

1 SCOPE

These general terms and conditions ("**GTC**") shall apply to provision of all services, products and other deliveries by Etteplan Germany GmbH and/or any of its Affiliates ("**Etteplan**") to the respective customer, including requests for quotations, proposals, offers and other agreements between Etteplan and the respective customer. These GTC shall apply exclusively; any variant or supplementary conditions of the customer, in particular provisions on contractual penalties, shall not become part of the contract, unless Etteplan has expressly confirmed the validity in writing. Subject to individual contractual provisions, these GTC shall apply in their currently valid version to all future agreements with the Customer without any further express inclusion.

These GTC shall only apply to entrepreneurs, legal persons under public law and special funds under public law in the terms of § 310 para. 1 of the German Civil Code.

2 DEFINITIONS

"**Affiliates**" shall mean parents, subsidiaries, affiliates and other entities of a Party Controlling, Controlled by, or under common Control with a Party, where the term "Control" shall mean having a direct or indirect ownership of more than 50% of the outstanding voting stock of a corporate entity or more than 50% of the equity interests of a non-corporate entity.

"**Agile project(s)**" shall mean the performance of the Services and delivery of the Deliverables executed in the form of a project without comprehensive Specifications, Requirements or other instructions or specifications from the customer such as specific content or delivery time.

"**Agreement**" shall mean the written agreement for Services, Projects and/or Deliverables (text form e.g. e-mail sufficient) entered into by and between the Parties, and its appendices as well as any documents expressly incorporated by reference therein and shall include any amendments or addenda that may subsequently be agreed upon between the Parties.

"**Background IPR**" shall mean IPR and know-how held by the Party prior to the commencement of the Agreement and/or the Order, or developed by the Party independently of the co-operation with the other Party, as evidenced by written records.

"**Confidential Information**" shall mean all information of whatever kind or nature, which is received from the other Party as confidential or which should be understood to be confidential. Such information may be communicated in written, visual, electronic or oral form. Where disclosed in written form, it shall be marked "Confidential", "Proprietary" or with other similar wording. When a disclosure is made orally, then the Party disclosing to the other Party shall prior to disclosure make it clear that the disclosure is confidential.

"**Deliverable(s)**" shall mean all agreed material, in whatever form, resulting from the Project and/ or from the provision of the Service as specified in an Order to be delivered by Etteplan to the customer, excluding any modifications, amendments or enhancements thereof. Deliverables may include, but are not limited to, documents, plans, maps, designs and computer programs (including source and object codes and other components).

"**Documentation**" shall mean all agreed documents, in whatever form relating to the Deliverables, and delivered or created by Etteplan under the Agreement and/or the Order (including without limitation all technical documentation, user manuals and other instructions relating to Deliverables).

"**Error(s)**" shall mean an error, omission, fault or defect duly identified and specified by the customer in writing, relating to Services or Deliverables in respect of the agreed Specifications or, if no Specifications have been agreed, Requirements, or other terms and conditions contained in the Agreement and/or the Order. A minor deficit which would not substantially affect customer's use of Services or Deliverable shall not be regarded as an "Error" hereunder.

"**IPR**" shall mean copyrights (including the rights to wholly or partly transfer the copyrights and alter or modify the copyrighted works), patents, utility models, registered or unregistered designs, trademarks, trade names, trade secrets and know-how and other intellectual property rights, whether or not capable of registration.

"**Material**" shall mean any material, equipment, software, information and data (including any Background IPR subsisting therein) provided by the customer to Etteplan for the provision of the Services.

"**Open Source Software**" shall mean any software, software components or software libraries which (i) are subject to any of the open source licenses listed at <http://opensource.org/licenses>; (ii) fulfill the open source definition at <https://opensource.org/docs/osd>; or (iii) are subject to license conforming to criteria set out at <https://opensource.org/docs/osd>.

"**Order(s)**" shall mean the binding written purchase order (text form e.g. e-mail sufficient) placed by customer for Services, Projects and/or Deliverables entered into by and between the Parties that define the object, nature and specific scope and Requirements of the Services, Projects and/or Deliverables in sufficient detail, as well as the basis for charging for the Services, Projects and/or Deliverables. Etteplan may, at its sole discretion, treat an oral purchase order given by the customer as a binding "Order" hereunder.

