

General Terms and Conditions of Delivery and Performance (ALLB EN)

Axians Germany

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1. Validity of these General Terms and Conditions of Delivery and Performance (ALLB EN)

- 1.1. These terms and conditions shall only apply if they are explicitly referenced by their English title "General Terms and Conditions of Delivery and Performance" and/or „ALLB EN“ (hereinafter "Terms and Conditions"). In all other cases, the German version titled "Allgemeine Liefer- und Leistungsbedingungen" and/or „ALLB“ shall apply (available under <https://www.axians.de/agb/>).
- 1.2. These General Terms and Conditions shall apply between any German entity of Axians ("Axians") and a customer for deliveries and performances of Axians ("Contractual Performance").
- 1.3. These General Terms and Conditions shall apply in addition to and subordinate to separate contractual documents that refer to them, if the separate contractual documents do not stipulate otherwise.
- 1.4. We reject the customer's general terms and conditions.
- 1.5. For Contractual Performances that include software and/or hardware from third parties (hereinafter referred to as "manufacturers"), the third party's licence and terms of use for end customers, including any service level agreements/availability quotas (hereinafter referred to as "end customer terms and conditions"), shall take precedence over these Terms and Conditions. The customer can access the respective end customer terms and conditions on the manufacturer's website. The customer is aware that by using the software and/or hardware, they must enter into a further contractual relationship with the respective manufacturer, which is based on the end customer terms and conditions and exists alongside their contractual relationship with Axians. The parties agree that Axians may also act towards the customer on the basis of these end customer terms and conditions in the manner specified therein (e.g. as a partner of the manufacturer).

If measures and performances on the part of the customer are necessary to fulfil the manufacturer's requirements, the contracting parties agree that the customer shall implement these completely, immediately and free of charge (e.g. the transmission of data to the manufacturer for billing purposes).

2. Offers, Offer period, prices and terms of payment, subcontractors

- 2.1. Quotations are prepared in accordance with generally accepted rules of technology (German: "allgemein anerkannten Regeln der Technik") as of the date the quotation is submitted. The price does not include any goods or services not expressly listed in the quotation or the scope of work.
- 2.2. Unless expressly agreed otherwise, offers from Axians are valid for one month.
- 2.3. Unless expressly agreed otherwise, Axians' prices are unit prices net plus any applicable statutory value added tax, customs duties (including punitive duties), fees and other charges arising in connection with the performance of this contract, as well as shipping costs; Incoterms 2020 EXW.
- 2.4. Unless expressly agreed otherwise, all invoices are payable immediately and without deduction. In the case of recurring payments, a single verifiable standing order is sufficient. Monthly payments, on the other hand, are payable on the 15th of the month in which the performance is provided.
- 2.5. Unless expressly agreed otherwise, remuneration for licences and associated performances shall be paid immediately and without deduction upon delivery of the licence for the entire term of the licence.
- 2.6. Performances not owed by Axians shall be remunerated on a time basis plus material and ancillary costs (the latter being: expenses that are necessary for the provision of performances and are not material cost). Waiting times for Axians for which the customer is responsible shall be remunerated as working hours.

However, Axians must allow for any savings made as a result of the non-provision of the performance or any gains made or maliciously not made through the use of the performances for other purposes.

- 2.7. Unless expressly agreed otherwise, the following surcharges apply to hourly rates: Monday to Friday outside 08:00 and 18:00 plus 50%, on Saturdays plus 50% between 08:00 and 18:00 and plus 100% outside these times, on Sundays and public holidays plus 100% between 08:00 and 18:00 and plus 150% outside these times.
- 2.8. Unless expressly agreed otherwise, travel time counts as working time and travel expenses are reimbursed separately. Travel expenses by car are calculated at €0.45 per kilometre for distances over 200 km, flights in economy class (domestic) and business class (international) and 1st class rail travel. Expenses are calculated at a daily flat rate of €30.00 per person.
- 2.9. In the event of billing for a performance based on a usage parameter (known as a "pay-per-X model", e.g. per location, port, use, data throughput or bandwidth), the customer authorises Axians to automatically collect this usage data and pass it on to a third party (in particular the manufacturer) for billing purposes.
- 2.10. Axians is entitled to use subcontractors to provide performances.

