1. General

1.1 The relationship between the customer and the Karlsruhe Institute of Technology (KIT) (hereinafter referred to as “contractor”) shall be subject to the standard conditions of sale outlined below, unless other provisions are specified in writing in the respective individual contracts.

1.2 Acceptance of the contractor's offer by the customer shall imply the latter’s acceptance of the present terms and conditions. Any different terms and conditions and in particular the customer's standard terms and conditions shall apply only, if they have been acknowledged in writing by the contractor. This shall also hold in cases of the customer referring to his standard terms and conditions in his invitation to tender or in his contract.

1.3 Ineffectiveness of any of the present standard conditions of sale shall not affect the validity of the rest of provisions. In this case, the ineffective provision shall be replaced by a corresponding legally effective provision.

2. Subject Matter of the Contract, Pricing, Payment

2.1 The subject matter of the contract shall be defined in each individual contract.

2.2 Documents belonging to an offer, such as figures, drawings, weights, dimensions, specifications, and other descriptions, as well as other information on contractual products and services shall only be binding, if agreed upon in writing. Reference to standards or agreed specifications alone shall reflect the products or services in more detail only and not imply the assumption of special guarantees.

2.3 All prices shall be understood to be plus the legally valid value added tax.

2.4 The price agreed upon shall cover all contractual costs to be borne by the customer. Clause 2.6 shall remain unaffected.

2.5 Unless agreed differently, net payment shall be made by the customer upon the execution of the service and invoicing.

2.6 In case the contractor realizes that the contract cannot be executed within the period of time and/or at the price agreed upon, the contracting parties shall reach an additional agreement on the continuation of work and the payment of the respective costs.

3. Contract Execution

The contractor shall execute the contract with due and proper care and diligence according to the state of the art.

4. Dates of Delivery, Default, Rescission

4.1 The dates of delivery given shall be binding only, if agreed upon expressly and in writing.

4.2 The period of delivery shall start on the date of the confirmation of the order by the contractor, but not before the customer has submitted the samples, documents, certificates, permits, and other papers required.

4.3 In case contract execution is delayed for reasons lying in the responsibility of the contractor, the customer shall be entitled – after having proved the loss caused to him – to claim a compensation in the amount of 0.5 % – at the maximum 5 % – of the value of the service due after the expiry of two weeks for any further complete week of delay. With this, any other claims based on default shall be excluded. The provisions outlined in Section 8 shall not be affected.

4.4 In case the maximum amount of compensation according to 4.3 is reached, the customer, after having granted an appropriate period for the execution of the service, shall have the right to rescind the contract with respect to the service still due in accordance with the exceptions and provisions outlined by law, unless the contractor has fulfilled the contract before.

5. Delayed Acceptance by the Customer

5.1 The customer shall bear the costs resulting from a delayed acceptance. In the absence any further evidence, he shall be obliged to pay per week of delay 0.5 % of the contract value, at the maximum 5 %.

5.2 The contractor shall be entitled to fix in writing an appropriate period of time for acceptance by the customer, if the latter does not accept the service at the time of execution. The right of the contractor to claim the payment agreed upon in the contract shall remain unaffected. Upon the expiry of the said period of time, the contractor shall be entitled to completely or partly rescind the contract by written notice and to claim damages.

6. Retention of Title

6.1 The contractor shall retain the title to any items delivered until the complete payment agreed upon has been made.

6.2 In case of the resale of items delivered or their processing or installation in a plot of land, the customer already now shall assign to the contractor the counterclaim to which he is entitled in legal connection with the resale, processing or installation up to the amount of the immoveable share of the payment to which the contractor is entitled to protect his claim to receiving payment under this contract. Payments not transferred to the contractor shall be set off against the share of claims not assigned to the contractor, unless the payer expressly makes different arrangements.

6.3 To the extent to which claims have been assigned to the contractor, the customer shall be obliged to provide the contractor with information and deliver to the contractor any and all documents. Until revoked, the customer shall be authorized to collect the claim on behalf of the contractor. The right of the contractor to collect shall remain unaffected by this provision.

7. Claims Based on Defects (Material Defects and Defects of Title)

7.1 (Obligation to inspect and complain) In case of a delivery/service that is not in agreement with the contract, the customer shall only be entitled to make claims based on defects, if he has properly fulfilled his obligations to inspect and complain (Article 377, Commercial Code).

7.2 (The customer's obligation to accept) Even if it has minor, insignificant defects, the delivery/service shall be accepted by the customer without prejudice of his rights outlined in the following sections.

7.3 (Remedy, substitute delivery/service, rescission, compensation)

7.3.1 In the case of a defect, the contractor shall be free to choose between a remedy by eliminating the defects or a substitute delivery/service.

7.3.2 In case remedy is unreasonable for or refused by the contractor, or if subsequent performance is delayed beyond an appropriate period of time or if it fails, the customer shall be entitled to either rescind the contract or reduce payment. Claims of damages based on defects shall be excluded. The provisions outlined in Section 8 shall remain unaffected.