"**Party**" or "**Parties**" shall mean Etteplan and/or the customer, as required by the context.

"**Project(s)**" shall mean the performance of the Services and delivery of the Deliverables executed in the form of a project (including Agile project), as may be specified in an Order.

"Prototype" shall mean a new type or design of a product that is not intended or not fully suitable for production use.

"Requirements" shall mean customer's requirements for the Project, Services and Deliverables as set out in the Agreement and/or the Order.

"Service(s)" shall mean consultancy, advice or other support in the business areas of engineering, planning, plant engineering, mechanical engineering, systems engineering, industrial design, software development, embedded systems' and technical documentation services, and in any other business areas Etteplan is involved in from time to time, to be provided under, and as specified in, the Agreement and/or the Order.

"Specifications" mean description of the scope and functionalities, and the technical and functional specifications of the Deliverables prepared by Etteplan or by the Parties based on Requirements, such Specifications to be mutually agreed and appended to the Agreement and/or the Order.

3 ORDERS

3.1 The customer shall order, and Etteplan shall provide, Services based on an Order issued from time to time by the customer. The scope of Services and/or the Deliverables are specified in detail in the Orders and the respective order confirmation.

3.2 Unless agreed otherwise, Etteplan shall, at its sole discretion, confirm the Orders placed by the customer in writing within 7 days from the receipt of the Order from the customer. If the customer has not received such confirmation from Etteplan within 7 days from placing the Order and Etteplan has not commenced any works under such Order, the Order shall be considered rejected by Etteplan and no Order shall be valid.

4 GENERAL RESPONSIBILITIES OF THE PARTIES; PROVISION OF SERVICES

4.1 General

4.1.1 The Parties agree to carry out the agreed measures and tasks as specified in the Agreement and/or the Order promptly to meet and fulfil their respective obligations thereunder. Each Party undertakes to take all decisions that are necessary for the performance of the Project, Deliverables and/or Services in a timely manner.

4.2 Responsibilities of Etteplan

4.2.1 Etteplan shall provide to the customer the Services in accordance with the Agreements, the Orders and these GTC.

4.2.2 Etteplan shall ensure that the Services are provided, Projects are performed, and Deliverables are delivered with due care and professional skill required by the tasks from time to time and, where applicable, with the agreed

time schedules. Unless otherwise agreed in writing by the Parties, the Services to the customer can also be provided by way of a remote work service model.

4.2.3 Further, Etteplan shall ensure that the Deliverables conform to the Specifications. Etteplan shall provide agreed Documentation with the Deliverables, and undertakes to ensure that such Documentation is up to date and of professional quality.

4.2.4 Etteplan shall be entitled to employ any subcontractor at its discretion to fulfill or assist with Etteplan's obligations under the Agreement and/or the Order. Etteplan shall be responsible for the subcontractors' work as for its own work.

4.2.5 Etteplan shall provide reports to the customer regarding the progress and performance of the Services, Project and Deliverables in the extent and frequency agreed in the Agreement and/or the Order or as reasonably requested by the customer.

4.2.6 If the provision of Services requires Etteplan to send, assign or otherwise deploy its own personnel, or manage the sending, assignment or deployment of personnel of its subcontractors, or other contracting parties abroad (global mobility), Etteplan is entitled to charge all costs related to such deployment, including, but not limited to, travel and accommodation, visa and work permit applications, and reasonable management fees, unless otherwise agreed in advance.

4.2.7 During the performance of the Services Etteplan has the right to arrange the rotation of its personnel performing the Services. If there is a need for the change of an individual, it will be done proactively and in a controlled manner, in collaboration with the customer's key contact person.

4.3 Responsibilities of the customer

4.3.1 The customer undertakes to perform the tasks assigned to it under the Agreement and/or the Order as agreed, in a timely manner and with due care.

4.3.2 Further, the customer agrees to provide Etteplan with and allow Etteplan to use, free of charge, any such Material and facilities that are agreed to be delivered to, or expressly required by Etteplan, to appropriately fulfil its obligations under the Agreement and/or the Order.

