reaching claims of the customer, particularly as relating to compensation, are in this case excluded.
7. **Delivery, Passing of Risk, Acceptance Inspection, Delay in Acceptance**
 - 7.1 Unless some other agreement has been reached, the delivery is undertaken ex works (in accordance with Incoterms® 2010) at the ASC warehouse at the respective ASC location at which the product for delivery finds itself. This is also the place of performance.
 - 7.2 At the request of the customer, and at the customer's cost, the products can be sent to some other destination (purchase and shipment). Unless some alternative agreement has been reached, ASC is entitled to determine the type of shipment (particularly the transport company, the transport route, and the packaging) itself.
 - 7.3 The consignment will only be insured by ASC against theft, damage due to breakage, transport damage, fire damage and water damage, or other insurable risks at the explicit request of the customer, and at the latter's costs.
 - 7.4 The risks of accidental loss and of accidental deterioration of the product pass to the customer at the time of hand-over at the latest. In cases of purchase and shipment, however, the risks of accidental loss and of accidental deterioration of the product, as well as the risk of delay already pass with the handing-over of the product to the forwarding agent, to the carrier, or to the other person or institution charged with carrying out the shipment.
 - 7.5 If an acceptance inspection has been agreed to, this will be determinative for the passing of risk. Otherwise, too, the statutory regulations of the works-contract law apply to an agreed acceptance inspection accordingly. The hand-over or acceptance inspection takes place even if the client defaults on acceptance.
 - 7.6 If an acceptance inspection is to take place, the purchase item is regarded as having been accepted if
 - the delivery and the installation, if ASC is also to carry out installation, have been completed,
 - ASC notifies the customer of this, making reference to acceptance fiction in keeping with this point 7.6, and calling on the customer to inspect the goods,
 - twelve workdays have passed since the delivery or installation, or if the customer has begun to use the product (e.g. has put the delivered plant into operation) and in this case six workdays have passed since the delivery or installation,
 - the customer has failed to accept, within this period, for some other reason than a defect brought to ASC's attention, that makes use of the product impossible or significantly impedes such use.
 - 7.7 If an acceptance inspection of the product or shipment is delayed for reasons for which the customer is answerable, ASC is entitled, after the setting and expiry of a 14-day period of grace – at its own choice – to demand immediate payment of the purchase price, or to withdraw from the contract, or to refuse fulfilment and instead to demand compensation for the entire performance.
 - 7.8 If the customer defaults on acceptance, or fails to comply with a participation obligation, or if delivery to ASC is delayed for other reasons for which the customer is answerable, ASC is entitled to demand restitution for the damage resulting from this, including additional costs incurred (e.g. storage costs). Here, a flat-rate remuneration to the value of 0.25% of the agreed net invoice amount per calendar week commenced, beginning with the delivery deadline or – if there is no delivery deadline – with the notification of readiness for dispatch of the product. Proof of higher damage and the assertion of farther-reaching claims of ASC (in particular restitution of additional costs incurred, appropriate remuneration, termination) remain unaffected; the flat rate, however, is to be offset against farther-reaching money claims. The customer retains the right to prove that ASC suffered no damage whatsoever, or far less damage than the value of the above-mentioned flat rate.
8. **Prices, Terms of Payment, Objection of Uncertainty**
 - 8.1 On principle, all prices are given in euros and are exclusive of packaging, freight costs, postage and insurance costs, are ex works, and are prior to the turnover tax to be borne by the customer at the respective statutory level.
 - 8.2 ASC is entitled to alter the prices of the offer accordingly if, after conclusion of the contract, cost decreases or cost increases occur, particularly in the prices of materials, and the planned delivery date is more than four months after the date of conclusion of contract. At the request of the customer, ASC will provide proof of the effects of the cost increases or cost decreases and their effects on the contract price.



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- 8.3 In cases of purchase and sales shipment (point 7.2), the customer bears the transportation costs ex warehouse and the costs of any transport insurance wanted by the customer.
- 8.4 Unless some other agreement exists, performance that is not a part of the agreed scope of delivery is calculated on the basis of ASC prices normally charged for performance not forming the subject matter of a contract. If ASC undertakes the delivery, assembly and putting into operation, and if no further agreement has been reached, the customer must then bear all necessary incidental expenses, in addition to the agreed payment, e.g. travelling expenses and transportation costs.
