General Terms of
Delivery and Performance

§ 1 Conclusion of Contract and Terms of Contract

I.   The contracting parties shall be bound by their quotation for 2 weeks.
II.   The extent of goods delivered and/or services performed is determined by the quotation and the order confirmation of Real-Time Systems GmbH.
III.   Real-Time Systems GmbH reserves the right to make changes in the execution of its goods and services insofar as such changes do not prejudice essential interests of the purchaser that are known to Real-Time Systems GmbH with regard to uses intended at the time of order placement.
IV.   Assurances, sub-agreements, amendments and additions to this contract shall only be valid if laid down in written form. This requirement can be waived by written instrument only.
V.   Real-Time Systems GmbH unrestrictedly reserves the property and copyright exploitation rights in cost estimates, drawings, test programs and other documents; these may only be disclosed to third parties with the prior written consent of Real-Time Systems GmbH. If the order is not placed with Real-Time Systems GmbH or on completion of the order, all drawings and other documents associated with the quotations are to be returned on demand to Real-Time Systems GmbH without delay.
       The same applies accordingly to documents of the purchaser, with the exception that the documents may be made accessible to such third parties to whom Real-Time Systems GmbH has provided goods or services.
VI.   Any standard contract conditions of the purchaser which conflict with these Conditions shall be deemed invalid.
VII.   In the event of amendments to these Conditions, all subsequent orders placed by the purchaser shall be governed by the amended provisions only.

§ 2 Price and Payment

I.   Prices are valid for delivery ex works without packaging. In the case of domestic deliveries and performances, the statutory amount of sales tax will be added as applicable.
II.   All payments are to be made in the currency quoted and to the bank accounts stated on the notepaper of Real-Time Systems GmbH.
III.   Each individual delivery will be invoiced separately. Payment is due within 10 days of the date of invoice. A cash discount will not be granted. After 30 days from the due date, Real-Time Systems GmbH will charge interest at a rate of 8% above the current interest rate of the European Central Bank.
IV.   If the purchaser falls into arrears with its payments, Real-Time Systems GmbH will be entitled to repossess the object of sale in order to safeguard its rights. Real-Time Systems GmbH's statutory rights remain unaffected by such measures. Real-Time Systems GmbH must give the purchaser prior notice of any such measures and grant him a reasonable period of grace.
V.   In the case of payment by agreed installments, Real-Time Systems GmbH is entitled, even on non-payment of just one due installment or on bill protest, on suspension of payments by the purchaser or if any other circumstances become known which give grounds for serious doubt as to the ability of the purchaser to keep up payment of the agreed installments, to require immediate payment of the whole contract price without regard to the agreed maturities. In such a case, Real-Time Systems GmbH may also cancel the order by registered letter and may demand the return of the delivered goods which have remained its property according to § 5 and seek compensation for the losses incurred. For the exercise of the above-named rights no legal measures will be required.
VI.   The withholding of payments or the offsetting of counterclaims of the purchaser contested by Real-Time Systems GmbH is not admissible.
VII.   If costs are incurred for necessary installation, assembly and set-up work to make the object of sale ready for operation, these will be charged on an hourly basis.

§ 3 Period of Delivery and/or Performance

I.   The place of performance shall be Ravensburg, Germany.
II.   Real-Time Systems GmbH shall only be obliged to keep to the delivery period if the purchaser has discharged his contractual duties. Such contractual duties include in particular the timely provision by the purchaser of the necessary documents, approvals, releases and other materials, the fulfillment of the terms of payment and any advance payment obligations, and the fulfillment of all other preconditions, e.g. of a technical nature, for the execution of the contract. If these preconditions etc. are not met in time, a reasonable extension of the delivery period shall be granted.