4.3.3 The customer shall be responsible for the correctness, completeness, suitability and non-infringement of any Material provided and instructions issued to Etteplan for the Services as well as for the compliance thereof with the laws, regulations and orders of the authorities. Without prejudice to the foregoing, Etteplan shall inform the customer if Etteplan detects or suspects any error in Material.

4.3.4 The customer shall be responsible, at its cost, for training and instructing personnel provided by Etteplan for the provision of the Services of all health and safety matters and risks related to the performance of the Services at locations designated by the customer and/or with tools provided by the customer. Etteplan is entitled to charge all costs and used time related to the participation of such training.

4.3.5 The Parties shall comply with applicable laws and regulations regarding export control restrictions. The customer undertakes not to export any Deliverable or Documentation to a third party which could violate the applicable laws or regulations regarding export control restrictions. Etteplan's or its Affiliate's liability regarding export control restrictions is limited to its domicile and the countries specified by the customer.

4.3.6 The Parties shall comply with all applicable laws and regulations regarding international trade sanctions. The customer warrants and shall ensure that the Material and agreed use of the Deliverables do not violate any international trade sanctions. The customer warrants that during the term of the Agreement and/or the Order, neither the customer nor any of its Affiliates or anyone of the personnel of the foregoing entities, shall be subject to any sanctions, including but not limited to any sanctions issued by the United Nations, United States (OFAC) or the European Union.

4.4 Services performed under the direction of the customer

4.4.1 The Order may specify that the Services consist only of Etteplan appointing specified individuals to perform certain consultancy, development or other services to customer at the control and supervision of customer as external resources (Temporary agency work according to Act on Temporary Agency Work / AÜG). Such individuals shall remain employees of Etteplan and in no circumstances shall any employment relationship be deemed to exist between customer and Etteplan's personnel. Subject to section 4.2.7, Etteplan shall always have the right to designate another individual for the performance of the Services unless explicitly agreed otherwise in the Order. If the customer wishes to change the number of agreed personnel, the customer shall notify Etteplan thereof at the latest with 30 days' prior written notice (text form e.g. e-mail sufficient).

4.4.2 Any obligations and liabilities of Etteplan in respect of Services performed by Etteplan's personnel under Orders pursuant to this section 4.4 shall be limited to making available the specified individuals or their replacements for the agreed period of time. Notwithstanding anything to the contrary in these GTC, Etteplan shall have no responsibility or liability over the Deliverables (if any) or other results arising from such Services (or any Errors or delays relating thereto), nor shall the acceptance of

Services or Deliverables be subject to the acceptance procedure set out in section 5.

4.4.3 When Services are performed under the direction of the customer, the customer shall be responsible for the payment of the prices specified in the Order on a time and material basis and in accordance with the payment schedule specified therein for any work performed by Etteplan's personnel in accordance with the Order. The customer shall also be responsible for the costs of any equipment and tools and other costs associated with the performance of Services under the direction of customer, unless expressly otherwise agreed in the respective Order.

5 DELIVERY, TITLE TO DELIVERABLES AND ACCEPTANCE

5.1 Etteplan shall deliver the Deliverables and other agreed results of the Services to the customer in agreed form and in accordance with the agreed time schedules or milestones. All Deliverables are delivered FCA Etteplan, if not defined differently in the Agreement and/or the Order. Deliverables, Services or Projects, in relation to where no dates or only estimation of dates for delivery or completion exist, shall be provided by Etteplan as soon as reasonably possible and in any event within a reasonable time period. In such a case the penalties set out in section 6 resp. 12.3 of the GTC shall not apply.

5.2 Only if explicitly agreed in the Agreement and/or the Order related to the Project, Etteplan shall perform installation work in respect of the Deliverables. Otherwise, any required installation of Deliverables shall be performed solely on customer's responsibility and risk.

5.3 The risk of loss and responsibility for use relating to the Deliverables passes to customer upon delivery of the Deliverables to the customer.

5.4 The customer shall perform the acceptance tests on the Deliverables, if any, in the agreed manner. Unless specified otherwise in the Agreement and/or the Order, a Deliverable will be deemed accepted upon the occurrence of any of the following events, whichever is the earliest: (a) the customer has notified Etteplan in writing of its acceptance of the Deliverable; (b) 30 days have passed from delivery without customer having notified Etteplan in writing of any material Errors preventing acceptance; (c) Etteplan has corrected notified Errors preventing acceptance, and Etteplan has notified the customer thereof; (d) the customer has taken the Deliverable into production use.

