

# **FREQUENTIS ORTHOGON GMBH**

## **STANDARD TERMS FOR DELIVERY OF SOFTWARE AND HARDWARE AND PROVISION OF RELATED SERVICES**

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### **PREAMBLE**

Frequentis Orthogon GmbH (hereinafter referred to as “Frequentis Orthogon”) is a specialist in the field of air traffic queue optimization, demand-capacity management, traffic-flow management and visualization solutions for the air traffic management (ATM) and airport industries.

These Standard Terms for Delivery of Software and Hardware and Provision of Related Services (hereinafter referred to as “Standard Terms”) govern and regard the terms and conditions under which Frequentis Orthogon delivers goods to and performs services for Customer at a specific airport or specific airports.

*CONFIDENTIALITY NOTICE: This document is confidential and contains proprietary information and intellectual property of Frequentis Orthogon. Neither this document nor any of the information contained herein may be reproduced or disclosed under any circumstances without the express written permission of Frequentis Orthogon. Use of the document and the information contained therein is only permitted for the intended purpose and the intended recipient. Once the document is no longer needed, it must be deleted or returned to Frequentis Orthogon.*

## 1.0 Validity

These Standard Terms apply to all contracts between Frequentis Orthogon and Customer, unless otherwise agreed in writing between the parties. A contract is formed between the parties when Customer's order is accepted by Frequentis Orthogon. Frequentis Orthogon does not recognize deviating, contradictory or supplementary general terms and conditions of the Customer, unless Frequentis Orthogon expressly agrees to their validity in writing.

## 2.0 Definitions

"Change Request" means any change to a contract or order and thus constitutes a new offer.

"Confidential Information" means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by one party to the other party, which is clearly marked or which ought reasonably to be considered to be confidential, including but not limited to information relating to business affairs, developments, trade secrets, know-how, products, operations, processes, plans, product information, market opportunities, personnel and suppliers, or a party and any other information.

"Defect" means a significant deviation from the agreed functionality and behaviour of Software or hardware so that the use of the Software or hardware is impossible or significantly restricted.

"Deliverables" refers to all items delivered under these Standard Terms, such as Software, Documentation, licenses, hardware, and related services.

"Documentation" refers to all documents provided hereunder by Frequentis Orthogon.

"Intellectual Property Rights" refer to copyright, rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi-conductor topography rights, trademarks, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and other rights in Confidential Information, as well as any pending applications for registration.

"Force Majeure" means any event or circumstance or combination of events or circumstances that is beyond the reasonable control of the affected party, and that could not have been mitigated, avoided, or prevented through the exercise of reasonable care and precautions. Such events may include but are not limited to any act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, blockade, embargo, revolution, rebellion, riot, civil commotion, act or campaign of terrorism, or sabotage, any government acts or omissions, radioactive contamination or ionizing radiation, any strike or labour dispute, labour or material shortages that could not have been reasonably foreseen, any lightning, earthquake, hurricane, drought, unusually severe weather or act of nature, fire, explosion or chemical contamination, or any epidemic, blight, famine, quarantine, plague, or pandemic.

"Minor Defect" means an insignificant deviation from the agreed functionality and behaviour of the Software or hardware that allows use of the Software or hardware without restriction or with only insignificant restrictions.

"Project" means a set of coordinated and controlled activities with start and finish dates, undertaken to achieve an objective conforming to specific requirements, including the constraints of time, cost and resources as defined in the order.

"Schedule" means the project schedule as described in Frequentis Orthogon's offer, including a time and payment schedule.

"Software" refers to all computer instructions that run on the Customer's hardware in the form of a computer program or programs and are licensed and provided to the Customer by Frequentis Orthogon under the contract. The Software includes the Documentation.

"System" refers to Software and, if required, hardware as described in the offer.

## 3.0 Subject Matter of the Contract

3.1 Frequentis Orthogon delivers a System including the respective license(s) as described in the offer. The respective offer forms part of the contract. Where agreed, Frequentis Orthogon undertakes to install, configure and customize the System at Customer's premises and integrate the System into Customer's existing system. These services fall under the term "Project".

