

General terms and conditions for orders, delivery and payment

§ 1

Scope of applicability, exclusion of applicability of deviating terms and conditions

- (1) All offers, deliveries and services provided by our company are carried out on the basis of these terms and conditions for orders, delivery and payment. The aforementioned terms and conditions shall apply only to business entities as defined in § 14 German Civil Code, to a legal entity under public law or to a public entity with special assets (hereinafter referred to as **“Customer”**). They shall also apply without a subsequent explicit reference to future offers, deliveries and services rendered to the customer.
- (2) Our terms and conditions shall apply exclusively. The applicability of the Customer’s deviating or supplementary terms and conditions is hereby expressly repudiated.

Our terms and conditions shall also still apply if we execute a delivery without raising objections, despite knowing that the conditions of the customer contradict or deviate from our conditions.

§ 2

Conclusion of the contract, scope of delivery, non-assignment clause

- (1) Our offers are subject to change and non-binding. Contracts and agreements shall only become binding upon our issuing order confirmation in writing or upon our delivery. The same shall apply to additions, amendments or side agreements.
- (2) All information about our products, in particular our images, declarations concerning measurements and performance, and any technical specifications which are contained in our offers and printed materials, shall be regarded as approximate average values. Tolerances in quantities, weights, numbers of units and measurements customary in the industry shall remain expressly reserved.
- (3) Our written order confirmation or our offer, provided a written confirmation does not exist, shall be binding for the scope of delivery and services.
- (4) If changes to the products are undertaken after the offer has been made during the course of ongoing technical development, we may deliver the technically modified edition. We shall be entitled to deviations of images, drawings, descriptions, colours, other specifications concerning measurements, weight and quality, provided that they are reasonable for the Customer to bear while keeping in mind the interests of both parties. When placing the order, the Customer is obligated to inform us if we are not allowed to deviate from the instructions and specifications under any circumstances.

- (5) We will not check the Customer's instructions and specifications for their accuracy which are laid out in the offer or the order confirmation.
- (6) All agreements, side agreements, assurances and contract amendments must be made in writing. This shall also apply to waivers of the agreement for written form itself.
- (7) The documents, on which the contract is based, such as drawings, images, descriptions and weight and measurement specifications, shall only become part of the contract if they are expressly made as part of our offer. We reserve the right to make changes, provided these changes are not fundamental in nature and the contractual purpose of delivery is not limited in an unreasonable way for the Customer. All documents and records on which our offer is based shall remain our property and may not be kept or copied by the Customer, reproduced in any way, nor made available to third parties, and they are either to be surrendered to us or deleted immediately upon our request according to our wishes. We shall retain all proprietary rights to these records, even if we give the records to the Customer.
- (8) The Customer is not entitled to transfer or assign claims or rights against us, which stem from our business relationship without our consent. The same shall apply to claims and rights against us, which arise directly by act of law.

The Customer shall acquire the permits for carrying out and operating the articles of sale that are required at his own expense. The Customer must reimburse all expenses which are incurred as a result of our providing assistance with this.

§ 3

The Customer's rights to standard software

- (1) The following conditions shall apply to our software products and the user rights thereto. In addition, Clause § 11 shall apply to liability for defects of the software.
- (2) The licencing conditions are approved by the Customer upon receipt of the delivery or service, however at the latest upon the installation of the software.
- (3) We grant the Customer a non-exclusive and non-transferrable right to use the computer program and the corresponding documentation and subsequent additions (hereinafter referred to as "software") for his own internal use. The manufacturer shall retain copyrights, proprietary rights and all other rights to the software, including any copies thereof. The Customer does not have any right to the license of the source program.
- (4) It is possible that the software contains copy protection. Bypassing the copy protection contained in the software represents a contravention of law.
- (5) Duplication of the software, regardless of type and means used, is not permitted, with the exception of one copy, which is explicitly labelled as a back-up copy; this shall also apply to duplicates for your own personal use, unless the duplication serves as a decompilation as defined under the strict preconditions in § 69e German Copyright Act.