6 DELAY

6.1 The delivery of a Project or any Deliverables or a part thereof is considered delayed if it has not been completed or accepted by the agreed delivery times in accordance with section 5 above.

6.2 Should the Project or any Deliverables be delayed due to reasons attributable to the customer, the deadline for the completion of the Project or delivery of Deliverables as well as any and all related milestones shall be postponed by a period of time reasonable for Etteplan. In addition, the customer shall reimburse to Etteplan salaries and related overhead costs, special compensations and expenses relating to the delay. Etteplan shall itemize such cost

6.3 Should the Project and Deliverables be delayed due to reasons attributable to Etteplan, and there are no provisions regarding delays in the Agreement or Order, the following shall apply: Etteplan shall use its reasonable efforts to fulfil its delivery obligations by a period of time reasonable for Etteplan.

7 PRICES AND PAYMENT TERMS

7.1 The prices indicated in the Agreement and/or the Order are exclusive of value added tax. If a price for the Services has not been defined in the Agreement and/or the Order, Etteplan shall be entitled to invoice the Services, according to the Etteplan price list, which can be requested from Etteplan. Except when the Agreement and/or the Order expressly states that the prices set out therein will be fixed for a certain period, Etteplan shall be entitled to change its prices for the Services at its sole discretion with a period of notice of 2 months upon written notice to the customer (text form e.g. e-mail sufficient). In case a previously applied price list between Etteplan and the customer has expired and the Parties are unable to agree on new prices despite of good faith negotiations, Etteplan shall be entitled to change the prices for the Services unilaterally with a period of notice of 2 months upon written notice to the customer (text form e.g. e-mail sufficient). As regards purchases of materials, transport fees and other third party costs included in the Services, Etteplan shall invoice the purchase price with an uplift of 15%, unless defined otherwise in the Agreement and/or the Order.

7.2 Etteplan will charge the agreed hourly fee for travel required for the Services. In addition, Etteplan will charge travel, accommodation, and daily allowances at cost basis. Travel allowances and daily allowances will be invoiced in accordance with the then-current tax-free maximum allowances. Unless otherwise agreed in the Order and/or in the Agreement, Etteplan shall be entitled to be reimbursed by the customer for the preparation or investigation costs reasonably and properly incurred by Etteplan in the performance of the global mobility related preparation or investigation duties described in section 4.2.6 subject to production of such evidence thereof as the customer may reasonably require.

7.3 The Project's Deliverables shall be invoiced by Etteplan as agreed in the relevant Order. In the absence of such agreed invoicing term in the Order, the Deliverables and

the performed Services shall be invoiced by Etteplan monthly. If the payment term is not defined in the Agreement and/or the Order, the payment term shall be 14 days net from the date of the invoice. The customer shall be liable to pay late payment interest of 8% above German base rate (Basiszinssatz) on overdue amounts.

7.4 If payment by the customer is delayed by more than 30 days from the due date despite Etteplan's written notice, Etteplan is entitled to discontinue all further performance under the Agreement and/or the Order without incurring any liability until the customer has duly paid all overdue amounts to Etteplan.

7.5 The customer shall only be entitled to set off or retain payment if its counterclaim is undisputed, acknowledged or declared by non-appealable judgement.

7.6 In case the specification underlying the Agreement and/or the Order is modified due to the customer's request in a manner affecting the scope of work, or if problems causing additional work arise regarding the components and technologies chosen for the planned Deliverables, the additional work resulting from such modifications or problems shall be evaluated and the respective additional costs and changes to delivery schedule shall be separately agreed upon. In the absence of such agreement, Etteplan shall have the right to invoice such additional work in accordance with section 7.1.

7.7 If Etteplan becomes aware of a significant deterioration in the financial circumstances of the customer, Etteplan shall be entitled to provide Deliverables or Services only upon advance payment.

8 WARRANTY

8.1 To preserve customers' right with regard to defect claims, Etteplan must be notified by customer in writing of any obvious defects without undue delay after delivery, provision or acceptance and of any concealed defects within the limitation period in section 8.4 below. Furthermore, the customer shall be obliged to provide Etteplan with all documents and information required for the remedy of defects.