- 8.5 ASC invoices are due for payment within 10 workdays of the invoice date, without any deduction. The deduction of discount is only permitted in keeping with a separate written agreement.
- 8.6 Unless some other agreement has been reached, for orders with a total net value of more than EUR 10,000.00 and for fees for performance to be provided by ASC (e.g. assembly and installation), advance payments to the value of 40% of the order sum are due at the time of award of order, 50% upon completion of the order, and the remaining 10% on acceptance. As to punctuality of payment, this depends on the time of entry of the money to the ASC account.
- 8.7 Even without a reminder, the customer defaults on payment if this has not been made within 30 days – at the latest – of the due date and receipt of the invoice. During the period of default the purchase price is subject to interest at the respective, applicable, statutory rate of default interest. ASC reserves the right to enforcement of a farther-reaching default claim to compensation. With respect to businessmen, the claim of ASC to commercial maturity interest (section § 353 of German Commercial Code »Handelsgesetzbuch (HGB)«) remains unaffected.
- 8.8 The customer has offsetting rights or rights of retention only to the extent that his/her/its claim has been legally established or is uncontested. In cases of delivery defects point 12.5 remains unaffected.
- 8.9 Should it become apparent, after conclusion of the contract, that ASC's claim to the purchase price is endangered by a lack of capability on the part of the customer (e.g. by an application for initiation of insolvency proceedings), ASC is then entitled, in keeping with the statutory regulations, to refuse performance and – if necessary after the setting of a deadline – to withdraw from the contract (section § 321 of German Civil Code »Bürgerliches Gesetzbuch (BGB)«). In cases of contracts on the manufacture of non-fungible items (one-offs) ASC can declare its withdrawal immediately; the statutory regulations on the dispensability of setting a deadline remain unaffected.
- 9. Provision of Security, Section § 648 a of BGB**
ASC and the customer agree on the applicability of section § 648 a of BGB to the contractual relationship existing between the customer and ASC, taking account of the exceptions given in section § 648 a, paragraph 6 of BGB.
- 10. Packaging, Disposal**
10.1 Transport packaging and all other packagings in keeping with the stipulations of the German Packaging Ordinance »Verpackungsverordnung« will not be taken back by ASC, but will become the property of the customer. The customer is obliged to ensure proper and orderly disposal of the packaging at his/her/its own cost.
10.2 The customer accepts the obligation to dispose of the goods in a proper and orderly manner, after their use, at his/her/its own cost. The customer releases ASC from the obligations in keeping with section § 10, paragraph 2 of German Electrical and Electronic Equipment Act »Elektrogesetz (ElektroG)« (take-back duty of the manufacturer) and thereby from all related claims in this connection.
- 11. Retention of Ownership**
11.1 Until full payment of all current and future claims of ASC arising from the purchase contract and any ongoing business relationship, ASC retains the ownership of all products delivered by it (hereinafter referred to as "goods sold subject to retention of ownership").
11.2 The customer must adequately insure the goods sold subject to retention of ownership, especially against fire and theft. Claims against the insurance arising from a case of damage affecting the goods sold subject to retention of ownership are already hereby assigned to ASC, to the value of the goods sold subject to retention of ownership.
11.3 Until full payment of the claims referred to under point 11.1, the customer must neither pledge the goods sold subject to retention of ownership to a third party, nor use them as security. The customer must notify ASC immediately in writing if, and to the extent that, a third party attempts to confiscate the goods sold subject to retention of ownership.
11.4 In cases of behaviour of the customer that is in violation of contract, especially in cases of non-payment of the due purchase price, ASC is entitled, in keeping with the statutory regulations, to withdraw from the contract or/and to demand return of the products on the basis of the retention of ownership. This demand for return is not equivalent to a declaration of withdrawal; ASC is instead only entitled to demand the release of the products, and to reserve the right of withdrawal. If the customer does not pay the due purchase price, ASC may only exercise these rights if it has previously set the customer a reasonable deadline for payment unsuccessfully, or if the setting of such a deadline is dispensable in keeping with the statutory regulations.