3. Performances dates

- 3.1. All performance dates specified by Axians are only binding if this has been expressly agreed.
- 3.2. If mutually agreed changes are made to the contract, the performance date shall be postponed by a reasonable period of time. The same shall apply if non-compliance with performance dates – including binding ones – is caused by force majeure, such as strikes or lockouts, epidemics, pandemics, natural disasters, war, uprisings, unrest, embargoes, virus attacks, hacker attacks, power failures or technical infrastructure failures, as well as non-delivery by a supplier for which it is not responsible, etc., or is due to other circumstances for which neither party is responsible. Axians shall be exempt from its obligation to perform for as long as the force majeure persists. Axians shall make every reasonable effort to limit the impact of the respective event on performance as far as possible. Section 313 of the German Civil Code (BGB) remains unaffected.
- 3.3. Performances provided by manufacturers/suppliers are subject to proper and timely ordering by the customer and timely and contractual performance by the manufacturer/supplier vis-à-vis Axians. Delays in performance due to delayed performance by manufacturers/suppliers shall result in a corresponding extension of the performance date.
- 3.4. The performance date shall be deemed to have been met and the risk shall pass to the customer as soon as Axians, or in the case of direct delivery by the manufacturer/supplier, hands over the performance to a carrier.
- 3.5. Partial performance is permissible unless it is unreasonable for the customer.
- 3.6. Unless expressly agreed otherwise, Axians shall provide its performances during normal business hours from Monday to Friday between 8 a.m. and 5 p.m. The public holidays of the registered office of the respective Axians company shall apply.

4. Cooperation of the customer

- 4.1. The customer shall support Axians to a reasonable extent in the performance of the Contractual Performances. In particular, the customer shall provide the necessary information and documents free of charge, in full and in good time. Axians is not obliged to check the information and documents received for completeness and accuracy. Unless the customer informs Axians of any special features of its software, hardware or systems, Axians shall assume the basic or standard configuration.
- 4.2. The customer shall provide Axians with the necessary system access for remote work and, in the case of on-site work, shall provide Axians employees with the necessary access and working environment free of charge and in a timely manner.
- 4.3. Unless expressly agreed otherwise, project planning and coordination shall be the responsibility of the customer. This applies in particular to the use of other contractors in addition to Axians. The customer shall monitor the progress of the work. They are obliged to carry out internal quality assurance before going live.

- 4.4. Unless expressly agreed otherwise, data backup is the responsibility of the customer. The customer must ensure this by means of regular, at least daily, state-of-the-art data backup measures.
- 4.5. If measures and performances on the part of the customer are necessary to fulfil the requirements of the manufacturer's end customer conditions, the parties agree that the customer shall implement the requirements free of charge, completely and in a timely manner.
- 4.6. The customer shall report malfunctions or defects, providing all information known to them that is useful for their identification. Unless expressly agreed otherwise (e.g. in the form of a ticket system or an administration console), the report shall be made in text form via the usual business channels between Axians and the customer. At Axians' request, the customer shall, within reasonable limits, take certain measures within its sphere of influence to enable the fault or defect to be identified and analysed, e.g. by providing necessary individual technical information from its sphere of influence that can be obtained by it at reasonable expense.
- 4.7. The customer shall inform Axians in good time of any changes it has made to its systems or provisions, insofar as these may affect Axians' Contractual Performances. This obligation applies regardless of whether the customer is entitled to make such changes.
- 4.8. The customer shall designate a contact person who is authorised to coordinate the Contractual Performances with Axians and who has all the decision-making powers and authorisations necessary for the purposes of implementing this agreement.
- 4.9. Unless Axians is responsible for installation and/or operation, the customer shall ensure that the installation and/or operating specifications of the manufacturer and Axians are complied with.
- 4.10. If a third party (in particular the manufacturer) makes an online platform available to the customer in connection with the performances of this contract and releases it for use (in particular for controlling a system), the customer undertakes to use it with care. If Axians is obliged to the third party to compensate for damage caused by the customer when using the platform, the customer undertakes to indemnify Axians against these claims.
- 4.11. If a Contractual Performance cannot be provided or can only be provided late as a result of a failure to comply with the obligations described, Axians shall be released from the performance and from compliance with any contractually agreed deadlines after a reasonable period for the customer to provide its cooperation has elapsed without success. The statutory provisions regarding default and default by the obligee remain unaffected.

5. Term

Unless expressly agreed otherwise, the contract shall be extended for a further twelve (12) months after the agreed minimum term if it is not terminated by either party three (3) months before the end of the minimum term or the respective extension period.

6. Rights of use

- 6.1. Axians reserves all property rights and copyrights to software and other results ("work results"); in particular, Axians is entitled to use these commercially at its own discretion.
- 6.2. For software from manufacturers, the rights of use are determined exclusively by their end customer terms and conditions.
- 6.3. Upon full payment of the agreed remuneration, the customer is granted a simple, non-transferable right of use for its internal business purposes with regard to software and work results. Unless otherwise agreed, the right of use is unlimited in time. The right of use for the software does not include the right to rent, lend, sublicense, distribute, publicly reproduce or otherwise make it available to third parties outside the customer's company. The right to reproduce the software exists to the extent necessary for backup purposes. Subject to other legal provisions, it is not permitted to edit, decompile or otherwise reverse engineer the software, in whole or in part, in order to obtain the source code. The software is provided in machine-readable form without source code.

- 6.4. If the work results contain open source software, the customer shall receive rights of use exclusively in accordance with the applicable licence terms of the open source software, which Axians shall indicate upon delivery.
- 6.5. The customer acknowledges that compliance with the end customer terms and conditions applicable to the respective software is a prerequisite for the granting of rights and that the rights may be revoked in the event of a breach of these provisions.
- 6.6. In the case of time-limited rights of use, the customer shall return the work results to Axians after termination of the contract and delete all copies made.