8.2 Etteplan shall correct Errors in the Deliverables in accordance with the warranty terms set out in this section 8. The warranty obligations described herein shall represent the sole liability of Etteplan, and sole remedy available to the customer, in respect of Errors, unless explicitly stated otherwise in these GTC or in the respective agreements or prescribed in applicable mandatory law.

8.3 Etteplan shall, without undue delay and at its own cost, correct detected Errors in the Deliverables as reported in writing to Etteplan by the customer during the warranty period, by making changes or updates to the respective Deliverable.

- 8.4 Warranty claims shall expire at the latest 12 months after the beginning of statutory limitation. The limitation period stipulated by law shall apply to damage compensation claims in the event of intentional action or gross negligence, negligent injury to life, limb or health and in the event of a contractually agreed no-fault obligation to assume liability (guarantee).
- 8.5 The warranty shall not apply to Prototypes and Agile projects, which are delivered solely on "as is" basis.
- 8.6 Analysis and correction of Errors shall be performed by Etteplan in its business premises. The customer shall deliver the Deliverables to Etteplan's business premises for warranty repair. Costs of delivery shall be borne by the customer. Etteplan shall perform the analysis and corrections in premises designated by the customer only subject to a separate agreement, in which case Etteplan shall be entitled to charge for the time spent on the work and travel as well as for the travel expenses in accordance with its price list in force at the time.
- 8.7 The warranty shall not cover normal wear-and-tear of the Deliverables or correction of any Errors in the Deliverables resulting from: (a) external causes, such as accident, electrical or air-conditioning malfunction, thunder, fire, or flood; (b) use of the Deliverables contrary to the Agreement or instructions issued by Etteplan, or negligence or omissions in complying with the instructions on the use of the Deliverables; (c) Material's non-compliance with Etteplan's instructions; or (d) a product or component not supplied by Etteplan, a modification or correction made to the Deliverables not performed by Etteplan, or use of accessories contrary to the instructions.
- 8.8 In case it is found that an Error reported by the customer is not covered by the warranty, Etteplan is entitled to invoice for the analysis, localization and correction of the error, defect or fault
- 8.9 In the event of a defect, the customer may withhold payments only if the justification for the defect complaint is undisputed or acknowledged or has been declared by non-appealable judgement. The customer shall have no retention right if its defect claims are not undisputed or have not been declared by non-appealable judgement.
- 8.10 The customer's right to rescind the contract shall be excluded if Etteplan is not responsible for the circumstance justifying the rescission. The right of the customer to rescind the contract in the event of the impossibility of defect-free performance for which both Parties are not responsible shall not be prejudiced hereby
- 8.11 Provisions of this section 8 shall not apply in respect of Services according to Act on Temporary Agency Work / AÜG described in section 4.4 of these GTC.

9 INTELLECTUAL PROPERTY RIGHTS

- 9.1 All IPR, except Etteplan's Background IPR, relating to the Deliverables developed by Etteplan at the customer's expense as well as modifications thereof, shall vest with the customer upon full payment to Etteplan of all charges relating to the Deliverables; save that eventual Open Source Software or other third party components pertaining to the Deliverables shall be exclusively governed by the applicable license terms.
- 9.2 Any and all Etteplan's Background IPR shall remain vested exclusively with Etteplan. The customer is granted a license to use the Background IPR in accordance with section 9.3 below, commencing upon due payment to Etteplan of the charges relating to the respective Etteplan's Background IPR. Etteplan shall itemize e.g. in the respective contract all Etteplan's Background IPR included in the Deliverables unless this is already clear from the context.
- 9.3 The customer may make copies of and sublicense the right to use Etteplan's Background IPR as an integrated part of the Deliverables only, but may not utilize, sell, transfer, or otherwise assign the right to use Etteplan's Background IPR independently or separate them from the Deliverable, nor permit any use, sale, transfer, or other assignment of any Etteplan's Background IPR on stand-alone basis.
- 9.4 All IPR subsisting in Material shall remain vested with the customer. The customer grants Etteplan the non-transferable (except for Etteplan's Affiliates) right to use such Material in the extent reasonably required by Etteplan for the purposes of providing the agreed Services and Deliverables. Customer warrants that the Material or use thereof by Etteplan in accordance with the Agreement or Order does not infringe IPR of third parties, and agrees to indemnify, defend and hold Etteplan harmless from and against any claims, actions, damages and losses incurred by Etteplan or its Affiliates due to any actual or alleged infringement of any third party's IPR arising out of or relating to the Material.
- 9.5 Eventual inventions and any patents or utility models arising in the context of performing the Services may, without a separate consent from Etteplan, be exploited by the customer and patented world-wide solely in the customer's name. In such case, the customer shall be responsible for all costs associated with the compensation payable to the inventor(s) as well as the application, issuance, and maintenance of such patents or utility models. In the absence of customer's own employment invention policy, the compensation payable to the inventor(s) shall be based on Etteplan's invention policy. Furthermore, Etteplan has the right to charge the customer for any such compensation costs incurred, in accordance with the German Employee Inventions Act.