- 3.2 All works and services are described in Frequentis Orthogon's Statement of Work submitted to the Customer, which forms part of the contract.
- 3.3 Upon software delivery, the Customer acquires a license of the Software specified in the order confirmation, or otherwise in writing between Frequentis Orthogon and the Customer, in the number and at the prices specified therein. Rights of use, restrictions and prohibitions of use of the Software are described herein under Clause 5.0 of these Standard Terms.
- 3.4 Support and maintenance services are not subject to the contract. At the request of Customer, a separate support and maintenance agreement ("Service Agreement") can be concluded regarding such services.

## 4.0 Project Realization

- 4.1 Frequentis Orthogon shall prepare the technical specification / Statement of Work and the System carefully in accordance with the current generally accepted state of the art. In doing so, Frequentis Orthogon shall take into account recognized process descriptions and industry standards as well as technical requirements of the Customer.
- 4.2 The parties shall adhere the Schedule as described in Frequentis Orthogon's offer.

## 5.0 Intellectual Property, Rights of Use

- 5.1 Nothing in these Standard Terms grants the Customer any right, title or interest in any Frequentis Orthogon Intellectual Property Rights except as otherwise explicitly agreed in writing between the parties. All Intellectual Property Rights remain exclusively with Frequentis Orthogon.
- 5.2 Frequentis Orthogon grants Customer a simple, non-exclusive, limited scope, non-transferable right to use the Software provided by Frequentis Orthogon. In any event, the Customer may only use the Software in the ordinary course of its business operations and for its own business purposes and as specified in the contract and Statement of Work.
- 5.3 If Frequentis Orthogon supplies a System for a defined number of working positions, the Customer is not permitted to increase the number of working positions or rebuild the System or any part thereof in any kind.
- 5.4 The Customer is not permitted to copy the Software. Any installation, loading, running or copying for back-up of the Software by the Customer permitted under these Standard Terms shall be limited to that undertaken within the scope of use set forth in the contract.
- 5.5 The Customer's right to use the Software is limited to the Software's object code. Frequentis Orthogon is not obliged to provide the Customer with the Software's source code, and the Customer shall have no rights to use it.
- 5.6 Copyright notices, serial numbers, product designations and other features appearing in the Software or on media containing the Software or serving as program identification may not be removed or altered.
- 5.7 The Customer is not entitled to modify, adapt, translate, rearrange, or create derivative works of the Software. The Customer is further not entitled to decompile, disassemble or reverse engineer the Software or otherwise attempt to discover the source code or object code of the Software.
- 5.8 Any transfer, redistribution, dissemination, or reselling of the Software or any parts thereof is strictly prohibited. The Customer is not entitled to sublicense or lease the Software to affiliated companies or third parties.
- 5.9 The Customer shall not refer to or otherwise use any software nor databases, business methods, patents or rights in inventions, semi-conductor topography rights, trade marks, rights in internet domain names and website addresses and other rights in trade names, designs, know-how, trade secrets and other rights in any Confidential Information for which Frequentis Orthogon holds the exclusive rights as part of any effort either to develop software or any program having functional attributes, visual expressions or other distinguishing features similar to those of the Software.
- 5.10 The Customer undertakes to allow Frequentis Orthogon or an agent of Frequentis Orthogon to audit whether the Customer's use of the Software is consistent with the rights granted to the

Customer herein upon request of Frequentis Orthogon and provided there is a legitimate interest therein and to give full cooperation to Frequentis Orthogon or its agent carrying such audit.

- 5.11 Any violation by the Customer of the rights of use described herein above entitles Frequentis Orthogon to terminate the contract without notice and prohibit further use of the software. All further claims and legal rights of Frequentis Orthogon under the applicable law remain unaffected.

