

# Standard terms and conditions

- 1. Contractual items**
- 1.1 ZÖLLNER Signal GmbH provides the Contractual Partner with the contractual items listed in detail in the order confirmation for the agreed lease period. These remain the property of ZÖLLNER Signal GmbH, resale or reletting is not permitted.
- 1.2 The following further services must be ordered separately
- Site inspection
  - Project planning for the system
  - Transport of the leased equipment to the place of use specified by the Contractual Partner
  - Assembly of the system on the building site specified by the Contractual Partner
  - Operating instructions and basic training for Autoprowa
  - Further training
  - Provision of operating staff by agreement
  - Documentation
- 1.3 Site inspection
- Before the building work begins, the building site on which the contractual items are to be used is inspected. The purpose of the inspection is to record the local conditions and will be agreed with the relevant contact person for each project. **During the inspection, the suitably qualified and authorized staff of the Contractual Partner must point out any and all special features of the building site pertaining to the erection of the contractual items within the scope of the respective project.**
- 1.4 Project planning for the system
- The Contractual Partner must inform ZÖLLNER Signal GmbH of the responsible and technically qualified persons charged with clarifying all details of the respective building project required for the project planning and who must be familiar with all relevant regulations, in particular accident prevention regulations and country-specific legislation.** Observance of the relevant accident prevention regulations in particular is the responsibility of the Contractual Partner.
- The planning for the project will be performed by ZÖLLNER Signal GmbH on the basis of all information from the Contractual Partner and under the assumption that this information is correct and complete, and on the basis of the findings from the site inspection.
- A set fee will be charged for the project planning. If the documents provided by the Contractual Partner pursuant to section 1.4 are incorrect or incomplete or if the Contractual Partner subsequently requests changes that require alterations to the project plan that has already been created, this additional work will not be covered by the agreed set fee but rather will be billed at cost additionally.
- If the basis for the project planning is changed or expanded during the planning phase, ZÖLLNER Signal GmbH must be informed immediately. In the event of a change, a new project plan must be created for a fee.
- The Contractual Partner must provide ZÖLLNER Signal GmbH with the documents required for project planning in good time, such as local accident prevention regulations in particular, to enable ZÖLLNER Signal GmbH to complete the project plan on schedule.
- 1.5 Acceptance of the project plan
- The project plan for the system created by ZÖLLNER Signal GmbH must be checked and approved by the relevant offices of the Contractual Partner. The Contractual Partner must ensure that all legal requirements for the execution of the building project – in particular the relevant accident prevention regulations – are observed. **Approval for the project plan is granted exclusively by the responsible and authorized offices of the Contractual Partner.**
- 1.6 Transport
- The system components are delivered ex factory by ZÖLLNER Signal GmbH to the destination specified by the Contractual Partner. The transport, including packaging, will be charged at cost and invoiced separately.
- 1.7 Management of assembly / disassembly
- Assembly or assembly management can be carried out by employees of ZÖLLNER Signal GmbH by agreement. A set fee will be charged for each day required for the technical management and supervision of the assembly and disassembly of the system by employees of ZÖLLNER Signal GmbH.
- For extensive projects, further assembly managers may be required in order to guarantee that the system is assembled on schedule.
- 1.8 Technical functional acceptance
- The technical functioning of a system is guaranteed by acceptance granted by an employee of ZÖLLNER Signal GmbH. **This acceptance by ZÖLLNER Signal GmbH is not replaced by either the inspection and approval of the project plan pursuant to section 1.5 or the inspection and approval of the system pursuant to section 8.1 a) by the Contractual Partner or the responsible offices working on its behalf.**
- A one-time set fee per building project will be charged for the technical functional acceptance.
- 1.9 Acceptance of the system
- Inspection and approval of the system must be performed by the Contractual Partner in line with section 8.1.
- 1.10 Instruction of the operators
- During the assembly work, the employees of ZÖLLNER Signal GmbH can instruct the Contractual Partner's employees in the use of the Autoprowa components. The instruction is only valid for the respective building project and can take place during the assembly work. The Contractual Partner must ensure that the staff to be instructed can provide evidence of possessing the training necessary for operating the system.
- 1.11 Documentation
- The operating manuals and, if relevant, the project plan and the handover certificate will be handed over to the Contractual Partner. **The project plan does not become valid until it has been signed by the responsible and authorised offices of the Contractual Partner.**
- 1.12 Operating staff
- By separate agreement it is possible to provide the Contractual Partner with operating staff together with the system. In this case the stipulations of this agreement pertaining to operating staff shall additionally apply.
- 1.13 Training
- ZÖLLNER Signal GmbH can perform basic training for Autoprowa and additional training for specified employees of the Contractual Partner by agreement.