- 9.6 Etteplan warrants that at the time of the creation of Deliverables they do not, to the knowledge of Etteplan, infringe or are claimed to infringe any IPR of third parties. Etteplan is not obligated to examine whether the Deliverables would potentially infringe IPR of a third party. The customer shall inform Etteplan of significant IPR pertaining to products similar to the planned Deliverables within the customer's branch of business.
- 9.7 Etteplan is obligated to defend the customer against actions brought against the customer claiming a breach of the warranty stated in section 9.6 provided that the customer promptly notifies Etteplan in writing of the claims, permits Etteplan to take full control of the defense, and gives Etteplan all available and necessary information, assistance and authorizations. The cost limit of defense per customer is EUR 100.000 per annum and the customer is liable for costs in excess of the limit.
- 9.8 If in the justified opinion of Etteplan the Deliverables infringe any of the above-mentioned third party rights, Etteplan is entitled, in its sole discretion and at its own expense, to either (a) obtain the right of continued use of the Deliverables for the customer; (b) change the Deliverables; or (c) modify the Deliverables to eliminate the infringement. If none of these alternatives is available to Etteplan on commercially reasonable terms, the customer shall, at the request of Etteplan, cease using and further distributing the Deliverables in its operations.
- 9.9 Etteplan shall, however, not be liable for a claim that (a) is asserted by a company that has Control over or is under the Control of the customer, as "Control" is defined in section 2 of these GTC; (b) results from data or material provided by the customer or modifications made by the customer to the Deliverables or the compliance with the instructions given by the customer; (c) results from the use of the Deliverables in combination with a product or material not supplied by Etteplan; or (d) could have been avoided by using a published Deliverables offered to the customer without a separate charge.
- 9.10 Each Party's liability for infringement of any IPR shall be limited to what is agreed in this section 9 of these GTC.
- 9.11 Section 9.6 through 9.10 shall not be applicable for Services according to Act on Temporary Agency Work / AÜG provided under section 4.4 of these GTC.

10 CONFIDENTIALITY

- 10.1 Each Party shall keep in confidence all Confidential Information received from the other Party, which should be understood as such, and may not use such confidential information for purposes other than agreed.
- 10.2 The confidentiality obligation shall, however, not be applied to material and information, (a) which is generally available or otherwise public; (b) which is received from a third party without an obligation of confidentiality; (c)

which was in the possession of the receiving Party already prior to receipt of the same from the other Party without an obligation of confidentiality; or (d) which a Party has independently developed without recourse to material or information received from the other Party.

- 10.3 Each Party shall forthwith cease using Confidential Information received from the other Party when the Party no longer needs the respective Confidential Information for the agreed purpose. Each Party may, however, retain copies required by law or applicable regulations.
- 10.4 The rights and responsibilities under this section 10 of these GTC shall continue for a period of 5 years after the termination of the Agreement and/or the Order between the Parties.
- 10.5 For the avoidance of doubt, it is recognized that the above stated does not limit Etteplan's right to utilize general professional skills and experience accrued in connection with the Services, Projects and/or Deliverables.