## 6.0 Changes to the Contract

- 6.1 Up to the time of final acceptance, the Customer may request changes and additions to the System at any time if these are technically feasible and acceptable for Frequentis Orthogon ("Change Request"). Changes in the Schedule, the scope of delivery or suspension of works constitute Change Requests as well. The Customer shall notify Frequentis Orthogon in writing of any such Change Request. Frequentis Orthogon shall examine the Change Request and inform the Customer of the result together with any costs and changes of the Schedule in the form of a binding offer.
- 6.2 If the Customer accepts the offer, the changes will become part of the contract. If the Customer does not accept the offer or the Change Request is deemed not feasible or not recommendable, Frequentis Orthogon will continue the work unchanged.
- 6.3 Unless otherwise agreed between the parties, Frequentis Orthogon shall continue the work as scheduled during an ongoing Change Request procedure. The Customer may instruct Frequentis Orthogon in writing that the work is to be discontinued or restricted until a decision on the Change Request has been made. If services are to be rendered or actions are to be carried out prior to completion of the Change Request procedure, which would no longer be usable due to the Change Request, Frequentis Orthogon shall have the right to discontinue work as it sees fit until a decision on the Change Request has been made.

## 7.0 Cooperation of the Customer

- 7.1 The Customer must promote the success of the Project at every stage through active and appropriate cooperation. In particular, the Customer shall provide Frequentis Orthogon with the information, documents and data, computer programs and other means necessary for the proper realization of the Project and, if necessary, allow Frequentis Orthogon's employees access to Customer's business premises and computers during Customer's business hours, if this is necessary for the fulfilment of the purpose of the contract.
- 7.2 If official permits are required for deliveries and services to be provided by Frequentis Orthogon at the Customer's place of business, the Customer is obliged to apply for such permits in due time. In this context, Frequentis Orthogon shall provide all cooperation required to obtain the permits, insofar as this is reasonable.
- 7.3 If the Customer does not comply with his obligations to cooperate and Frequentis Orthogon is thereby unable to complete the Project or parts thereof within the agreed Schedule, the period stipulated in the Schedule is extended accordingly. Frequentis Orthogon is entitled to demand reasonable compensation if the Customer, by failing to perform its obligations to cooperate under a contract, is in default of cooperation (§ 642 German Civil Code). Frequentis Orthogon is further entitled to terminate the contract in the event the Customer does not comply with its obligation to cooperate, provided that Frequentis Orthogon has given the Customer a reasonable period of time for making up for any such failure (§ 643 German Civil Code). Customer's obligation to pay any outstanding sums remains unaffected.
- 7.4 In the event of delays in the Project which can be attributed to the Customer, and as a result thereof, Frequentis Orthogon incurs verifiable additional costs, Frequentis Orthogon shall be entitled to charge these additional costs to the Customer.
- 7.5 Precondition for any warranty claim of the Customer is the Customer's full compliance with all requirements under these Standard Terms.

## 8.0 Delivery; Acceptance; Transfer of Risk

### 8.1 Delivery

Frequentis Orthogon delivers the Deliverables and performs the services in the manner and in accordance with the Schedule agreed between the parties.

Where Software is delivered, delivery shall be deemed on the date it is made available for download on a server and the Customer is informed of such availability, alternatively on the date, a storage medium is delivered to the location agreed between the parties.

Where hardware or other tangible goods are delivered, delivery shall be deemed to be on the date on which they are delivered to the location agreed between the parties.

### 8.2 Acceptance

If the Deliverables to be delivered by Frequentis Orthogon have the contractually agreed functionality, the Customer shall accept the Deliverables. Unless the parties have agreed otherwise, acceptance requires the written form (acceptance protocol). The prerequisite for acceptance is that Frequentis Orthogon transfers all agreed Deliverables to the Customer in full and Frequentis Orthogon indicates readiness for acceptance.

Partial deliveries may be the subject to partial acceptance. If the Customer has declared partial acceptance for a corresponding partial delivery, he cannot base a refusal of the overall acceptance on any Defects in the correspondingly accepted partial delivery.