§ 4

Property rights and tools

- (1) We reserve all proprietary rights, copyrights and any other commercial protection rights to samples, quotations, suggestions for use, designs, drawings, models, templates and other documents, and similar information of a material and immaterial nature – also those in electronic form. They may not be made available to third parties and are to be returned upon our request.
- (2) If we have supplied products based on drawings, samples or other documents delivered by the Customer, the Customer assumes responsibility for ensuring that the property rights of third parties are not violated. The Customer is obligated to indemnify and hold us harmless in the case of claims and to indemnify us immediately. The Customer must reimburse us for any costs (including legal fees) incurred which are due to a claim.
- (3) Tools used for manufacturing the article of sale, which we produce, shall remain our property, even if the Customer is charged for a part of their costs.
- (4) Copies or other duplications may only be made for the intended purpose agreed upon. Neither the original version nor any duplicates thereof may be given to third parties or made available to them in any other manner.

§ 5

Commercial property rights and copyrights of third parties; defects of title

- (1) Provided nothing else has been agreed upon in writing, we are obligated to render services/make deliveries exempt from commercial property rights and copyrights of third parties (hereinafter referred to as “property rights”) solely within the Federal Republic of Germany. If a third party raises legitimate claims against the Customer because of an infringement of property rights through deliveries rendered and used according to the contract, we are liable towards the Customer as follows: for the deliveries concerned, we will obtain, at our expense and discretion, either a legal right of use and modify them so that the property rights are not infringed upon, or we will substitute them. If we do not meet this obligation within an appropriate period of time or if a subsequent improvement fails despite repeated attempts, the Customer is entitled to reduce the purchase price or to rescind the contract. The Customer cannot demand reimbursement for expenditures made in vain.
- (2) Our duty to provide compensation for damages conforms to Clause § 13.
- (3) The previously mentioned obligations on our part only exist insofar as the Customer has immediately informed us in writing about the claims being asserted by third parties, it does not acknowledge an infringement, and all defensive measures and conciliation proceedings remain reserved for us. If the Customer ceases to use the delivered product due to mitigation of damages or any other reason, he is obligated to inform the third party that the dis-

continuance of use is not associated with an acknowledgement of an infringement of property rights.

- (4) Claims made by the Customer shall be excluded if he is responsible for the infringement of property rights.
- (5) Claims made by the Customer are further excluded if the infringement of property rights is caused by the Customer's special guidelines, by an unforeseeable application on our part, or by the Customer changing the article of sale or using it together with other products which were not delivered by us.
- (6) §§ 10 and 11 shall apply respectively to any existing defects of title.
- (7) The Customer's additional claims or other claims against us and our vicarious agents, which are due to defects of title and are not regulated in §§ 5, 10 and 11, are excluded.

§ 6

Prices, payment, off-setting and rights of retention

- (1) The prices indicated shall apply to deliveries "ex works", Incoterms 2010 and are net prices subject to the respective statutory value added tax, even if it is not explicitly indicated; these prices do not include fees for packaging, shipping, freight charges, assembly, installation, postal charges, insurance fees, customs fees, potential bank fees, payment transaction fees, or any other additional costs. Unless otherwise agreed upon, the following terms for payment shall apply:
30 % of the order value is due upon receipt of the order confirmation
70 % is due upon delivery or notification that the goods are ready for dispatch.
- (2) Payments are to be remitted to the appointed paying agent we have indicated in each case within 30 days from the date of invoice without deductions. If the Customer is in arrears with payments, the previously mentioned terms for payment are revoked and the invoice is due in full immediately without any deductions.
- (3) For late payments, we reserve the right to make additional deliveries dependent upon the full resolution of late payments, also those relating to other contractual relationships between the Customer and us.
- (4) If the terms of payment are not observed, a petition for insolvency or composition proceedings regarding the Customer's assets has been filed, or circumstances have become disclosed or discernible which lead us to have justifiable doubts about the creditworthiness of the Customer while our best business judgment, including any facts which already existed when the contract was concluded, but which were unknown to us or which should have known, we shall be entitled to stop delivery notwithstanding further statutory rights in such cases, to demand advanced payment or the provision of suitable securities for outstanding deliveries, and to rescind the contract after an unsuccessful expiry of a reasonable grace period for providing such securities – without prejudice for other legal rights. The Customer

is obligated to compensate us for any damages which result from non-execution of the contract.