7. Insolvency

- 7.1. Notwithstanding any statutory or other contractual rights, both parties shall be entitled to terminate the contract without notice if it constitutes a continuing obligation (“Dauerschuldverhältnis”) and insolvency proceedings or comparable debt settlement proceedings are initiated against the assets of one of the parties.
- 7.2. If one party terminates the contract on the basis of the preceding paragraph, the customer shall reimburse the remuneration for the performance performed.

8. Liability

- 8.1. The following liability rules apply to all statutory and contractual claims for damages, indemnification, and reimbursement of expenses by the customer against Axians.
- 8.2. Axians shall be liable to the customer without limitation for damages caused by gross negligence or intent, for culpably caused damages resulting from injury to life, body or health, insofar as a defect has been fraudulently concealed, or a guarantee has been given for the quality of an item, or in the case of mandatory statutory liability such as under the German Product Liability Act (ProdHaftG) or the GDPR.
- 8.3. In the event of a slightly negligent breach of cardinal obligations (i.e. contractual obligations that enable the proper execution of the contract in the first place and on the fulfilment of which the user’s contractual partner therefore relies and may rely), Axians shall be liable to the customer to an amount limited to the damages foreseeable at the time of conclusion of the contract and typical for this type of contract.
- 8.4. The amount of foreseeable and contract-typical damages at the time of conclusion of the contract in accordance with (8.3) is 120% of the net order amount forecast at the time of conclusion of the contract, or €120,000.00, whichever is higher.
- 8.5. Outside the scope of application of (8.2) to (8.4) (i.e. unless there is unlimited liability and no cardinal obligations have been breached through slight negligence), Axians shall be liable to the customer in cases of simple negligence up to a maximum of 20% of the net order value forecast at the time of conclusion of the contract, or €24,000.00, whichever is higher.
- 8.6. Axians is not liable to the customer for indirect and consequential damages, such as lost profits, downtime, financial losses, data loss or data corruption – except in cases of 8.2 and 8.3.
- 8.7. Liability claims under 8.1 shall become time-barred twelve (12) months after the start of the statutory limitation period, except in cases of 8.2 and 8.3.
- 8.8. Contractual penalties or liquidated damages against Axians are not agreed between the Parties.
- 8.9. The parties agree that any agreed availability quotas (so-called service level agreements) are part of the performance description and therefore only the consequences of their violation are to be assessed in accordance with the liability rules in this section or any liability rules agreed with priority.

9. Confidentiality and data protection

- 9.1. The contracting parties are obliged to treat all information and documents of the other party that become known to them in connection with the preparation and execution of the contract as strictly confidential, not to disclose them to third parties and to use them only for the purpose of executing the contract. The following are not considered third parties, provided that the disclosure of confidential information and documents serves the purpose of contract performance and confidentiality is ensured: (1.) The employees

of companies in which VINCI Energies S.A. holds, directly or indirectly, more than a 50% stake, (2.) the employees of the Client and its affiliated companies within the meaning of Sections 15 et seq. of the German Stock Corporation Act (AktG). Axians is also permitted to pass on confidential information to subcontractors, provided that this is necessary for the provision of performances and confidentiality is ensured.

- 9.2. The confidentiality obligation does not apply to information that (1) was already public or known to the other contracting party at the time of transmission, (2) became public knowledge after its transmission through no fault of the other contracting party or a third party, (3) was developed independently by the receiving contracting party without using the trade secrets of the other contracting party, or (4) must be published in accordance with the law, an official order or a court decision. The other party shall be informed immediately and in advance of any such obligation to disclose and shall be given the opportunity to defend itself against such an order or decision.
- 9.3. Both parties undertake to comply with all relevant data protection regulations. If necessary, the customer undertakes to conclude a data processing agreement with Axians.
- 9.4. The customer assumes the information obligations pursuant to Articles 13 and 14 of the GDPR for those employees and contact persons whom they name to Axians. If the customer requires information for this purpose, Axians will provide it upon request.

10. Legal and regulatory requirements

- 10.1. Unless expressly agreed otherwise, Axians is not obliged to comply with legal or regulatory requirements that directly apply only to the customer or third parties but not Axians.
- 10.2. This applies in particular to banking and securities law requirements such as the Basel Accords, Sections 25a, 25b ff., 44 ff. of the German Banking Act (KWG), Section 32 of the German Insurance Supervision Act (VAG), the Minimum Requirements for Risk Management (MaRisk), the Banking Supervisory Requirements for IT (BAIT), Articles 30 to 32 of Delegated Regulation (EU) 2017/565, the EU Markets in Financial Instruments Directive (MiFID), the Digital Operational Resilience Act (DORA) and the Sarbanes-Oxley Act (SOA).
- 10.3. Section 10.1 also applies to legal frameworks of European, German, or foreign legislators, authorities, or institutions (e.g. the German Federal Office for Information Security (BSI) or the German Federal Financial Supervisory Authority (BaFin)) that were in effect at the time the contract was concluded or that are introduced subsequently. "Legal framework" refers to all laws in both the formal and substantive sense (e.g., laws and regulations), as well as non-statutory binding frameworks such as official orders, regulatory requirements, guidelines, standards, generally binding technical standards, or other legal frameworks.