The Customer shall, after successful completion of all tests to be conducted, formally accept the System within fourteen (14) days from the day Frequentis Orthogon indicated readiness for acceptance. The Customer may not refuse acceptance due to Minor Defects. However, these Minor Defects are subject to repair and rectification by Frequentis Orthogon. These Minor Defects shall be listed individually in the acceptance protocol. If those fourteen (14) days lapse without the Customer giving any notice to Frequentis Orthogon, the System shall be deemed accepted.

The Customer receives a temporary license for the non-operational use of the System for the implementation period of the Project. This temporary license expires if the Customer is in default of acceptance. A final license is only granted to the Customer upon acceptance and payment of all sums due.

The Customer is not permitted to use Software operationally until acceptance has taken place and all sums due have been paid. If the Customer nevertheless does so, the System shall be deemed accepted.

### 8.3 Transfer of Risk

The risk of accidental loss or accidental deterioration shall pass to the Customer (1) as soon as the Software is made available to the Customer in accordance with these Standard Terms, or, (2) where tangible goods are delivered, when Frequentis Orthogon hands over the Deliverables to the agent, the carrier or the person or institution otherwise designated to carry out the delivery.

## 9.0 Excusable Delays

9.1 Frequentis Orthogon shall not be liable for delays in delivery or performance or for failure to manufacture or deliver or perform due to (1) any event or occurrence due to Force Majeure, or (2) acts or omissions of Customer to comply with its obligation to cooperate, or (3) inability on account of causes beyond the reasonable control of Frequentis Orthogon or its suppliers to obtain necessary materials, components, services, or facilities. Frequentis Orthogon shall inform the Customer promptly of any such delay and its reason and the Schedule will be amended, and the date of delivery or of performance shall be extended for a period equal to the time lost because of the delay.

9.2 If Frequentis Orthogon is in delay for reasons solely attributable to Frequentis Orthogon, the Customer shall grant Frequentis Orthogon a reasonable grace period. The adequacy of the grace period depends on the type and scope of the services to be provided by Frequentis Orthogon; in any case, a grace period is at least four (4) weeks. Should Frequentis Orthogon repeatedly fail to meet the milestones of the Schedule and thereby jeopardise the contractually agreed delivery

dates, the Customer shall be entitled to the rights arising from this contract and from the law, provided that a preceding obligatory contractual negotiation of the parties for the purpose of eliminating the default in performance or for the purpose of adjusting the contract has not led to an agreement.

## 10.0 EXPORT CONTROL

Customer shall comply with all export laws, restrictions and regulations of any agency or authority and shall not export, nor permit export or re-export of (1) any Confidential Information or Software or other products or copies thereof, (2) products in violation of any such laws, restrictions and regulations, or without all required licenses and authorizations, to any country to which the said export laws, restrictions and regulations prohibit exportation.

## 11.0 PRICE, PAYMENT TERMS

### 11.1 Prices

Prices for Frequentis Orthogon's performance are based on Frequentis Orthogon's current daily rate, which is communicated to the Customer in the offer.

All prices are quoted net in EURO, excl. VAT. Any taxes, levies, fees, royalties, duties (including but not limited to customs clearance fees, import VAT as well as any withholding taxes) or other charges that may be imposed in relation to the contract are not included in the price and shall be paid by the Customer additionally and directly at the respective fiscal authorities and shall not be financed in advance by Frequentis Orthogon.

### 11.2 Payment Terms

Payment is based on the payment milestones agreed between the parties in the Schedule. In the event no terms of payment have been agreed, Frequentis Orthogon is entitled to invoice services from time to time during the Project as it sees fit.

Invoices are payable within thirty (30) calendar days from the date of receipt of the invoice. Payment shall be completed via electronic transfer to the bank account indicated on the invoice by Frequentis Orthogon. Unless otherwise agreed between the parties, payment is effected in EUR.

All invoices are due without set-off against the term of payment stated in the respective contract or order confirmation.

### 11.3 Late Payment

In the event Customer fails to pay in a timely manner, Frequentis Orthogon reserves the right to charge default interest at nine (9) percentage points above the base rate as announced semi-annually by the Deutsche Bundesbank (in accordance with § 288 Sec. 2 German Civil Code and European legal requirements to combat late payment).