III.   The delivery period shall be deemed to have been observed:
       - in the case of deliveries not including installation or assembly, if the consignment has been dispatched or collected within the period. If delivery is delayed for reasons within the purchaser's control, then the delivery period shall be deemed as observed if notice is given within the agreed period that the consignment is ready for shipping.
       - in the case of deliveries including installation or assembly, as soon as this has taken place within the agreed period. If delivery is delayed for reasons within the purchaser's control, then the delivery period shall be deemed as observed.
IV.   Subsequent requests by the purchaser for alterations or additions shall extend the delivery period by an appropriate amount of time. The same shall apply in the case of measures related to labor disputes, particular owing to strikes, lock-outs, or other interruptions to operation, in the event of mobilization, war, riots, spoilage of an essential work piece, delay in the delivery of essential raw materials and parts, and in the case of other unforeseeable events beyond the control of Real-Time Systems GmbH, if these impediments entail or influence the failure to comply with the delivery period.

The aforementioned circumstances are also deemed to be beyond Real-Time Systems GmbH's control if they arise during an already existing delay in delivery time.

V. On non-observance of the delivery period due to reasons other than those mentioned in Paragraph III, the purchaser may demand a penalty for every completed week of delay amounting to ½% of the value of that part of the delivery or performance which cannot be put into useful operation on account of the delayed completion, up to a maximum of 2.5%, insofar as he can provide evidence to substantiate damages of this order of magnitude. Any additional rights or claims, especially compensation claims, of the purchaser on account of non-observance of the delivery period are excluded, even after any additional period of grace has expired. This does not apply in cases of intention or gross negligence where there is compulsory liability. The right of the purchaser to withdraw from the contract on ineffective expiration of a grace period remains unaffected.

VI. If dispatch or delivery is delayed at the request of the purchaser, he may be charged with storage fees at a rate of ½% of the invoiced amount for every month or part thereof, starting one month after notice of readiness for dispatch. The storage fee is limited to 5%, unless proof is provided that higher costs were incurred. This notwithstanding, the purchaser shall make immediate payment for the delivery.

VII. Delivered goods are to be accepted by the purchaser even if they exhibit minor defects. Partial deliveries are admissible.

VIII. If the purchaser refuses to take delivery of the tendered goods, then Real-Time Systems GmbH may demand 20% of the purchase price in compensation, without the need to provide proof. Real-Time Systems GmbH reserves the right to pursue claims for higher actual damages unless it can be shown that significantly smaller losses or no loss at all was incurred.

§ 4 Passage of Risk

I. The risk passes to the purchaser, even where carriage-free delivery has been agreed:
   a) in the case of delivery, when the goods have been dispatched or collected. Packaging will be carried out in line with standard commercial practice. Shipping will take place at the cost and risk of the purchaser.
   b) in the case of delivery including installation or assembly, on the day of handover at the purchaser's premises, provided that handover occurs immediately after assembly or installation is completed such that the delivered items are ready for operation. If the purchaser turns down the offer of handover, the risk passes to the purchaser 14 days after this offer was made.
   c) when dispatch, delivery or the start or execution of installation or assembly is delayed at the request of the purchaser or for reasons within his control.

II. At the request and cost of the purchaser, Real-Time Systems GmbH is willing to take out insurance cover required by the purchaser.

§ 5 Retention of title

I. The delivered goods shall remain the property of Real-Time Systems GmbH until full settlement has been made of all payments as well as of all other claims against the purchaser arising from this order. Any treatment or processing of the goods including its joining to or combination with extraneous objects by the purchaser or third parties shall be deemed to have taken place on behalf of Real-Time Systems GmbH. In the case of newly created products, Real-Time Systems GmbH shall have co-ownership corresponding to the value of the delivered goods.

II. The purchaser shall insure the delivered goods at his own cost against insurable risks. On order placement, the purchaser assigns any claims to insurance benefits, up to the value of the order price, to Real-Time Systems GmbH as security. He shall advise the insurer of this and inform Real-Time Systems GmbH accordingly. Reassignment shall be deemed to have tacitly taken place on complete payment and full satisfaction by the purchaser of all other claims arising from the order.