11. Export restrictions

When forwarding goods abroad, the customer is responsible for checking whether the goods to be exported are subject to restrictions under the German Foreign Trade Act, the EU Dual-Use Regulation, US foreign trade law or other comparable restrictions.

12. No re-export to Russia and Belarus

- 12.1. The customer may not sell, export or re-export, either directly or indirectly, goods or components thereof that are delivered within the scope of or in connection with this agreement and fall within the scope of Article 12g of Council Regulation (EU) No 833/2014 to the Russian Federation or the Republic of Belarus or for use in these countries.
- 12.2. The customer shall use its best efforts to ensure that the purpose of 12.1 is not defeated by third parties in the further trade chain, including possible resellers.
- 12.3. The customer shall establish and maintain an appropriate monitoring mechanism to detect behaviour by third parties in the further trade chain, including possible resellers, that would defeat the purpose of 12.1.
- 12.4. Any breach of 12.1, 12.2 or 12.3 shall constitute a material breach of this Agreement, and Axians shall be entitled to demand appropriate remedies, including, but not limited to: (i) termination of this Agreement; and (ii) a contractual penalty equal to 10% of the total value of this Agreement or the price of the goods delivered, whichever is higher.

12.5. The customer shall immediately inform Axians of any problems in implementing 12.1, 12.2 or 12.3, including any relevant activities by third parties that could frustrate the purpose of 12.1. The customer shall provide Axians with information on compliance with the obligations under 12.1, 12.2 and 12.3 within two weeks of a simple request for this information.

13. Additional terms and conditions for purchase performances

13.1. The following provisions of this section 13 shall only apply if the Contractual Performance provided by Axians includes sales performances, whether as a main, ancillary or partial performance. They shall apply in addition to sections 13.17 to 18, provided that the types of performances regulated therein are also part of the contract.

13.2. The purchased items remain the property of Axians until all claims arising from the business relationship between Axians and the customer have been paid in full.

13.3. The customer is entitled to resell and/or process the goods subject to retention of title in the normal course of business, unless otherwise specified below and provided that the manufacturer's terms and conditions are complied with. However, the customer is not permitted to pledge or transfer ownership of the goods by way of security. This does not establish any further rights.

13.4. The customer hereby assigns to Axians all claims arising from the resale of the goods subject to retention of title in the amount of the purchase price agreed with Axians as security. Axians accepts this assignment. Axians shall only agree to resale if an effective transfer of claims can take place on the basis of the above declaration of assignment. If the goods subject to retention of title are resold together with other goods, regardless of whether without or after processing, combination, mixing or blending, the above-agreed advance assignment shall only apply to the invoice value of the goods subject to retention of title that are resold together with the other goods.

13.5. Axians undertakes to release the securities to which it is entitled at the customer's request insofar as the value of the securities exceeds the claims to be secured by more than 20%. The selection of the securities to be released is at the discretion of Axians.

13.6. Axians warrants that the purchased goods are free from material defects and defects of title. Unless expressly agreed otherwise, the absence of defects shall be determined in accordance with the respective performance description, not in accordance with objective requirements within the meaning of Section 434 (3) of the German Civil Code (BGB).

13.7. In the case of Contractual Performances provided by a manufacturer, this applies in particular to the manufacturer's product descriptions and terms and conditions, especially its end customer terms and conditions.

13.8. The parties agree that any agreed availability quotas (so-called service level agreements) are part of the performance description.

13.9. Axians and the customer agree that statements contained in the performance descriptions or price list do not constitute guarantees or warranted characteristics.

13.10. The customer is obliged to examine all purchased performances immediately upon delivery or upon making them available in accordance with Section 377 of the German Commercial Code (HGB) and to report any defects found.

13.11. The delivery of any documentation owed in English is sufficient. The same applies if the purchased performance is only available in an English-language version. This does not constitute a defect.

13.12. The warranty period is twelve (12) months, unless a case of § 438 (1) No. 2 or (3) BGB (German Civil Code) applies (buildings or fraudulent intent). The customer must report any defects occurring during the warranty period to Axians immediately in writing. Claims for defects in software shall only exist if the defect is reproducible or otherwise verifiable.

13.13. Axians shall provide subsequent performance in the event of material defects at its own discretion by repair or replacement. Axians is entitled to three (3) attempts at repair for the same defect. The provision of a reasonable workaround shall also be deemed subsequent performance.