### 11.4 Price Escalation

All Prices for one-time-payments and recurring payments shall be subject to adjustment for inflation in accordance with the "Harmonized Index of Consumer Prices (HICP), monthly data, Euro area" published by Eurostat under the link <https://ec.europa.eu/eurostat/>.

The reference value for adjustments shall be the last figure published for the above referenced index in the month before Frequentis Orthogon submitted the offer upon which the contract is based. Adjustment shall be done upon invoicing of the respective payment in accordance with the increase of the index figure released for the month before the respective payment becomes due, compared to the reference value, also taking into account price adjustments due to cost increases in the supply chain, as described below.

In view of the fact that the costs incurred by Frequentis Orthogon for goods (in particular hardware and software) and/or services to be purchased during the entire term of the contract may increase by more than what is reflected by the aforementioned index, while prices of its suppliers are valid only for a shorter period, Frequentis Orthogon reserves the right to adjust the prices beyond the indexation ("price

adjustment due to increases in the supply chain"), after expiry of twelve (12) months after the start of the contract. In any case, Frequentis Orthogon is entitled to such price adjustments due to increases in the supply chain per year at its own reasonable discretion up to a maximum of 10% on the basis of the prices, as last amended. If a price adjustment due to increases in the supply chain exceeds the aforementioned percentage, Frequentis Orthogon is entitled to a price adjustment to the extent cost increases in the supply chain are evidenced.

## 12.0 Warranties, Warranty Period

- 12.1 Frequentis Orthogon warrants to the Customer that Deliverables provided under the contract are free of Defects in material and workmanship and conform to their technical requirements for a period of twelve (12) months ("Warranty Period").
- 12.2 The Warranty Period begins on the date of Customer acceptance of the System in accordance with these Standard Terms. The Customer shall not be entitled to any warranty rights for Defects until the System has been accepted in accordance with Clause 8.0 of these Standard Terms.
- 12.3 With respect to all items, be it software or hardware, that are not part of a System provided by Frequentis Orthogon, Frequentis Orthogon gives no warranty and assumes no responsibility. Any Defects in the System caused by third party items shall not be covered under this warranty. In such cases, the Customer bears the burden of proof that the Defect in the System was caused by Frequentis Orthogon and not by a third party.
- 12.4 Defects must be reported to Frequentis Orthogon in writing immediately after their discovery in accordance with § 377 German Commercial Code (obligation to examine and give notice of Defects). Frequentis Orthogon shall then be given the opportunity to determine the cause of the Defect notified.
- 12.5 During the Warranty Period, if the System, or parts thereof, fails to meet the foregoing warranties and Customer has given written notice to Frequentis Orthogon in accordance with the terms above, Frequentis Orthogon shall, at its choice, remedy the Defect or make subsequent deliveries (subsequent performance). If subsequent performance fails, Customer shall grant Frequentis Orthogon the right to a second attempt. If the subsequent performance fails repeatedly, the Customer may, (1) reduce payment with prior written declaration to Frequentis Orthogon. In the event of reduction, payment shall only be reduced by the proportion in which the value of the work in a Defect-free condition would have been at the time of conclusion of the contract to the actual value. To the extent necessary, reduction is to be established by appraisal; or (2) terminate the contract, provided that Customer has in writing allowed Frequentis Orthogon a reasonable period for performance or subsequent performance, and Frequentis Orthogon has allowed this period to lapse.
- 12.6 Any repaired or replaced parts or equipment furnished hereunder shall be warranted for the remaining unexpired portion of the original Warranty Period for that part or equipment. The original Warranty Period for Software shall not be extended, unless agreed to in writing by Frequentis Orthogon.
- 12.7 **Manufacturer's Guarantee.** If the hardware manufacturer gives a (including in particular, but without limitation a non-independent) guarantee for the hardware delivered by Frequentis Orthogon to the Customer, Frequentis Orthogon shall pass on this guarantee to the Customer. The Customer shall sign any guarantee card provided with regard to the hardware and shall return it to Frequentis Orthogon. To safeguard guarantee claims the Customer shall directly contact the manufacturer in the event of errors / defects arising which fall under the guarantee and while doing so shall observe the provisions of the guarantee of the relevant manufacturer, the way of reporting defects and the like. In the event of an error or defect arising which falls under the manufacturer's guarantee, the Customer shall in each case and without undue delay also inform Frequentis Orthogon with regard to the possible assertion of guarantee claims and shall keep Frequentis Orthogon up to date on the manufacturer's processing of the guarantee. Manufacturer guarantees do not constitute a guarantee concession by Frequentis Orthogon.
- 12.8 Frequentis Orthogon's obligations under this Clause 12.0 shall not apply to any Deliverables or part thereof, which (1) have been modified or otherwise altered other than pursuant to Frequentis Orthogon's written instructions or written approval or, (2) are normally consumed in operation or, (3) have a normal life inherently shorter than the Warranty Periods specified, or (4) are not properly