- 2. Lease period, purpose of use**
- 2.1 The system provided by ZÖLLNER Signal GmbH will be provided to the Contractual Partner with all parts required for operation for the period agreed by the parties.
- 2.2 Irrespective of the minimum lease period agreed under section 2.1, the lease period shall end on the day on which the devices were handed over to ZÖLLNER Signal GmbH for return transport or – depending on the agreement – handed over at the headquarters of ZÖLLNER Signal GmbH in a proper and contractually agreed state with all parts and documents required for operation and the completed return delivery certificate was signed by both Contractual Partners. Each contractual party receives a copy of the signed return delivery certificate.
- 3. Idle time**
- 3.1 The time during which the devices cannot be used at their contractually agreed place of use due to circumstances for which neither the Contractual Partner nor ZÖLLNER Signal GmbH is responsible (e.g. cases of force majeure, frost, snow, flood, strike, civil unrest, government regulations, etc.) is deemed to be idle time. The agreed lease period is extended by the idle time.
- 3.2 The Contractual Partner must also pay the contractually owed lease payments during the idle time.
- 4. Lease calculation and lease payment**
- 4.1 The lease price owed by the Contractual Partner is calculated from the agreement concluded consisting of the order and order confirmation – taking into account the prices applicable for the individual functional modules.
- 4.2 The lease payment is due at the end of each calendar month for the previous month, within 10 calendar days of the invoice date following invoice receipt. If the lease relationship ends before the end of the month, the final invoice can be issued at this time.
- 4.3 In the event of delay in making payment, ZÖLLNER Signal GmbH is entitled to charge default interest amounting to 8 percentage points above the base rate. It reserves the right to assert further claims for damage.
- 4.4 The Contractual Partner can only offset against claims from ZÖLLNER Signal GmbH with legally established or undisputed claims. The

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- Contractual Partner has no right of retention in respect of claims which do not originate from the same contractual relationship.
- 4.5 If it becomes apparent after concluding the contract that ZÖLLNER Signal GmbH's entitlement to payment is jeopardised due to insufficient performance by the Contractual Partner, ZÖLLNER Signal GmbH shall be entitled to demand an advance payment or security within a reasonable period. Upon expiry of the period set by ZÖLLNER Signal GmbH, ZÖLLNER Signal GmbH shall be entitled to withdraw from the contract and, if necessary, to claim for damages.
- 4.6 Loading and freight costs and assembly costs are not included in the lease price and will be billed separately.
- 5. Operating staff**
- 5.1 If the parties have agreed on the provision of operating staff, ZÖLLNER Signal GmbH undertakes to provide only employees who have been specially trained by ZÖLLNER System GmbH for the operation of Autoprowa systems.
- 5.2 The fees agreed in the order and order confirmation will be charged for the staff provided by ZÖLLNER Signal GmbH. The agreed surcharges will be charged for overtime and similar.
- The provision of operating staff by ZÖLLNER Signal GmbH does not release the Contractual Partner from its duties in accordance with section 8 of this agreement.
- 5.3 The operating staff of ZÖLLNER Signal GmbH is responsible for ongoing monitoring of the system, operation and maintenance. The operating staff of ZÖLLNER Signal GmbH is not responsible for the safety of the building site itself.
- 5.4 If the parties have not agreed any provision of operating staff by ZÖLLNER Signal GmbH, the Contractual Partner undertakes only to employ operating staff who have received basic training by ZÖLLNER System GmbH and who possess the professional certificates required by the responsible offices of the Contractual Partner specified in accordance with section 1.4 for the established measure.
- 6. Operation of the system**
- As the systems are safety systems, the operator is responsible for keeping the system in a safely functioning state and thus for performing maintenance and upkeep. Maintenance and upkeep are only possible by the user within the scope of the training carried out and certified by ZÖLLNER System GmbH. Only original spare parts from ZÖLLNER System GmbH may be used.
- 7. Duties of ZÖLLNER Signal GmbH**
- 7.1 ZÖLLNER Signal GmbH must provide the Contractual Partner with the leased devices for the duration of the lease in a safe functional state.
- The other contractual obligations of ZÖLLNER Signal GmbH are guided by the contract concluded between the parties, taking into account the possible combinations arising from sections 1.1 and 1.2 of this contract.
- 7.2 If the provision of operating staff and project planning is not contractually owed by ZÖLLNER Signal GmbH, ZÖLLNER Signal GmbH guarantees the functional safety of the contractual items upon handover. **Setup of the system on the building site is not then owed.**
- 7.3 If project planning for the system on a specific building site and the provision of operating staff are contractually agreed, ZÖLLNER Signal GmbH shall also be responsible for monitoring the operability of the system on the specific building site. The costs for the annual inspection will be borne by ZÖLLNER Signal GmbH. Exceptions are repairs necessary as a result of incorrect operation or misconduct by third parties. These will be carried out at the expense of the Contractual Partner with original spare parts from ZÖLLNER System GmbH.