11 FORCE MAJEURE

- 11.1 Neither Party shall be liable for delays or damages caused by an impediment beyond its control, which was not reasonably foreseeable to the Party at the time of concluding the Agreement and/or the Order, and the consequences of which the Party could not reasonably have avoided or overcome. A strike, lockout, boycott or other industrial action is deemed to constitute a force majeure even when the Party concerned is a target or party to such an action.
- 11.2 A force majeure event affecting a subcontractor of a Party shall also discharge such Party from liability if subcontracting from an alternative source cannot be made without unreasonable costs or material loss of time.
- 11.3 A Party shall inform the other Party in writing and without delay of an occurrence and of discontinuance of a force majeure event.

12 LIMITATION OF LIABILITY

- 12.1 Etteplan, its officers, employees and vicarious agents shall only be liable for damage compensation - on whatever legal grounds - if the damage:

(a) was caused by a negligent breach of a duty, the fulfillment of which is essential for the proper performance of the contract and the breach of which endangers the achievement of the purpose of the contract and in the observance of which the customer can normally rely (material contractual duty); or

(b) is due to gross negligence or intentional action.

In all other respects, liability for damage compensation - based on any legal ground whatsoever - shall be excluded.

- 12.2 If Etteplan is liable pursuant to Section 12.1(a) for the breach of a material contractual duty without gross negligence or intentional action, its liability shall be limited to the extent of the damage which Etteplan could normally have expected to occur at the time the contract was entered into on the basis of the circumstances known to it at that time; liability shall in all events be limited to a maximum of 100% of the total value of the deliveries or 500 000,- €, whichever of the two is lower and performances from the individual contract in connection with the damage event.
- 12.3 Etteplan shall not be liable for indirect damages, consequential damages and lost profit.
- 12.4 If any damage is caused directly or indirectly by loss of data, Etteplan's liability shall be limited to the cost of recovery that would have been incurred had data been backed up regularly in accordance with the risks involved.
- 12.5 The foregoing limitations or exclusions of liability shall not apply in the event of intentional action or gross negligence or negligent injury to life, limb or health, for liability claims under the Product Liability Act or in the event of a contractually agreed no-fault liability obligation (guarantee).
- 12.6 Notwithstanding anything stated in these GTC, Prototypes and Agile projects are delivered on "as is" basis and Etteplan shall under no circumstances (except in cases of intent or gross negligence) be liable for any damages whatsoever resulting from the use of these.

13 TERM AND TERMINATION

- 13.1 The Agreement and/or the Order shall become valid when confirmed by Etteplan and shall remain in force until terminated upon 3 months' written notice, unless otherwise agreed between the Parties. Termination of the Agreement and/or the Order shall not affect the validity of payment obligations of customer to Etteplan and all works carried out by Etteplan until the end of the Agreement and/or the Order will be invoiced by Etteplan in accordance with the agreed payment terms.
- 13.2 Each Party shall be entitled to terminate the Agreement and/or the Order for cause immediately upon written notice in the event (text form e.g. e-mail sufficient): (i) the other Party is in material breach of its obligations under the Agreement and/or the Order and fails to remedy such breach within 30 days of having been notified thereof by the other Party; or (ii) the other Party is declared bankrupt, files for bankruptcy, is placed in liquidation, enters into an arrangement with its creditors, becomes insolvent or the Party's financial standing otherwise worsens so that it is not reasonably able to fulfill its obligations under the Agreement.

- 13.3 In case it has become apparent that the fulfillment of the Agreement and/or the Order will be delayed by more than 4 months due to a force majeure event defined in section 11 of these GTC, either Party shall be entitled to terminate the Agreement and/or the Order to the extent reasonable, by notifying the other party in writing, without either Party being entitled to claim damages.
- 13.4 In case the delivery of the Deliverables is delayed by more than 4 months for a reason pertaining to a Party and does not occur within a reasonable extension of time set by the other Party in writing, the other Party shall be entitled to terminate in writing the Agreement and/or the Order with respect to the Deliverables for which the delivery is delayed with immediate effect.
- 13.5 In the event of a breach or failure to comply with any of the representations or undertakings set forth in section 4.3.5 Etteplan may, at its sole discretion, by notice to the customer and without prejudice to Etteplan's other rights, terminate the Agreement and/or the Order with immediate effect or suspend the delivery of the Deliverables under the Agreement and/or the Order until further notice.
- 13.6 Following any termination of the Agreement/and or the Order as set out in sections 13.1-13.5 above, the customer shall remain obligated to pay to Etteplan any accrued payments or other obligations related to the Services provided prior to the effective date of termination in accordance with the agreed payment terms. The customer shall not be entitled to any return of payments from Etteplan due to any such termination.