stored, installed, used, maintained or repaired, or, (5) have been subjected to any other kind of misuse or detrimental exposure, or has been involved in an accident.

- 12.9 The warranties made by Frequentis Orthogon under these Standard Terms, and the obligations of Frequentis Orthogon under the Project, run only towards the Customer and not to its affiliates, customers, or any other persons or entities. Under no circumstances shall any affiliate or customer of the Customer or any other person or entity be considered a third party beneficiary of a contract between Customer and Frequentis Orthogon or otherwise be entitled to any rights or remedies under a contract, even if such persons or entities are being provided access to the System or data maintained by the System.
- 12.10 The preceding paragraphs set forth the exclusive remedies for claims based upon Defects in or nonconformity of the System, whether a claim is in contract, warranty, tort (including negligence), strict liability or otherwise and however instituted. Upon the expiration of the Warranty Period, all such liability shall terminate. The foregoing warranties are exclusive and in lieu of all other warranties, whether oral, written, expressed, implied or statutory. No implied or statutory warranties of merchantability or fitness for a particular purpose shall apply.

## 13.0 Limitation of Liability

- 13.1 Frequentis Orthogon's liability out of or in relation to the Project, irrespective whether arising in contract, tort or under any other legal theory, including under indemnity shall be limited in aggregate to 100% of the contract price.
- 13.2 In no event shall Frequentis Orthogon be liable for any special, consequential, incidental, indirect or exemplary damages, included but not limited to loss of profit or loss of revenues, or any loss or damage due to proven cases of Force Majeure.
- 13.3 These limitations of liability also apply in favour of Frequentis Orthogon's directors, employees, subcontractors and agents.
- 13.4 These limitations of liability shall apply to the maximum extent possible under applicable law. No limitation of liability shall apply to either party to (1) liability arising from death or personal injury, or (2) fraud or wilful misconduct, or (3) infringement claims.

## 14.0 Indemnification

Customer agrees to defend, indemnify and hold harmless Frequentis Orthogon, its parent, subsidiaries and affiliates, and their respective directors, officers, employees and agents, from any claims, demands, liabilities, costs, expenses or judgments arising in whole or in part, directly or indirectly, out of the negligence by Customer or Customer's customers, agents, or employees involving the use of the Contract Software supplied by Frequentis Orthogon. This indemnification shall include all costs, legal fees and other expenses paid or incurred by or imposed upon Frequentis Orthogon in connection with the defence of any such claim.