- 8. Duties of the Contractual Partner**
- 8.1 The Contractual Partner takes on the following duties under this agreement:
- After installation of the system at the agreed location, the Contractual Partner's responsible offices will perform acceptance of the system. **A record must be kept of this which must be signed by the Contractual Partner and the rail operator and issued to both parties as well as to ZÖLLNER Signal GmbH.**
  - The Contractual Partner shall only use the leased devices as intended in accordance with the instructions in the operating manual and shall protect them against overuse. **The Contractual Partner is obliged to carefully observe the relevant accident prevention regulations and occupational safety provisions as well as the road traffic act and other relevant legal regulations** and to use only such operating staff as fulfil the requirements under section 5.4 of this contract. Furthermore, the Contractual Partner is obliged to ensure that its trained personnel knows how to handle the leased devices and does so in compliance with all safety precautions.
  - If the Contractual Partner is responsible for operating the system, it shall be responsible for ensuring that the system is in a functioning state and therefore for maintenance and upkeep, cf. section 6. **Any subsequent costs incurred as a result of a lack of maintenance, a lack of upkeep or neglect of the system are to be borne by the Contractual Partner.**
- If ZÖLLNER Signal GmbH provides the Contractual Partner with operating staff, the Contractual Partner is also obliged to cover the costs of maintenance and repair work if the faults to be rectified go beyond normal wear.
- The Contractual Partner must protect the devices provided by ZÖLLNER Signal GmbH against unauthorized access by third parties.
- 8.2 The spare parts required in line with section 8.1 c) are to be purchased exclusively from ZÖLLNER System GmbH in exchange for payment, unless they constitute replacement material which was provided to the Contractual Partner by ZÖLLNER Signal GmbH at the start of the lease beyond the agreed scope of the lease.
- 8.3 The Contractual Partner is not entitled to make changes to the contractual items without the prior consent of ZÖLLNER Signal GmbH, in particular additions and installations, or to remove labels attached by ZÖLLNER Signal GmbH.
- 8.4 The Contractual Partner may neither grant rights to the devices to a third party without the prior written consent of ZÖLLNER Signal GmbH nor cede rights from this contract.
- 8.5 Should a third party assert rights to the contractual items through confiscation, garnishment or similar, the Contractual Partner is obliged to inform ZÖLLNER Signal GmbH of this immediately in writing and to inform the third party of the details of ownership in writing.
- 8.6 The Contractual Partner is obliged to notify ZÖLLNER Signal GmbH of the occurrence of a defect or malfunction or inability to function immediately in writing or in text form and to take the system out of operation immediately and initiate repair work immediately. If the Contractual Partner fails to notify ZÖLLNER Signal GmbH in time, to take the system out of operation in time or to initiate a repair in time, it cannot assert rights against ZÖLLNER Signal GmbH extending beyond the rectification of the malfunction.
- 8.7 The Contractual Partner permits ZÖLLNER Signal GmbH to inspect the devices at any time following prior announcement and shall grant it the necessary access to do so.
- 8.8 Depending on the contractual agreement, the Contractual Partner is obliged to provide the devices for collection by ZÖLLNER Signal GmbH or to return them after expiry of the lease period in the contractually agreed state.
- 8.9 The Contractual Partner is wholly responsible for implementing safety precautions on the building site. In the event that operating staff are provided by ZÖLLNER Signal GmbH, ZÖLLNER Signal GmbH is responsible for fulfilling the duty to implement safety precautions regarding the contractual items present on the building site.
- 9. Liability damages, distribution of risk**
- 9.1 ZÖLLNER Signal GmbH is only liable for damages, for whatever legal reason, in the event of intent or gross negligence on the part of its agents or employees. The above exemption from liability for ordinary negligence does not apply to breaches of major contractual obligations. In the event of breaches of major contractual obligations, the cost of liability is limited to typical foreseeable damage.
- 9.2 Claims for damages arising from contractual liability become statute-barred 1 year after the event on which the claim is based. This also applies to identical concurring claims resulting from extra-contractual liability. Article 548 of the German Civil Code (BGB) remains unaffected.
- 9.3 Liability for compensation due to a guarantee assumed by ZÖLLNER Signal GmbH and liability due to other mandatory standards remain unaffected by the above provisions. The same applies to damages caused by injury to life, body or health.
- 9.4 ZÖLLNER Signal GmbH is not liable for damages caused by

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- the system having been planned and/or installed due to insufficient, incorrect or incomplete information from the Contractual Partner;
  - the devices being operated against the instructions in the operating manual or by untrained and insufficiently qualified personnel of the Contractual Partner;
  - the devices or the system having been changed or otherwise manipulated by a person not authorised by ZÖLLNER Signal GmbH and that such changes are not demonstrably attributable to an infringement of duty by ZÖLLNER Signal GmbH.