III. The purchaser is not entitled either to pledge or to transfer ownership of the delivered goods by way of security. The purchaser shall inform Real-Time Systems GmbH immediately in the event of levies of execution, seizure attachments or other jeopardy to the property by third parties by forwarding copies of the relevant documents (e.g. bailiff's return). The costs of any intervention by Real-Time Systems GmbH will be borne by the purchaser.

IV. To cover the eventuality that the purchaser should sell the delivered goods before complete payment of the agreed price, he assigns to Real-Time Systems GmbH on order placement his claims from any resale to the value of the order price plus a 10% collection charge as security. This shall apply irrespective of whether the purchaser sells the goods to one or more parties, whether separately or together with other goods not belonging to Real-Time Systems GmbH, or whether without or after processing or integration into another article.
Real-Time Systems GmbH will not collect such claims as long as the purchaser discharges his payment and other obligations as agreed. At the request of Real-Time Systems GmbH, the purchaser shall inform the debtors of the assigned claims, advise them of the assignment and keep separately the collected sales revenues for Real-Time Systems GmbH.

V. If the value of securities for Real-Time Systems GmbH should exceed its claims by more that 15% in total, then Real-Time Systems GmbH is willing, at the request of the purchaser, to release or reassign the excess securities at his option.

VI. If the system of law applying to the delivered goods does not allow retention of title, but does allow the retention of similar rights relating to the delivered goods, then these rights will be deemed to have been agreed upon between the purchaser and Real-Time Systems GmbH. The purchaser is obliged to participate in any measures on which Real-Time Systems GmbH determines for the protection of its property and similar security rights pertaining to the delivered goods. The purchaser may be urged to comply with this and other obligations stipulated in this paragraph without fur-

ther reminder by a preliminary injunction or by corresponding legal measures. Besides this, Real-Time Systems GmbH is entitled without further reminder to damages or to cancellation of the order.

§ 6 Warranty

I.	Real-Time Systems GmbH warrants the defect-free delivery of the contract goods.
II.	The warranty period is 12 months, commencing on the day of the passage of risk (§ 4) for the delivered goods.
III.	Real-Time Systems GmbH shall, at its own option, either repair, newly deliver or newly produce defective goods.
IV.	In the case of objects which can be sent to Real-Time Systems GmbH without excessive cost, correction of defects will take place at Real-Time Systems GmbH headquarters. The purchaser shall package the goods properly and deliver it together with the necessary accessories.
V.	If the goods are not located at the purchaser's headquarters, the purchaser shall bear the additional costs incurred for repair, in particular the increased travel costs.
VI.	The purchaser shall allow Real-Time Systems GmbH reasonable time and occasion for the correction of defects. In case of refusal by the purchaser, Real-Time Systems GmbH will be discharged from its liability for defects.
VII.	Only in urgent cases of endangered operational safety – which must be notified immediately to Real-Time Systems GmbH – or with prior written consent of Real-Time Systems GmbH, shall the purchaser be entitled to correct any defect himself or have it corrected by a third party and demand reasonable reimbursement of his costs from Real-Time Systems GmbH.
VIII.	Of the direct costs arising from the repair or new production of defective goods or services, Real-Time Systems GmbH shall bear the cost of the replacement piece including shipping, reasonable costs due to removal and installation work, and the accrued costs of any personnel assignments, provided that § 6 IV sentence 2 does not apply. All other costs shall be borne by the purchaser.
IX.	For repair and replacement goods or services, the same warranty of Real-Time Systems GmbH applies as for the original goods and services. The warranty period is extended by the duration of the interruption of operation for those parts which could not be operated for the intended purpose on account of repair or replacement work. Replaced parts will become the property of Real-Time Systems GmbH.
X.	Further claims of the purchaser against Real-Time Systems GmbH or its vicarious agents are excluded, especially claims for damages other than those concerning damage to the delivered goods themselves. This does not apply in the case of intention or gross negligence.
XI.	If Real-Time Systems GmbH has performed work on the basis of a reported fault for which no evidence has been provided by the purchaser, Real-Time Systems GmbH may demand reimbursement of the costs incurred.