11.5 The customer is entitled, in the course of proper business activities, to resell and/or to process the goods sold subject to retention of ownership. In this case the following regulations apply additionally.
11.6 The retention of ownership extends to products resulting from the processing, mixing or combining of ASC products up to their full value, whereby ASC is regarded as the manufacturer. If, in cases of processing, mixing or combining with products of a third party, the latter's ownership rights remain intact, ASC acquires joint ownership proportionate to the invoice values of the processed, mixed or combined products. Otherwise the same applies to the resulting product as for products delivered under retention of ownership.
11.7 Already at this time the customer assigns to ASC claims against third parties arising from the resale of the products or the resulting products, in total or to the value of any joint-ownership share of ASC, in accordance with the above paragraph on security. ASC accepts the assignment. The obligations of the customer referred to under point 11.3 also apply with respect to the assigned claims.
11.8 Alongside ASC, the customer remains authorized to collect claims. ASC undertakes not to collect the claims for as long as the customer satisfies all payment obligations vis-à-vis ASC, does not default on payments, avoids a situation in which an application for insolvency proceedings is made, and no other shortcomings in his/her/its performance capability are evident. Should the customer fail to do so, however, ASC can demand that the customer informs ASC about the claims assigned and names his/her/its debtors, does everything necessary to ensure that the details required are collected, hands out the related documents, and notifies the (third-party) debtors as to the assignment.
- 11.9 If the realizable value of the security exceeds the claims of ASC by more than 10 %, at the request of the customer ASC will release security at its own discretion.
- 12. Claims of the Customer Based on Defects**
12.1 Unless some other agreement is reached below, in cases of material defects and legal shortcomings (including incorrect deliveries and short deliveries, as well as improper assembly or defective assembly instructions) the statutory regulations apply to the rights of the customer.
12.2 The basis of claims as to the liability of ASC for defects is in particular the agreement concluded as to the characteristic properties of the products. Such agreement on the characteristic properties of the products are such designated product descriptions (including the manufacturer's) that the customer, before his/her/its ordering, was given, or that were incorporated in the contract in the same way as these Standard Terms of Sale.
12.3 Claims of the customer based on defects presuppose that he/she/it has fulfilled his/her/its statutory inspection and notification obligations (sections § 377 and § 381 of HGB). The delivered products are to be carefully inspected immediately after delivery to the customer or to a third party chosen by him/her/it. With respect to obvious defects (including incorrect and short deliveries) and to other defects that would have been recognizable in the case of an immediate, thorough examination, the products are held to have been approved by the customer if ASC does not receive written notice of defects within seven workdays of delivery. As regards other defects, the delivered products are regarded as having been approved by the customer if no notice of defects is received by ASC within seven workdays of the time at which the defect became apparent; and if the defect was already apparent to the customer, under normal usage, at an earlier point in time, this earlier point in time is determinative for commencement of the objection deadline. If the customer fails to undertake a proper and orderly examination and/or to give notice of defects, any liability of ASC for the non-notified defect is excluded.
12.4 If the delivered item is defective, ASC can initially choose between subsequent performance by correcting the defect (subsequent improvement) or by delivery of a non-defective item (new delivery). The right of ASC to refuse the selected type of subsequent performance under the statutory prerequisites remains unaffected.
12.5 ASC is entitled to make the subsequent performance due dependent on the fact that the customer pays the purchase price due. The customer, however, is entitled to withhold an appropriate part of the purchase price proportionate to the defect.
12.6 The customer must allow ASC the time necessary for the subsequent performance due, which must amount to at least four weeks, and in particular must give it the opportunity to examine the products objected to by handing these over. In the event of replacement, the customer must return the defective item to ASC in keeping with the statutory regulations.
12.7 In the event of subsequent performance, the customer, before handing over the goods to ASC, must remove, at his/her/its own risk, all programs, data and data carriers, as well as all additional facilities, alterations and added fittings not delivered by ASC, and must secure all programs and data. ASC accepts no liability for the loss of programs or data, or for any consequential damage resulting from such loss.