- 13.14. Axians shall remedy defects in title at its own discretion by (1) procuring rights of use for the purchased goods or performances or (2) delivering modified goods or performances that are free of defects in title. If Axians is unable or unwilling to remedy the defect, the customer shall be entitled to rescind the contract after reimbursement of the benefits derived. Liability for legal defects does not extend to claims for patent infringements and utility model infringements within the meaning of German law asserted by third parties against the customer due to the customer's use of Contractual Performances outside the member states of the EU and EFTA.
- 13.15. If third parties assert claims against the customer due to legal defects, Axians must be informed immediately in writing. The customer authorises Axians and/or the manufacturer to bring legal action against third parties in and out of court. Axians or the manufacturer are entitled, but not obliged, to defend the claims at their own expense. If the customer is sued, they shall consult with Axians and shall only take legal action, in particular acknowledgements and settlements, with the consent of Axians.
- 13.16. If the customer has made a warranty claim against Axians and it transpires that (1.) either no defect exists or (2.) the claimed defect does not oblige Axians to provide warranty, the customer shall reimburse Axians for the expenses incurred.
- 13.17. Claims for defects do not extend to provisions and performances that the customer or a third party modifies without Axians' consent. This does not apply if the customer proves that this modification is not the cause of the reported defect. Furthermore, claims for defects do not extend to software that the customer does not use in the agreed environment, unless the customer proves that this use was not the cause of the reported defect.

14. Additional terms and conditions for rental performances

- 14.1. The following provisions of this section 14 apply only if the Contractual Performance provided by Axians includes rental performances, whether as a main, ancillary or partial performance. They apply in addition to the sections 13 and 15 to 18, provided that the types of performances regulated therein are also part of the contract.
- 14.2. Axians guarantees the suitability of the rental performance for the contractual use. The suitability of the rental object is determined by the respective performance description.
- 14.3. In the case of Contractual Performances provided by a manufacturer, this includes, in particular, the manufacturer's product descriptions and terms and conditions, especially its end customer terms and conditions.
- 14.4. Axians and the customer agree that statements contained in the performance descriptions or price list do not constitute guarantees or warranted characteristics.
- 14.5. The parties agree that any agreed availability quotas (so-called service level agreements) are part of the performance description.
- 14.6. Axians' strict liability for initial defects pursuant to Section 536a (1) Alt. 1 and (2) BGB is excluded.
- 14.7. The customer is not entitled to claim a rent reduction by deducting the reduction amount from the current rent on their own initiative. The customer's claim under the law of unjust enrichment to reclaim the portion of the rent overpaid due to a justified reduction remains unaffected by this.
- 14.8. Termination by the customer in accordance with Section 543 (2) sentence 1 no. 1 BGB is only permissible if Axians has been given sufficient opportunity to remedy the defect and this has failed. The rectification of defects shall only be deemed to have failed if it is impossible, if Axians refuses to do so or delays it unreasonably, if there are justified doubts as to the prospects of success, or if it is unreasonable for the customer for other reasons.

15. Additional terms and conditions for services

- 15.1. The following provisions of this section 15 apply only if the Contractual Performance provided by Axians includes services, whether as a main, ancillary or partial service. They apply in addition to the sections 13, 14 and 16 to 18, provided that the types of service regulated therein are also part of the contract.

- 15.2.If Axians culpably fails to perform the service in accordance with the contract, Axians shall be entitled to perform the service in accordance with the contract within a reasonable period of time. This is subject to the customer having immediately notified Axians of this in writing.
- 15.3.The remuneration payable for the service shall be invoiced monthly at the beginning of the following month.
- 15.4.If a Contractual Performance is a service quota, this is a credit that the customer pays in advance in order to secure advantageous conditions. The customer then redeems the quota in full or in part through individual calls. Full or partial reimbursement is therefore not possible if Sections 314, 626 and 627 of the German Civil Code (BGB) apply. Unless otherwise agreed, claims for redemption of the quota expire twelve (12) months after they arise. Services exceeding the service quota will be invoiced on a time and material basis.