- (5) When there are considerable increases in the price of materials, increases in wages, or an increase in energy costs between the time of the conclusion of the contract and delivery, we shall be entitled to increase our fees by a reasonable amount (§ 315 German Civil Code), if more than four months have lapsed between the conclusion of the contract and delivery.
- (6) In cases where we enter into blanket or call orders, we reserve the right to adjust the prices of individual orders not yet placed when considerable fluctuations of material prices occur during the contractual period for the confirmed blanket and call orders by giving four weeks prior notice, if our costs increase more than a total of 5 percentage points especially due to material price increases, increases in wages or energy costs. If prices increase more than 10 percentage points, the Customer is entitled to withdraw from the contract.
- (7) We are entitled to demand interest on arrears in the amount of 5 % above the respective base lending rate without the need for issuing a prior overdue notice.
- (8) Off-setting using the Customer's counter-claims which are contested, not yet legally established, and are not ready for a decision is excluded. The Customer's notice of defects shall neither influence the duty to pay nor the due date, and he waives his right to refuse performance and his right of retention, unless we, our legal representatives or vicarious agents are responsible for gross breaches of contract, or the Customer's counterclaims, on which the right to refuse performance and right of retention are based, are undisputed, have been legally established or are ready for a decision.
- (9) The Customer will enter into default of payment at the latest after 30 days from the due date, unless there are reasons which lead to an earlier default (e.g. overdue notice or payment term based on the calendar). Upon entering into default, our outstanding money shall bear interest with an annual interest rate of 9 percentage points above the base lending rate.
- (10) We may charge €10.00 for each overdue notice we issue. The Customer reserves the right to prove that no, or only limited loss has been incurred.
- (11) We shall only accept cheques and bills of exchange upon prior agreement. Any interest and costs shall be borne by the Customer.

§ 7

Delivery deadline, partial deliveries, quantity deviations

- (1) The delivery period is determined as a result of the agreements made by the contracting parties.
- (2) The delivery deadline is a deadline striven for, unless something else has been expressly agreed upon in writing.

- (3) The delivery deadline generally begins with the conclusion of contract, however not before full receipt of any documents to be procured by the Customer, such as customer-approved drawings, release of documents required, permits, the information required for executing the order, the clarification of all business and technical issues between the contracting parties as well as the fulfilment of any and all obligations of the Customer, e.g. providing the advanced payment agreed upon or making any payments due from previous deliveries.
- (4) The delivery deadline is considered met if the article of sale has left our plant up to its expiry date or the Customer has been notified that it is ready for dispatch if it cannot be delivered due to reasons for which the Customer is responsible.
- (5) The delivery deadline shall be extended appropriately in cases of force majeure and in the event of unforeseen and unusual events, like for example, riots, strikes, lockouts, fires, seizures, embargos, statutory or regulatory restrictions of energy consumption or incorrect and/or late self-delivery, provided that we are not responsible for these events, we could not avert them despite applying reasonable due diligence according to the circumstances of the individual case, and they affect the fulfilment of the contract within the specified delivery period. If the delivery deadline is extended unreasonably due to these types of circumstances, the Customer is entitled to withdraw from the contract after expiry of a reasonable grace period to be set by him, or to cancel the part of the contract not fulfilled provided that the Customer has an interest in a partial delivery. If we have already delivered a part of the services incumbent upon us, the Customer can only then withdraw from the entire contract if he can prove that he does not have any interest in the partial performance already provided.
- (6) If acceptance of the goods is delayed or the shipping is delayed due to a reason the Customer is responsible for, we are entitled to demand immediate payment of the purchase price after setting and expiry of a 14 day grace period, to withdraw from the contract, or to refuse performance and to demand compensation for damages instead of demanding complete performance. The deadline must be set in writing. We do not have to explicitly indicate the rights arising from this clause herein. In the case of compensation of damages, the compensation to be paid shall amount to at least 15 % of the net delivery price. Both parties retain the right to prove another amount of damage or that damages are not incurred. After setting and the unsuccessful expiry of a 14 day grace period, we are entitled to dispose of the delivery item and to make delivery to the Customer within an appropriately prolonged deadline.
- (7) If we are late with delivery, the Customer is entitled to withdraw from the contract or from the part of the contract that has not been fulfilled, provided that the Customer has an interest in partial delivery, after a reasonable subsequent delivery deadline is set and the said deadline has expired with no effect. If we have already fulfilled a part of the services incumbent upon us, the Customer can then only withdraw from the entire contract if it can be proven that he does not have any interest in the partial performance already provided. Rescission of the contract shall be excluded if the Customer himself is in default of acceptance. Additional claims made by the Customer – especially also any claims for damages for consequential losses – are excluded, unless otherwise provided for in § 13 below.