7.3.3 The extent of liability for substitute deliveries / services and remedies shall be the same as for the original subject delivered / service, but limited in time until the expiry of the limitation periods for defects of the original subject delivered/service. The period of liability for defects of the subject delivered/service shall be extended by the period needed by the contractor to inspect and eliminate the defects.

7.4 (Reduction of payment) In case of a minor defect, the customer shall only be entitled to reduce payment.
8. Claim for Damages

8.1 The contractor shall only be liable for damage other than that of the subject delivered/service – for whatever legal reasons –
- in case of intent and gross negligence;
- in case of a willful injury of life, body, and health;
- in case of fraudulent concealment of defects;
- if a quality or durability guarantee has been granted, with the liability being limited to the direct scope of validity of the guarantee, however;
- in case of defects of the subject delivered/service, if liability is subject to the Product Liability Act for personal or property damage;
- in case of the willful violation of major contractual obligations, including simple negligence, with liability amounting to the contract value at the maximum, but being limited to the typical, foreseeable damage at the time of the conclusion of the contract.

8.2 Any other claims shall be excluded.

8.3 In case liability of the contractor is excluded or limited, this shall also apply to the personal liability of representatives, employees, and other subcontractors of the contractor.

9. Limitation

9.1 The limitation period for claims based on defects of the subject matter of the contract shall be one year from the beginning of the legal limitation period, except as provided in Section 9.2. This shall also apply to consequential damage based on defects.

9.2 Claims of damages based on tort according to the Product Liability Act or other provisions related to the injury of life, body, and health shall be subject to the legal periods of limitation.

9.3 The limitation period for other claims based on the violation of obligations not related to defects shall be two years from the beginning of the legal limitation period.

9.4 To suspend the period of limitation due to current negotiations according to Article 203, Clause 1, Civil Code, the customer shall be obliged to raise the claims in writing.

10. Confidentiality/Publication

10.1 Any documents and information obtained by the parties during the execution of the contract shall be treated confidentially.

10.2 The customer shall agree to the publication of the results obtained within the framework of the contract by the contractor.

10.3 The parties shall be obliged to keep the operation secrets transmitted to them in connection with the contract and to disclose them to third parties only to the extent necessary for the execution of the contract.

10.4 The parties shall be obliged to keep secret any economic and technical details of their mutual business relation, as long as these have not become common knowledge.

10.5 The parties shall impose on their subcontractors the same confidentiality obligations as those listed in Sections 10.1, 10.3, and 10.4.

11. Inventions/Property Rights/Rights of Use

11.1 Except for the patentable work results, the results obtained from the contract shall be available to the customer.

11.2 At the customers request and subject to a specific agreement, the contractor, within a period of six months upon the application for a property right, shall be ready to grant to the customer the rights of use of the patentable results achieved in the execution of the contract.

11.3 Any rights in drawings, drafts, and plans made by the contractor and in particular patent rights, copyrights and inventor's rights shall be due to the contractor exclusively.

11.4 Any property rights and copyrights in information supplied by the customer – also in electronic form – shall remain with the customer.

12. Non-performance, Impossibility, Inability

In case of a general impossibility of rendering the service and of the inability of the contractor of doing so, the contractor's rights of rescission and of claiming damages shall be subject to the legal provisions (in particular Articles 275, 323, 326 Civil Code). Sections 8 and 13 shall apply accordingly.

13. Force Majeure

13.1 Any party shall not be liable for non-compliance with one of its obligations, if this non-compliance is due to a reason beyond its control or one of the following reasons: Fire, natural catastrophe, war, embargo or other administrative measures, general shortage of resources, limitation of energy consumption, labor conflicts, or violations of the contract by subcontractors due to one of these reasons.

13.2 Any party shall have the right to terminate the contract by written notice, if its execution is suspended by more than six months according to 13.1.

14. Other Responsibilities of the Contractor

Unless expressly stated by the present AVB/LL, any other contractual or legal claims against the contractor, in particular those for rescission, reduction or compensation of damage of any type, including damage that has not occurred on the subject delivered/service itself, shall be excluded.

15. Miscellaneous

15.1 Any modifications, amendments, and other agreements related to the present AVB/LL or to contracts concluded shall be in writing to be effective.

15.2 The customer shall be entitled to set off or hold back payments only with respect to undisputed or legally established claims. The customer shall only be entitled to hold back payments, if they are based on the same legal relationship.

16. Place of Performance, Jurisdiction, Applicable Law

16.1 The place of performance shall be the Karlsruhe Institute of Technology (KIT) – Campus North.

16.2 Any disputes arising from contracts on the basis of the present AVB/LL shall be referred to the court having jurisdiction in Karlsruhe. German law shall apply, but not the UN Convention Relating to a Uniform Law on International Sale of Goods.

17. Data Processing

The contractor and enterprises associated with him shall be entitled to store and process data related to the business carried out in accordance with German law.