

## General Installation Terms and Conditions (GTC) of planetroll GmbH & Co. KG (Status: 03/2010)

For business use pertaining to transactions with:

1. An individual acting as a business person in conjunction commercial or independent professional activities (entrepreneur) when executing a contract;
2. A legal entity of public law or a public-legal special entity.

### I. Scope of Application

These Installation Terms and Conditions shall apply to all installations executed by planetroll upon commissioning by the Buyer, unless other arrangements have been made in individual cases.

### II. Directory of Services, Price of Installation

The specifications of the installation service shall be determined exclusively by the stipulations in the planetroll quotation or the content of the agreement executed. The installation service shall be billed based on time units, unless a lump sum price has been explicitly agreed upon. The agreed upon amounts do not include value added tax, which shall be billed additionally by planetroll in the amount required by law.

### III. Technical Assistance Provided by the Buyer

1. Unless otherwise agreed upon, the Buyer shall be required to provide technical assistance at Buyer's expense, in particular with regard to
  - a) The performance of all preparatory work, in particular earth movement, construction, foundation and scaffolding work.
  - b) Provision of heating, electrical power and lighting, pressurised air, water, including all required connections.
  - c) Provision of any necessary dry and lockable rooms for the storage of tools, supplies and operating resources used by the installation personnel.
  - d) Provision of appropriate, theft proof break rooms (heated, lighted, with bathroom/plumbing required for clean up) and first aid supplies for the installation personnel.
  - e) Provision of the support materials and taking care of all other actions required for the initial settings and adjustments of the object to be installed and for the performance of a contractually agreed upon test.
  - f) Protection and safeguarding of the installation location and materials against damaging influences of any kind as well as cleaning of the installation site.
2. The technical assistance services provided by the Buyer must ensure that the installation can begin immediately upon arrival of the installation personnel and that it can continue without any delays until it is ready for the acceptance inspection by the Buyer. In the event that special plans or instructions should be required by the Contractor, the Contractor shall make the same available to the Buyer in due time.
3. In the event that the Buyer should fail to meet the Buyer's obligations, planetroll shall have the option but be under no obligation to perform the actions the Buyer is responsible for on the latter's behalf and at the latter's expense upon a remedial deadline set by planetroll has expired. This shall be without prejudice to any statutory rights and entitlements of the installation company.

### IV. Installation Deadline, Delays in the Installation

1. The installation deadline shall be deemed to have been complied with if the installation service is ready for inspection acceptance by the Buyer, or in the event of a contractually agreed upon test, ready for its performance by the agreed upon deadline.

2. In the event that the installation should be delayed by force majeure or through measures implemented in conjunction with labour disputes, in particular strike and lock-outs or by the occurrence of circumstances the Contractor is not responsible for, and provided such hindrances do verifiably have a significant impact on the completion of the installation, a reasonable extension of the installation deadline shall be granted. This shall also apply if such circumstances should arise after planetroll is already in default of timely completion.
3. In the event that the delay caused by the installation company should result in damages to the Buyer, the Buyer shall have the right to demand payment of a lump sum late completion compensation. For each completed week of delay, it shall total 0.5 % and a maximum of 5% of the installation cost for those parts of the object to be installed by planetroll that cannot be utilised in due time because of the delay. Claims of any further late completion damages shall be excluded, unless planetroll has caused the damages as a result of acts of gross neglect or intent.
4. In the event that the Buyer should set a reasonable remedial deadline after the due date – taking into account the statutory exemptions - and if planetroll should fail to meet said deadline, the Buyer shall have the right to rescind from the agreement within the scope of the statutory requirements. Other entitlements resulting from the delay shall be governed exclusively by Article VII.2 of these GTC.

### V. Acceptance Inspection

1. The Buyer shall be required to perform an acceptance inspection of the installation services as soon as the Buyer has been notified of completion and any other contractually agreed upon testing has been performed. In the event that the installation should prove not contract compliant over the course of the acceptance inspection, planetroll shall be required to eliminate the deficiency. However, if the deficiency is minor, the Buyer shall not be in a position to refuse acceptance.
2. In the event that the acceptance inspection should be delayed for reasons planetroll is not responsible for, the acceptance shall be deemed to have occurred two weeks after notice of the completion of the installation work has been given.
3. If the Buyer should accept the installation services without raising any objections although the Buyer is aware of a deficiency, all of the Buyer's deficiency related rights with regard to remedial fulfillment, replacement against compensation of costs and reduction, as well as the right to rescind from the contract shall be rendered null and void.

### VI. Entitlements Resulting from Deficiencies

1. Upon acceptance of the installations, planetroll shall assume liability for deficiencies subject to the exclusion of all other entitlements of the Buyer without prejudice to No. 3 and Article VII. insofar that it shall be required to eliminate the deficiencies. The Buyer shall be required to report any deficiency detected to planetroll in writing immediately.
2. In the event that planetroll – taking into account the statutory exceptions – should allow a deadline set for the remedial elimination of errors to expire without producing results, the Buyer shall be entitled to reduction rights within the scope of the statutory provisions. The Buyer's right to reduce shall also apply in all other cases where the elimination of deficiencies has failed. Only in cases where the installation, despite a reduction, is verifiably of no interest for the Buyer, shall the Buyer have the right to rescind from the contract.
3. All other entitlements shall be exclusively governed by Article VII.2 of these Terms and Conditions.