- (8) We are not in default as long as the Customer is late in fulfilling his obligations to us, even those which arise from other contracts.
- (9) Deliveries prior to the expiry of the delivery time and partial deliveries are permissible if conflicting interests of the Customer are not hereby unreasonably affected.
- (10) Except when otherwise stipulated in other written agreements, acceptance shall be deemed to have taken place within 10 days after delivery – insofar as it is provided for by contract or by law.

§ 8

Transfer of risk, delivery, and packaging

- (1) Provided nothing else has been agreed upon, we shall select the packaging, the type of shipment and shipment route.
- (2) Our deliveries are carried out “ex-works” Incoterms 2010, unless otherwise agreed upon.
- (3) Upon the written request of the Customer, the goods will be insured at his expense for the risk coverage requested by him.
- (4) Unless otherwise agreed upon, the risk of accidental loss and accidental deterioration are transferred to the Customer at the point in time in which he receives notification that he can pick up the product.
- (5) Subject to the forgoing clause (4), the risk is transferred in all cases – including the risk of confiscation – to the Customer when the article of sale is handed over to the transport company, also in the case of freight paid delivery. This shall also apply if we transport the goods ourselves or have them transported, even if we have paid for the shipment or the delivery ourselves. If dispatch is delayed for reasons which are attributed to the individual customer, the risk is already passed on to the Customer when notification is issued that the article of sale is ready for dispatch.
- (6) In the event that acceptance is agreed upon in a contract or is legally required, the Customer has the duty to accept the ordered goods, provided that they do not contain obvious defects.
- (7) If the shipment is delayed because we make use of our right of retention due to late payment in whole or in part, or another reason for which the Customer is responsible, the risk is passed on to the Customer starting from the date when notification is issued that the goods are ready for dispatch.