- 9.5 The Contractual Partner is responsible for all damages to and losses of the leased objects caused by its subcontractors or third parties who could attributably have gained access to the leased contractual items through the Contractual Partner.
- 9.6 The Contractual Partner is also responsible for all damages caused by improper storage and/or handling of the devices. Liability of ZÖLLNER Signal GmbH for these damages is excluded.
- 9.7 The Contractual Partner indemnifies ZÖLLNER Signal GmbH from all claims asserted against ZÖLLNER Signal GmbH by third parties for infringement of duties which are incumbent upon the Contractual Partner in accordance with sections 9.5 and 9.6.
- 9.8 The risk of accidental loss or deterioration of the contractual items passes to the Contractual Partner upon loading of the goods onto the respective means of further transport at the headquarters of ZÖLLNER Signal GmbH.
- 10. Insurance**
- 10.1 The following risks, which lead to damage, destruction or loss of the devices, are to be covered by the conclusion of an insurance policy for the duration of the lease:
- a) Breaches of duty by the subcontractors of the Contractual Partner, under exclusion of recourse by the insurer;
  - b) Fire, explosion;
  - c) Damage by third parties; Vandalism;
  - d) Transport risk for delivery and return of the device to or from the place of use;
  - e) Force majeure (insofar as insurable) and other insurable risks at the place of use, in particular those arising from the proximity to rail traffic.
  - f) Theft
- 10.2 Uninsurable risks:
- a) For damage arising from uninsurable risks, in particular strike, insurgency, civil unrest, looting and acts of government, the risk shall be borne by ZÖLLNER Signal GmbH.
  - b) For damage arising from uninsurable risks originating from extraordinary risks at the place of use and in the event of incorrect or missing disclosures by the Contractual Partner pertaining thereto, the Contractual Partner shall bear the risk.
- 10.3 Conclusion of the insurance policy and distribution of costs  
Unless the parties have agreed otherwise, the Contractual Partner shall conclude the insurance policy covering the risks detailed under section 10.1 at its own expense. It must present the cover note to ZÖLLNER Signal GmbH specifying any agreed excess.
- 10.4 Losses that occur at the place of use as a result of burglary, theft or other loss are borne by the Contractual Partner.
- 10.5 In the event of a case of damage as described under section 10.1 or 10.4, the obligations of the Contractual Partner stipulated under section 8.6 apply accordingly.
- 10.6 In the event of damage as described in section 10.2 b) or section 10.4, the Contractual Partner must, in the event of total loss, pay ZÖLLNER Signal GmbH monetary compensation amounting to the current value for the device lost. If the parties fail to agree on the current value at the time of loss, this must be established by an expert. If the parties cannot agree on an expert, one must be appointed by the chamber of commerce and industry in whose district the device is located. In the event of total loss, the lease payment ends with the day on which the loss occurs. Until receipt of the monetary compensation, ZÖLLNER Signal GmbH is entitled to interest amounting to 5 percentage points above the applicable base rate. If the damage is not total, the Contractual Partner shall bear the costs of repair. The time until the repair work is complete is deemed to be idle time with the resulting consequences stipulated under section 3.
- 10.7 The Contractual Partner undertakes to indemnify ZÖLLNER Signal GmbH from liability claims by third parties resulting from the time in which the Contractual Partner (or a third party on its behalf and with the consent of ZÖLLNER Signal GmbH) had the contractual items at its disposition; excluded from this are liability damages arising from the events pursuant to section 10.1 b) to d).
- 11. Any extension to the lease agreement must be notified in good time.**
- 12. Final provisions**
- 12.1 No verbal side agreements have been made. Amendments and/or addenda to this contract, in particular through ordering additional services from point 1.2, must be made in writing in order to be effective. This also applies to requirements of the written form itself.
- 12.2 If individual parts of this contract are ineffective or waived, this shall not affect the effectiveness of the remaining parts of the agreement. The contracting parties are obliged to replace ineffective provisions with ones which are legally effective and correspond as closely as possible to the purpose and economic result of the ineffective provisions.
- 12.3 The place of jurisdiction for all legal disputes arising from the contractual relationship is Kiel insofar as the Contractual Partner is a merchant, legal entity under public law or special fund under public law. This agreement governing the place of jurisdiction also applies if the Contractual Partner does not have a general place of jurisdiction within the country. ZÖLLNER Signal GmbH is also entitled to file a suit against the Contractual Partner with the court responsible for its registered office.
- 12.4 The law of the Federal Republic of Germany shall apply to the contractual relationship.