## 15.0 Confidential Information

- 15.1 The Customer acknowledges that all Confidential Information of Frequentis Orthogon contains valuable proprietary information or trade secrets developed at great expense by Frequentis Orthogon. Customer agrees to hold Confidential Information in confidence and safeguard from disclosure to the same extent Customer protects its own Confidential Information, and not to use, reproduce, distribute, or make available Confidential Information except to Customer's employees (and agents who agree to these terms) who have a need to know for the performance of the Project. Customer agrees to report promptly to Frequentis Orthogon any unauthorized disclosure of any Confidential Information.
- 15.2 In the event of any breach of this Clause 15.0 including, without limitation, the actual or threatened disclosure or unauthorized use of Frequentis Orthogon's Confidential Information without the prior written consent of Frequentis Orthogon, Frequentis Orthogon may suffer an irreparable injury, such that no remedy at law will afford it adequate protection against, or appropriate compensation for, such injury. Accordingly, Frequentis Orthogon may be entitled to seek injunctive relief, as well as determine subsequently, on the basis of the circumstances of the breach and at its equitable discretion in accordance with § 315 BGB (German Civil Code), an amount which, in the event of



a dispute, a court of competent jurisdiction may review for adequacy. All further claims and legal rights Frequentis Orthogon may have remain unaffected by this provision.

## 16.0 Statute of Limitations

All liability and warranty claims arising from a project shall become statute-barred no later than twenty-four (24) months after acceptance of the project, or the exclusion of claims arising from grossly negligent or intentional acts or omissions on the part of Frequentis Orthogon, or claims based on fraudulent acts or concealment. In these cases, the limitation period is thirty-six (36) months after knowledge of the circumstances giving rise to the claims in tort or fraud.

## 17.0 Termination

17.1 The contract terminates automatically upon fulfilment of all obligations on the part of Frequentis Orthogon and Customer.

17.2 Should the Customer terminate the contract prematurely, Frequentis Orthogon shall cease work and hold for Customer all completed and partially completed products and work in progress. Customer shall pay Frequentis Orthogon for all work and materials that have been committed to and / or identified to Customer's order, all services rendered in connection with the order, and all costs occurring due to the cancellation of the order.

17.3 The Customer shall notify Frequentis Orthogon in writing without undue delay of its decision to terminate a contract, indicating its reasons for the termination. Should the Customer fail to comply with his obligation to notify Frequentis Orthogon in due time, and because of that Frequentis Orthogon incurs additional costs or expenses, Frequentis Orthogon shall be entitled to claim damages in addition to the sums owed by Customer in accordance with clause 17.2 above. All further claims and legal rights Frequentis Orthogon may have remain unaffected.

17.4 The right to termination for good cause remains unaffected. Good cause exists in particular if (1) a party repeatedly violates its obligations under a contract, or (2) a party has entered into insolvency proceedings, or insolvency proceedings are to be or may be opened against that party. Frequentis Orthogon may further terminate a contract if the Customer's financial circumstances deteriorate to such an extent that proper performance of the contract can no longer be expected, even if there is no reason for insolvency within the meaning of §§ 17 to 19 Insolvency Code.

17.5 Either party may terminate the contract if a Force Majeure Event continues for one-hundred and eighty (180) days.

17.6 Termination has to be in writing in order to be valid.

## 18.0 Final Provisions

### 18.1 Amendments

Amendments to these Standard Terms are only effective if they are agreed to in writing and executed by both parties.

### 18.2 Assignment

Neither party shall assign or in any manner transfer its rights or obligations under a contract without the prior written consent of the other party, which will not be unreasonably withheld. The foregoing shall not apply to assignment to a successor corporation as a result of a merger or a sale of all or substantially all of the assets or stock of that party. For the purposes of these Standard Terms, a corporate name change does not constitute an assignment.

### 18.3 Place of Performance.

The place of performance is Bremen, Germany.

#### **18.4 Jurisdiction, Choice of Law**

In any action relating to or arising under these Standard Terms, each of the parties irrevocably consents to the exclusive jurisdiction and venue of the Courts in Bremen, Germany.

These Standard Terms are subject to the law of the Federal Republic of German.

#### **18.5 Salvatorian Clause**

Should any term or provision of these Standard Terms be to any extent unenforceable, invalid or prohibited under law, the validity of the remaining terms and provisions shall not be affected. Frequentis Orthogon and the Customer undertake to replace the invalid, unenforceable or legally prohibited term or provision with a valid term or provision, coming economically and legally closest to the invalid, prohibited or unenforceable term or provision.