12.8 Claims of the customer based on the necessary expenses incurred in the course of subsequent performance, particularly transportation costs, toll charges, labour costs and material costs, are excluded if the expenditure is increased because the subject matter of the delivery subsequently has to be brought to another place than the place of delivery agreed to at the time of conclusion of contract, unless such shipment corresponds to its intended use. Fitting and removal costs will not be accepted by ASC.
12.9 If the subsequent performance is unsuccessful, or if the appropriate deadline of at least four weeks to be set by the customer for the subsequent performance expires without success, or is dispensable in keeping with the statutory regulations, the customer can withdraw from the purchase contract or can reduce the purchase price. In cases of an insignificant defect, however, no right of withdrawal exists.
12.10 Claims of the customer to compensation or to restitution of expenditure invested in vain exist only in accordance with point 13 and are otherwise excluded.
12.11 Should a demand of the customer for correction of the defects prove to be unfounded, ASC can demand that the costs thereby incurred be reimbursed by the customer.
- 13. Other Liabilities**
13.1 Unless these terms of sale, including the following provisions, stipulate some alternative, ASC accepts liability in the event of violation of contractual and non-contracted obligations in keeping with the relevant statutory regulations.
13.2 As regards compensation, ASC accepts liability – regardless of the legal basis – for malintent and for gross negligence. In cases of slight negligence ASC accepts liability only
a) for damage arising from injury to life, limb or health,
b) for damage arising from violation of a significant contractual obligation (an obligation, the fulfilment of which makes the proper and orderly implementation of the contract possible in the first place, and on compliance with which the contract partner regularly relies and is entitled to rely on); in this case, however, the level of liability of ASC is limited to restitution of the foreseeable damage that is typically suffered.
13.3 Any liability due to deceitful concealment of a defect, the acceptance of a guarantee or of a procurement risk, in keeping with the Product Liability Act and in keeping with other compelling statutory regulations, remains unaffected.
13.4 The above-mentioned exclusions of or limitations on liability apply to the same extent to the senior and non-senior employees, to other agents and to ASC's subcontractors.
13.5 No reversal of the onus of proof is associated with the above-mentioned regulations.
- 14. Period of Limitation**
14.1 In deviation from section § 438, paragraph 1, no. 3 of BGB, the general period of limitation for claims arising from material and legal shortcomings amounts to one year as from the actual date of delivery. If acceptance inspection has been agreed to, the period of limitation begins with the acceptance.
14.2 If, however, the product in question is a structure, or an item that in keeping with its customary usage has been used for a structure and has caused its defectiveness (building materials), the period of limitation amounts to 5 years as from handing over, in accordance with the statutory regulations (section § 438, paragraph 1, no. 2 of



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- BGB). Special statutory regulations for real surrender claims of third parties (section § 438, paragraph 1, no. 1 of BGB), in cases of deceit on the part of the seller (section § 438, paragraph 3 of BGB) and for claims of recourse against suppliers in cases of final delivery to a consumer (section § 479 of BGB) are also unaffected.
- 14.3 The above-mentioned periods of limitation of purchase law also apply to contractual and non-contracted claims of the customer to compensation that relate to a product defect, unless the application of the regular statutory period of limitation (sections § 195 and § 199 of BGB) would, in the individual case, lead to a shorter period of limitation. The periods of limitation of the Product Liability Act, at any rate, remain unaffected.
- 15. Use of Software**
If software is included in the scope of delivery, the customer is granted a non-exclusive right to use the delivered software, including its documentation. It is given for use on the delivery item stipulated for this purpose. Use of the software on more than one system is prohibited. The customer may use the software only within the legally permissible limits (section § 69 a ff of German Copyright Act »Urhebergesetz (UrhG)« to duplicate, revise, translate or to transform the object code into source code. The customer undertakes not to remove or to alter manufacturers' information – particularly copyright notes – without the prior explicit consent of ASC. All other rights to the software and the documentation, including copies, remain with ASC or with the supplier of the software. The award of sub-licences is not permissible.
- 16. Supplementary Regulations on Lease**
The following provisions under this point 16, on the lease of devices, technical components, plant and systems by ASC, apply additionally.