16. Additional terms and conditions for works

- 16.1.The following provisions of this section 16 shall only apply if the Contractual Performance provided by Axians includes work performances, whether as a main, ancillary or partial performance. They shall apply in addition to sections 13 to 15 and 17 to 18, provided that the types of performance regulated therein are also part of the contract.
- 16.2.Axians warrants that the work performed is free from material defects and defects of title. Unless expressly agreed otherwise, the quality shall be determined by the respective performance description.
- 16.3.In the case of Contractual Performances provided by a manufacturer, this includes, in particular, the manufacturer's product descriptions and terms and conditions, especially its end customer terms and conditions.
- 16.4.Axians and the customer agree that statements contained in the performance descriptions or price list do not constitute guarantees or warranted characteristics.
- 16.5.The parties agree that any agreed availability quotas (so-called service level agreements) are part of the performance description.
- 16.6.The warranty period is twelve (12) months, unless a case under Section 634a (1) No. 2 of the German Civil Code (BGB) applies.
- 16.7.In the event of acceptance, Axians shall first notify the customer of the completion of the performance. Upon notification of completion, the customer shall inspect the performance within a period of two (2) weeks. Acceptance shall be deemed to have been declared at the latest if, after expiry of this period, the customer has not reported any significant defects, or has put the work into operation without reservation, or has paid without reservation.
- 16.8.Axians is entitled to submit parts of the contractual items to be accepted to the customer for early partial acceptance if a functionally separable part of the performance is available. Partial acceptance shall be carried out in accordance with 16.7. Partial acceptance triggers the obligation to pay remuneration, the transfer of risk and the reversal of the burden of proof. The warranty period shall commence at the time of the respective partial acceptance and shall end twelve (12) months after the respective partial acceptance, but no earlier than nine (9) months after the total acceptance. If the total acceptance is delayed for reasons for which the customer is responsible, the nine-month period shall commence at the time at which the total acceptance would have had to take place without this delay. For all defects in partially accepted performances that are also defects in the overall system, the limitation period shall commence upon partial acceptance, but shall not end until the expiry of the limitation period for defects in the overall system.
- 16.9.Acceptance may not be refused on the grounds of minor defects. In particular, incomplete documentation is considered a minor defect.
- 16.10.In the event of termination in accordance with Section 648 of the German Civil Code (BGB), Axians shall retain its claim to the agreed remuneration, but must allow for any savings in expenses resulting from the termination of the contract or any income earned or maliciously omitted to be earned through other use of the workforce. It is assumed that Axians is entitled to 10% of the agreed remuneration attributable to the part of the work not yet performed.

- 16.11.If Axians does not successfully complete the rectification of defects within a period set for it, the customer may either (1.) set Axians a further reasonable grace period, announcing that it will rectify the defect itself if this period expires without result. If this period expires without success, the customer shall be entitled to remedy the defect itself and demand reimbursement of the necessary expenses; (2.) or set a further reasonable grace period and, after its fruitless expiry, reduce the remuneration appropriately or withdraw from the contract in whole or in part. However, withdrawal due to an insignificant defect is excluded.
- 16.12.The customer may only withdraw from the contract due to a breach of duty that does not constitute a defect in the work if Axians is responsible for this breach of duty.
- 16.13.If the customer withdraws from the contract due to a breach of duty relating to a definable Contractual Performance that can be provided independently of other Contractual Performances to be provided by others, taking into account the legitimate interests of Axians, the other Contractual Performances shall not be affected by this withdrawal.
- 16.14.13.11 to 13.17 shall apply subordinately to work performance.

17. Additional terms and conditions for care and maintenance

- 17.1.The following provisions of this section 17 shall only apply if Axians maintains or repairs software and/or hardware for the customer as part of its Contractual Performances (e.g. provision of new programme versions, troubleshooting or preventive measures to restore or maintain operational readiness, delivery and/or installation of spare parts), whether as a main, ancillary or partial performance. They shall take precedence over sections 13 to 16 and 18, depending on the type of performance involved.
- 17.2.Unless expressly agreed otherwise, Axians shall only provide care and maintenance performances for software and hardware that is specifically identified in an agreement (e.g. via licence or serial numbers).
- 17.3.If Axians has undertaken to provide new programme versions, Axians shall make the programme version currently marketed by the manufacturer available to the customer as object code (update) of the software to be maintained. This does not apply to extensions to the software to be maintained which the manufacturer offers and markets separately as a new and independent product, or to new developments of the software with the same or similar functions on a different technological basis (upgrades). The obligation does not apply if the software or hardware used by the customer is not suitable for the current programme versions or if separate implementation would be necessary.
- 17.4.Axians is only responsible for the care and maintenance of objects that are in technically perfect condition and are installed at a suitable operating location.
- 17.5.Unless expressly agreed otherwise, Axians is not responsible for the delivery and installation of spare parts, the physical repair of hardware, or the delivery and replacement of consumables, wear parts, additional equipment and accessories. If Axians is responsible for the delivery and installation of spare parts, Axians acquires ownership of the old part upon removal; 13.2–13.5 apply in particular to the new spare part. Spare parts are subject to technical changes that may limit their availability and usability.
- 17.6.The parties agree that any agreed response, recovery or availability quotas (so-called service level agreements) are part of the performance description. Unless expressly agreed otherwise, only the processing of errors and malfunctions within the agreed response or recovery quotas is owed, but not their rectification.
- 17.7.Unless expressly agreed otherwise, the customer shall provide all necessary virtualisation, operating system, database and other product licences and shall receive these for the entire duration of the care and maintenance performances.
- 17.8.The care and maintenance contracts of manufacturers are automatically renewed in accordance with the manufacturer's specifications unless they are terminated in due time before the end of the minimum term.
- 17.9.If the customer cancels manufacturer contracts, Axians will only refund any advance payments made by the customer up to a maximum of the credit notes received by Axians from the manufacturer. In this context, Axians may additionally reduce the credit note by any expenses and termination fees incurred. The customer is aware that the refund they receive from Axians will in any case be less than the remuneration they have paid in advance.