§ 9

Retention of title

- (1) We shall retain ownership of the article of sale until complete payment of all claims which we have against the Customer that result from the business relationship, including those made by cheques and bills of exchange as well as any claims for recourse based on bills of exchange or cheques, which result from cheques or bills of exchange used as payment. For payments made by the so called cheque-bill of exchange process, we shall retain ownership of the article of sale until the risk of recourse arising from the bills provided to us has ceased to exist.
- (2) The Customer shall carry out the processing or alteration of the article of sale on our behalf without our incurring any obligations as a result. If the Customer combines, mixes, blends or processes the article of sale with other products, we will acquire co-ownership of the new object. The co-ownership share is determined according to the invoice value of the article of sale in relation to the value of the newly produced good. The combination, mixing, blending or processing of the article of sale is permissible in the ordinary course of business, provided that the aforementioned right to protection from risks is guaranteed to us.
- (3) The Customer may sell the article of sale and the new objects which are made from them as previously mentioned in clause 2 (hereinafter jointly referred to as “goods subject to retention of title”) in the ordinary course of business, provided that the extended retention of title has been guaranteed (assignment of claim in accordance with clause 4 below). Any other form of disposal, in particular pledging as collateral, leasing, grants, or chattel mortgages, are not permitted.
- (4) The Customer hereby assigns the claims to us which have resulted or which will result from the disposal or other uses of the goods subject to retention of title, and we accept the assignment. If and when the goods subject to retention of title were in our joint ownership, the assignment only includes the portion of the claim that corresponds to our co-ownership share.
- (5) The Customer is authorised to dispose of goods subject to the retention of title, to process, combine, mix and blend the goods subject to retention of title as well as collect the assigned claims only in the course of orderly business practices and is granted only revocable authorisation. Retraction of this authorisation may only take place if the Customer does not fulfil his obligations, in particular his obligation to make payment in accordance with this contract, is insolvent or heavily indebted, or if insolvency proceedings have been opened against his assets. In this case, the Customer must notify us of the assignment of claims to debtors upon our request; we are also entitled to disclose the extended retention of title to the Customer’s customers. The Customer is obligated to inform us of the name and/or the company of his customers and their address upon revocation of the collection authorisation.
- (6) The Customer’s authorisation to dispose of the goods subject to retention of title, to process, to combine, to mix, blend and to collect the assigned claims shall terminate without requiring explicit revocation, upon the incidence of insolvency, cessation of payments, fil-

ing for insolvency concerning the Customer's assets by the Customer or a third party, or the detection of his over-indebtedness.

- (7) In the cases presented in clauses (5) and (6), we are entitled to take possession of the goods subject to retention of title after a reasonable time period has expired unsuccessfully. The Customer is obligated to surrender them. The Customer is obligated to inform us of the name and/or company of the debtor of the assigned claims. Under the aforementioned pre-conditions, we are entitled to disclose the extended retention of title to the Customer's client.
- (8) If the value of the securities provided exceeds our claims by a total of more than 20 %, we are obliged to release the excessive collateral at our discretion upon the request of the Customer.
- (9) The Customer must inform us immediately in writing of impending or already executed access of a third party to the goods subject to the retention of title, or the assigned claims by handing over to us the necessary documents for us to intervene. Intervention costs, including potential litigation costs, are in the internal relationship between us and the Customer at the expense of the latter.

§ 10

Warranty

- (1) Subject to clause § 11 below, we are liable for material defects and defects of title of the article of sale, which already existed at the point in time when risk was transferred, in accordance with the conditions set out below. Furthermore, legal provisions shall apply unless otherwise specified.
- (2) As a matter of principle, certain characteristics or features shall only then be considered as guaranteed by us if we have confirmed this expressly in writing. A guarantee is only then considered given by us if we have designated a characteristic or feature as "guaranteed" in writing.
- (3) The article of sale is to be checked for completeness and damages by the Customer upon acceptance or receipt. Complaints are to be sent to us in writing without delay.
- (4) The Customer is to notify us immediately of apparent material defects, deviations in quantity or false deliveries at the latest by 8 days after delivery is made – also in respect to any part of the delivery used by the Customer – and is to inform us of latent defects at the latest within the warranty period specified in clause (7), however in any event prior to combining, mixing, processing or installing them.
- (5) In the event there are recognisable defects of the goods delivered, the transport or delivery company must also be informed immediately and the defects must be recorded on the shipping documents, in particular on the bill of lading. In this case, a copy of the bill of lading is to be forwarded to us immediately. Notices of defects must contain the most detailed description of the defects possible. Any notice of defect not made in due time or in due form

precludes any claims by the Customer for warranty. If, in accordance with the duties of inspection previously mentioned, it became apparent that the quantity of the goods is incorrect and there is damage to the packaging as soon as the order is delivered, the Customer must make a complaint to the transport company and/or delivery company about these defects upon receipt of the goods and must have this complaint certified. Any complaint not made in due time or in due form also precludes any of the Customer's warranty claims.