14 MISCELLANEOUS

14.1 Assignment and amendments

Other than to its Affiliates, neither Party may assign or transfer the Agreement and/or the Order nor any rights nor obligations thereunder to a third party without the other Party's written consent.

All amendments, changes or modifications to the Agreement and/or the Order must be made in writing by the Parties in order to be effective (text form e.g. e-mail sufficient).

14.2 No waiver and severability

Neither Party's failure to exercise any of its rights under the Agreement and/or the Order shall constitute or be deemed a waiver or forfeiture of those rights or any other rights hereunder.

If any term or provision of this Agreement and/or the Order is held to be void, illegal or unenforceable, the validity or enforceability of the remainder of the Agreement and/or the Order shall not be affected and the void, illegal or unenforceable term or provision shall be replaced by a new one being as close to the replaced term as legally possible.

14.3 Order of precedence

In case of discrepancies between these GTC, Agreement and/or the Order, the terms and conditions of the Order shall prevail.

15 DATA PROTECTION

- 15.1 In order to protect personal data, Etteplan shall comply with the applicable data protection provisions and, in particular, shall oblige the persons it deploys to perform the contract to maintain data secrecy in the case of data processing.
- 15.2 Etteplan shall collect, process and use the names, job titles, business addresses, business telephone and fax numbers and e-mail addresses of employees of the customer made available thereby, insofar and so long as this is necessary for the performance of pre-contractual measures or for the establishment, performance or cessation of the contractual relationship. To the extent necessary to render the contractual performances (e.g. for shipping, customer service), Etteplan shall make the above contact details available to other Etteplan companies located within the EU and to third parties engaged in the respective contractual relationship. Etteplan companies as defined above are affiliated group companies of Etteplan Oyj Inc. with registered office in Espoo, Finland. The processing shall be undertaken based on Article 6(1)b GDPR.
- 15.3 As permitted by law, Etteplan shall be entitled to assess the risk of default on the part of the customer for the purpose of deciding whether to enter into, perform or end a contract. To this extent, probability values for the future conduct of the customer shall be collected and processed. Address data of the customer shall also be used to calculate these probability values. For the review, the customer shall use the services of credit agencies such as the Verband der Vereine Creditreform e.V. Hellersbergstraße 12, D-41460 Neuss or SCHUFA Holding AG (Wiesbaden), Kormoranweg 5, 65201 Wiesbaden, Germany, or other third parties, and for this purpose shall transmit data of the customer to them or inquire with them. The processing shall be undertaken based on Article 6(1)b GDPR.
- 15.4 Etteplan shall provide the customer and its employees with information about the stored personal data free of charge upon request and subject to the prerequisites stipulated by law. The customer and its affected employees shall have the right, subject to the prerequisites stipulated by law, to request the rectification, erasure, restriction of the processing or the transfer of the respective personal data to a third party. In addition, the customer and the affected employees shall have the right to complain to a supervisory authority.
- 15.5 The responsible entity for all issues relating to data protection and for exercising the rights described under

Section 15.4 is Etteplan Germany GmbH, Werkstättenstr. 37, 51379 Leverkusen.

16 GOVERNING LAW, PLACE OF JURISDICTION AND

- 16.1 These GTC, the Agreement(s) and the Order(s) shall be subject to and governed by the laws of Germany, excluding its choice of law provisions.
- 16.2 Payment claims shall be subject to the decision of the district court of Cologne. Any other dispute arising from the Agreement and/or the Order will be primarily settled amicably through negotiations between the Parties. Should a settlement not be reached through negotiation, the disputes shall be finally settled by arbitration in accordance with the Arbitration Rules of the Chamber of Commerce of Cologne (IHK Köln). The number of arbitrators shall be 1. The seat of arbitration shall be Cologne, Germany and the language of the arbitration shall be German. Evidence may also be provided in English.