## VII. planetroll's Liability, Liability Exclusions

1. In the event that it should prove impossible for the Buyer to use the object installed by planetroll in a contract compliant manner due to acts it is responsible for because of omitted or erroneous fulfillment of proposals and consultations that occurred prior to or after the execution of the contract or with regard to any other ancillary contractual obligations, the deficiency entitlements set forth in Article VI. and the following provisions shall apply subject to the exclusion of any other entitlements of the Buyer.
2. Unless otherwise mandated by the contract or applicable laws, planetroll shall assume liability for damages that have occurred on anything that is not part of the installed object as such, regardless of the legal grounds, only
  - a) for acts of intent,
  - b) in the event of gross neglect of the owner/executive bodies or management staff,
  - c) In the event of culpable damages caused to the life, body or health of a person
  - d) for deficiencies that were not disclosed with malicious intent
  - e) in conjunction with warranty assurances.

In the event of gross culpability of simple commercial agents, planetroll shall assume limited liability for the typical foreseeable damages unless planetroll is in a position to be granted relief from such liability as a result of trade practices. In the event of culpable breach of cardinal contractual obligations, planetroll shall also assume liability for acts of gross neglect of non-executive staff and in the event of minor neglect; however, such liability shall be limited to the typical foreseeable damages.

## VIII. Buyer's Obligations

1. The Buyer shall be required to ensure that all technical prerequisites that are necessary for the proper and risk free performance of the installation project at Buyer's own expense and shall maintain same throughout the duration of the assignment.
2. The Buyer shall obtain the consent required for traveling on third party land parcels, roadways, paths and locations that are not public, from the respective owners and shall indemnify the Contractor against any and all third party claims that may arise from any unauthorised use of a third party land parcel.
3. The Buyer shall furthermore undertake to ensure that the soil, location and other conditions at the installation site and the access ways leading to it – with the exception of public roadways, paths and locations – allow for the proper and risk free performance of the installation project. The Buyer shall provide information on the location and the presence of underground lines, shafts and other hollow areas without having to be prompted to do so. In the event that the Buyer should culpably fail to comply with this notification obligation, the Buyer shall be liable for all resulting damages, including material and consequential damages to vehicles, equipment, and devices of planetroll as well as for any pecuniary damages.
4. Moreover, the Buyer shall also brief the installation supervisor on any existing safety provisions, provided same are of relevance for the installation personnel. The Buyer shall notify planetroll of all violations committed by the installation personnel of any such safety provisions (e.g. third party instructions, special safety and protective clothing, etc.).

## IX. Statute of Limitations

All of the Buyer's entitlements regardless of the legal grounds they are based upon shall be subject to a statute of limitations of 12 months. Damage compensation entitlements pursuant to Article VII. 2. a) – d) shall be subject to the statutory provisions. In the event that planetroll should render installation services to a building structure and should cause its deficiency as a result, the statutory provisions shall also apply.

## X. Compensation to be Paid by the Buyer

In the event that the devices or tools provided by planetroll should be damaged or lost on the installation site due to circumstances planetroll is not responsible for, the Buyer shall be required to reimburse all resulting damages.

## XI. Final Provisions

1. All legal relationships between planetroll and the Buyer shall be exclusively governed by the works contract laws of the Federal Republic of Germany applicable to legal relationships of domestic parties between each other, even if the installation site should be located in a foreign jurisdiction.
2. Services provided by planetroll are advance services and are therefore not cash discount eligible. Upon fulfillment of the order, invoices issued by the company shall be due for immediate payment unless otherwise agreed upon. The Buyer shall be automatically in default if an invoice due is not paid within 10 days after receipt of the invoice or an equivalent demand for payment at the latest. If the deadline for payment in the invoice is stipulated in the form of a calendar date, the Buyer shall be in default of payment if it is not made at the latest on said specific date.

The setting off or withholding of balances shall be permitted only against undisputed counter claims or those found to be legally final by a court of law.
3. The competent court at the domicile of planetroll shall be the elected place of jurisdiction. However, planetroll shall have the right to file suit also at the main domicile of the Buyer.
4. In the event that one of the provisions in these Terms and Conditions or any provision agreed upon in conjunction with other agreements should be or become ineffective or if it should not be applicable in individual cases at this time or in the future, this shall not affect the effectiveness of the remaining provisions or agreements.

To this end, § 139 BGB is hereby waived. In this case, planetroll and the Buyer shall jointly agree on a substitute provision that shall replace the ineffective provisions with an effective one that meets the business intentions of the original ineffective provision as closely as possible.