- 17.10. Unless expressly agreed otherwise, the remuneration shall be invoiced monthly in advance. Prepaid or already due remuneration shall not be refunded or credited even if the Contractual Performances are not used within the agreed period.
- 17.11. Axians shall be released from its obligation to perform if the customer makes changes to the cared or maintained software or the hardware without Axians' consent.
- 17.12. Unless expressly agreed otherwise, Axians does not provide care or maintenance performances for custom software, adapted standard software, system software or modified hardware.
- 17.13. Unless Axians has assumed the obligation to provide new programme versions, Axians shall be released from its obligation to provide care and maintenance if the programme versions of the care and maintenance objects are not up to date or are running on outdated operating systems.
- 17.14. Unless expressly agreed otherwise, Axians shall be released from its care and maintenance obligations if the manufacturer discontinues these, the software/hardware has been operated or used improperly (benchmark: manufacturer's specifications), the software/hardware is damaged by events beyond Axians' control (third-party interference, sabotage, lightning strike, fire, power supply disruptions).

18. Additional terms and conditions for cloud computing

- 18.1. The following provisions of this section 18 apply only if Axians provides cloud computing performances to the customer as a Contractual Performance, whether as a main, ancillary or partial performance. They take precedence over sections 13 to 17, depending on the type of performance provided.
- 18.2. In the case of cloud computing performances, Axians provides software, platform or infrastructure as a service (SaaS, PaaS and IaaS). Axians provides the customer with the agreed software or software functions, platform (complete infrastructure including standardised interfaces) or infrastructure (IT resources such as computing power, data storage or networks) for use in a cloud infrastructure operated by Axians or third parties, including the necessary access.
- 18.3. The customer maintains appropriate security standards for the use of the performances by its users. The customer is responsible for observing the "Corresponding Criteria for Customers" from the BSI's C5 catalogue of requirements valid at the time of conclusion of the contract.
- 18.4. The customer is responsible for migrating the Contractual Performances to another system after termination of the contract with Axians. If agreed, Axians is obliged, upon request and to a reasonable extent, to provide the performances necessary to enable a successor or the customer to take over the performances. In this context, Axians owes the following performances in particular:
- At the customer's request, Axians will consult with the successor's contact person specified by the customer for the provision of performances, provided that this person has been demonstrably bound in advance to confidentiality vis-à-vis third parties. Axians will coordinate with the successor the necessary performances, in particular those required in connection with the transfer, e.g. a migration concept. Irrespective of this, Axians is obliged to cooperate appropriately with the successor and, where possible, to ensure that no serious or significant disruptions to the provision of the performance owed occur during the transfer. The successor shall be obliged to do the same. Remuneration for migration support shall be based on actual expenditure at the agreed remuneration rates. The customer shall provide the necessary cooperation performances free of charge, in a timely manner and in full.
- If the migration is delayed for any reason, Axians shall, at the customer's request, continue to provide the performance to the same extent as before beyond the original end of the contract until the transfer has been successfully completed, but for a maximum period of six (6) months. The performance shall be provided under the previous terms and conditions. In the event that Axians incurs additional expenses due to necessary performances, Axians may demand an appropriate adjustment of the remuneration.
- 18.5. The customer is responsible for ensuring that the systems and data that it makes available to Axians in the course of performance provision may also be operated or processed by Axians for this purpose. Within the scope of data processing, the customer shall check on its own responsibility whether the data transmitted to Axians in connection with the use of the performance constitutes personal data and whether the data processing of this personal data is permissible by way of order processing.

The customer is responsible for the type and content of the data and software provided to Axians.

If the customer uses the performances – e.g. IaaS – to provide users with software and other performances, they are also responsible for their use. The customer shall inform the respective users to the extent necessary about the performances relevant to them, their limitations and relevant contributions. The customer shall take economically reasonable measures to prevent or terminate unauthorised access or use via the access points provided to them. This does not affect Axians' obligation to take reasonable measures to protect the performance and access to it from unauthorised access. The customer shall not be liable for unauthorised access if this could have been prevented by such a measure taken by Axians.

19. Additional terms and conditions for Data Processing Services within the meaning of the EU Data Act (2023/2854)

If the Contractual Performances provided by Axians are wholly or partly data processing services within the meaning of the EU Data Regulation (2023/2854, in particular Art. 23 ff.), the 'Additional Terms and Conditions for the Sale of Data Processing Services within the meaning of the EU Data Regulation (ZVB-EUD EN)' shall apply in whole or in part to these Contractual Performances, available at www.axians.de/agb.