- 16.1 The customer must handle the leased item carefully, and in particular must pay attention to any directions for use and operating instructions, servicing and care recommendations provided, and must protect the leased item against overload. He/She/It must return the leased item in contractual, functional and operation-ready condition and must bear, at the time of return, any resulting cleaning costs.
- 16.2 It is forbidden to make changes of whatever sort to the leased item. In the event that any such changes are made, the customer bears all costs that arise in connection with the restoration of the original condition.
- 16.3 The customer must inform ASC about any damage and any malfunctioning of the leased item and about each failure immediately in writing. During the lease period the customer may only have necessary repairs professionally undertaken after written approval has been given by ASC. The customer is liable for all damage, unless this is due to normal wear and tear or to technical failure despite foreseen use.
- 16.4 The customer must ensure that damage and/or the loss of the leased item as a result of acts of the customer and/or failure of the customer to act are covered by the customer's employer's liability insurance. Moreover, the customer must insure the leased item at new value against theft, breakage, transport damage, fire and water damage. Upon request by ASC, the customer must provide proof of existing insurance cover by submission of a confirmation of insurance or of the insurance policy. The customer hereby assigns to ASC all insurance entitlements arising from damage or loss of the leased item for which the customers is answerable.
- 16.5 In a case of damage to or involving the leased item the lessee is to inform ASC immediately in writing, giving details as to the time and cause of the occurrence, as well as to the extent of the damage suffered.
- 16.6 The lessee must not hand over the leased item to a third party. The lessee is directly liable for all damage arising from the handing over of the leased item to an unauthorized third party.
- 16.7 At the end of the contractually agreed lease period, and within the customary hours of business, the leased item is to be returned to ASC.
- 16.8 If the lessee does not return the leased item in good time, ASC can choose, at its own discretion, to charge the agreed lease price for each day by which the lease period is exceeded, or the day price, in accordance with the applicable price list, for loss of lease. The lessee is entitled to provide ASC with proof of a smaller lease-loss damage.
- 17. Supplementary Regulations on Repair**
The following provisions under this point 17, on the repair of devices, technical components, plant and systems by ASC, apply additionally.
- 17.1 ASC accepts no liability for the loss of programs or data in connection with repairs, checking or servicing, or for any consequential damage resulting from such loss. The customer is obliged to secure all programs and data, before handing over the device to ASC for repair.
- 17.2 ASC is entitled to charge a (net) flat rate of EUR 50.00, plus the respective, statutory turnover tax applicable, to cover the costs of preparing cost estimates.
- 17.3 In the event of the agreed disposal of a device, of components or of accessories, ASC reserves the right to charge the customer the disposal costs actually resulting, plus a handling charge of EUR 30.00 (net), plus the respective, applicable statutory turnover tax. Proof of the actual disposal costs must be given to the customer upon demand.
- 18. Final Provisions**
- 18.1 For these terms of sale and for all legal relationships between ASC and the customer, the law of the Federal Republic of Germany applies exclusively, to the exclusion of the provisions of UN Convention of Contracts for the International Sale of Goods (CISG). The preconditions and effects of the retention of ownership in accordance with point 11, by contrast, underlie the law applicable at the respective location of the item, in as much as the choice of law to the benefit of German law, according to this, is impermissible or ineffective.
- 18.2 If the customer is a full trader in the sense of the German Commercial Code, or a public-law body, or constitutes public special assets, the sole place of jurisdiction – even internationally – for all disputes arising from this contract relationship, whether directly or indirectly, is the registered place of business of ASC. ASC, however, is also entitled to take legal action at the general place of jurisdiction of the customer.
- 18.3 Informal amendments of contract by way of individual contractual agreement are effective. Otherwise, amendments and extensions of these terms of sale and of ancillary agreements require the written form. This also applies to any exclusion of this written-form clause.
- 18.4 **Employees of ASC are not entitled to supplement contractual content or to deviate from it. This does not apply to executives or to authorized signatories of ASC, or to persons authorized by them for this purpose.**
- 18.5 Should one of the above-mentioned provisions prove to be ineffective, whether at present or at some future date, this does not detract from the validity of the remaining provisions. The contracting parties are obliged to replace the invalid provision with one that is as close as possible to the replaced provision in terms of its economic success.