§ 7 Exemption from Warranty

I.	The purchaser shall give Real-Time Systems GmbH written notice of defects immediately after delivery of the contract goods. In the case of hidden defects, the purchaser shall inform Real-Time Systems GmbH in writing immediately after the discovery of the defect. All subsequent warranty claims are excluded.
II.	Real-Time Systems GmbH shall not be liable under warranty for damage caused by improper use, alteration or manipulation of the contract goods, incorrect installation, repair or maintenance by the purchaser or third parties. This also applies if the purchaser or third parties use accessories which do not conform to the specifications made by Real-Time Systems GmbH or third parties. The foregoing shall not apply if the purchaser can prove in connection with the reported fault that the above-mentioned influences were not causally linked with the fault.
III.	The warranty does not apply to used goods.
IV.	The entitlement of the purchaser to the correction of defects is excluded if the fault is not reproducible or cannot be detected using machine-generated readout.

§ 8 Liability

I.	Compensation claims against Real-Time Systems GmbH and its agents arising from culpa in contrahendo, positive breach of contract or tortious act are excluded except in the case of intention or gross negligence or where warranted characteristics are absent. This does not apply in the case of ordinary negligence if major contractual obligations have not been observed (fundamental breach of contract). Real-Time Systems GmbH is liable in the case of ordinary negligence even if the damage is covered by its business liability insurance. Liability for personal injury and liability under product liability law is not affected.
II.	If only ordinary negligence is proven on the part of Real-Time Systems GmbH, then liability for indirect or consequential losses, e.g. loss of profit, is excluded. This does not apply in the case of fundamental breach of contract or the absence of warranted characteristics.
III.	Compensation claims for the loss of stored data are excluded if the loss would not have occurred had proper data protection measures been taken; provided that Real-Time Systems GmbH did not fail to instruct the purchaser in the proper data protection procedures.

§ 9 Impossibility; Contract Adaptation

I.	If it becomes impossible for Real-Time Systems GmbH to execute the delivery or performance or for the purchaser to fulfill his obligations, the general principles of law shall apply subject to the following provisions: If the impossibility is due to a fault of Real-Time Systems GmbH, the purchaser shall be entitled to require payment of damages. However, this payment shall be limited to 10% of the value of that part of the delivery or performance which

on account of the impossibility cannot be used for the intended operations. Further compensation claims on the part of the purchaser are excluded. This does not apply if Real-Time Systems GmbH is liable by intention or gross negligence. The right of the purchaser to cancel the order is not affected.

II.   If unforeseeable events in the sense of § 3, Paragraph IV, sentence 2 considerably alter the economic significance or the content of the delivery or performance or will considerably affect the operations of Real-Time Systems GmbH, the order will be adapted fairly and reasonably as far as required by good faith. If this is not economically justifiable, Real-Time Systems GmbH has the right to cancel the order. If Real-Time Systems GmbH intends to use this right of cancellation, it shall inform the purchaser immediately after realization of the impact of the event, even if at first an extension of the delivery time was agreed upon with the purchaser.

§ 10 Jurisdiction

I.   Unique court of jurisdiction for all disputes resulting directly or indirectly from the contractual relationship is the domicile of Real-Time Systems GmbH if the purchaser is a fully qualified merchant, a legal person under public law or a special asset under public law. Real-Time Systems GmbH is also entitled to sue the purchaser at the latter's domicile.

II.   The contractual relationship is governed by German law.

§ 11 Partial invalidity

If individual provisions of these Terms and Conditions are or become invalid, the validity of the remaining provisions shall remain unaffected. Invalid provisions shall be replaced by valid provisions whose effect comes closest to the intended commercial purpose of the invalid provisions.