20. Price adjustment in the event of changes to customs duties and digital taxes

- 20.1. If, after conclusion of the contract, changes in customs duties (including punitive tariffs) for imports into the EU or Germany or taxes (in particular digital taxes) come into force or cease to apply, and if this results in an increase or reduction in the procurement costs for the software, hardware or other performances on the part of Axians, then both parties shall be entitled to increase or reduce the overall or partial price accordingly (i.e. to increase or reduce them).
- 20.2. The adjusting party undertakes to inform the other party of the changes in customs duties and the resulting prices.
- 20.3. The adjusting party must, at the request of the other party, provide suitable evidence of the price adjustment resulting from the new customs duties.
- 20.4. The right to adjust prices does not apply to goods or performances that are to be delivered or provided within four (4) months of the conclusion of the contract; this in turn does not apply to goods or performances that are delivered or provided within the framework of continuing obligations.
- 20.5. The customer has the right to object within fourteen (14) days of receiving notification of the respective price adjustment if it exceeds 30% of the former price. The price adjustment shall then not take effect, and the goods shall not be delivered; goods delivered in the meantime to which the new customs duties or taxes apply shall be returned or reimbursed at the adjusted prices. In the event of an objected price adjustment of over 30%, Axians shall have the right to terminate the contract within a period of thirty (30) days after receipt of the objection.
- 20.6. Sections 304, 313, 642, 650c of the German Civil Code (BGB) remain unaffected.

21. Price adjustment in the event of changes to third party prices

- 21.1. If, after conclusion of the contract, the prices of third parties for the software, hardware or other performances increase and this results in an increase in the procurement costs for the software, hardware or other performances for Axians, Axians may demand a corresponding increase of the overall price or the respective partial price once a year from the beginning of the thirteenth (13) contract month.
- 21.2. Axians is not permitted to increase its profit. Axians must make reasonable efforts to prevent or mitigate a price increase.
- 21.3. At the customer's request, Axians shall provide suitable evidence of the price adjustment resulting from the changed manufacturer prices. However, Axians is not required to disclose the calculation. If the customer doubts that the price adjustment merely reflects the changed costs, they may have the price adjustment reviewed by an arbitrator. The arbitrator shall be appointed by the Frankfurt am Main Chamber of Industry and Commerce (IHK) at the request of one of the parties. The findings and the result of the arbitration award shall be binding on the parties. Judicial review shall only take place within the framework of Section 319 of

the German Civil Code (BGB). The parties shall provide the arbitrator with the documents requested by the arbitrator for the preparation of the opinion. The arbitrator shall not disclose these documents or their contents to the other party. Each party has the right to present its position on the matter in dispute to the arbitrator within four weeks of the arbitrator being appointed to prepare the opinion. The price adjustment shall take effect despite and during the expert opinion procedure; if it proves to be contrary to the contract, a refund shall be made. The costs of the expert opinion procedure shall initially be borne by the party initiating the procedure. After completion of the procedure, the costs shall be distributed between the parties according to whether they have prevailed or lost.

21.4. The customer has the right to object the price adjustment within fourteen (14) days of receiving notification of the respective price adjustment if it exceeds 20% of the former price. The price adjustment shall then not take effect and the performance shall not be provided; performances already provided in the meantime, for which the new manufacturer prices already apply, shall be refunded or remunerated according to the adjusted prices. In the event of an objected price adjustment of over 20%, Axians has the right to terminate the contract within a period of thirty (30) days after receipt of the objection.

21.5. Sections 304, 313, 642, 650c of the German Civil Code (BGB) remain unaffected.

22. Value guarantee

22.1. Axians may increase remuneration once a year from the beginning of the thirteenth (13) month of the contract corresponding to the percentage change in the index of average gross earnings: Germany, quarters, economic sectors (62361-0016), WZ08-62 Information technology services ("Index der durchschnittlichen Bruttoverdienste: Deutschland, Quartale, Wirtschaftszweige (62361-0016), WZ08-62 Dienstleistungen der Informationstechnologie") of the German Federal Statistical Office. If this index is no longer published, it shall be replaced by a comparable index.

22.2. Sections 304, 313 of the German Civil Code (BGB) remains unaffected.

23. Reference listing

23.1. The customer revocably permits Axians to include its name in a list of reference customers. Axians may use the name for advertising purposes in writing and verbally, including electronically, in restricted or publicly accessible media, until revoked, in order to refer to the cooperation.

23.2. However, Axians may only do so in a manner that is appropriate and reasonable for the customer.

23.3. The same applies to the display of the company logo/administrative logo.

24. Final provisions

24.1. Should any provision be or become invalid, this shall not affect the validity of the remaining provisions. In this case, the invalid provision shall be replaced by a valid agreement that comes closest to the economic purpose of the original, invalid provision. The same applies to any gaps.

24.2. Unless expressly agreed otherwise, an agreed written form shall also be deemed to have been complied with in text form, in particular by means of a simple electronic signature. Verbal agreements shall only be valid if they have been set out in text form; this also applies to any amendment to this text form clause.

24.3. The contract is subject to the law of the Federal Republic of Germany, excluding its international private law and the UN Convention on Contracts for the International Sale of Goods (CISG).

24.4. The exclusive place of jurisdiction is Cologne, Federal Republic of Germany.