- (6) We shall be given the opportunity to jointly determine the complaints made and to be present when samples of materials are taken for examination.

The period of limitation for the Customer's claims for defects is one year, as provided in the following terms in clause (7), and is to be calculated after the statutory limitation period begins. For constructions and items which are used according to their usual purpose for a construction and which caused its defectiveness, the statutory periods of limitation shall apply instead, §§ 438 Par 1 No. 2 and 643a Par. 1 No.2 German Civil Code. If we have fraudulently concealed a defect, the statutory time limits shall apply for any claim for damages. The legal time limits also shall apply to limitations of any potential claim for damages made by the Customer because of defects if we are responsible for wrongful intent or gross negligence, or if the claim for damages is based on an injury to life, body or health.

- (7) No new limitation period shall be started for replaced or repaired parts within the scope of the warranty.
- (8) Unless otherwise specified in § 10 of this document, our warranty for defects or title is limited to supplementary performance. Within the scope of our supplementary performance obligation, we are entitled, at our discretion, to rectify the defective goods or to provide substitute delivery. If we do not fulfil this obligation within a reasonable time limit or rectification fails despite repeated attempts, the Customer is entitled to reduce the purchase price or to withdraw from the contract. Cancellation of the contract is excluded if only an insignificant defect exists. Furthermore, if we have provided partial delivery free of defects, cancellation of the entire contract is only permissible if it can be proven that the interest of the Customer in the partial delivery provided no longer exists. Additional claims, in particular reimbursement of expenses or claims for damages, shall only be valid within the parameters of the provisions specified in the following clause § 12. The replaced parts are to be returned to us upon request.
- (9) The Customer shall send the defective goods that require rectification or a replacement delivery at his own risk, unless returning the shipment is not possible because of the nature of the delivery. We are responsible for paying the transport costs for the purpose of supplementary performance, however only from the location where the purchased goods were delivered according to the terms of the contract and at a maximum up to the purchase price. We assume ownership of the articles of sale which have been replaced or the parts thereof and/or remain our property.

The Customer shall grant us the opportunity and time required for rectification and/or replacement delivery. The customer's right of self-redress only exists within the scope of legal regulations.

- (10) The rights of recourse in accordance with §§ 478, 479 German Civil Code only exist if the claim by the consumer was justified and only to the extent of the law, but they do not exist for goodwill regulations not agreed with us and they presuppose fulfilment of obligations on the part of the party entitled to recourse, in particular adherence to the duty to report defects in time.
- (11) Further processing or installation of goods delivered by us shall always be considered as waiver of the notice of defects, provided the defect was noticeable.
- (12) For justified notice of defects, the Customers payments may only be suspended to the extent that they are appropriately proportionate to the material defects that occurred. If the notice of defects is not justified, we are entitled to demand reimbursement from the Customer for the expenses we incurred.
- (13) No warranty claims shall exist, especially in the following cases: unsuitable or improper use, faulty assembly and/or putting into operation by the Customer or a third party, natural wear and tear, incorrect or negligent handling, unsuitable operating equipment, unsuitable foundation soil, and mechanical, chemical, electro-chemical, electrical and other similar influences, which do not conform with the expected average standard influences.
- (14) Claims for defects shall not apply if there is only a minor deviation from the agreed or normal quality or usability of the goods.
- (15) Our warranty obligation only extends to the delivery of newly manufactured products. Unless otherwise agreed upon, used products are sold as seen to the exclusion of any warranty whatsoever.
- (16) Recognition of material defects must always be done in writing.
- (17) Our warranty does not extend to the suitability of the delivered item for a purpose intended by the Customer which deviates from the normal purpose of use, provided this has not been agreed upon in writing.
- (18) If parts or materials are supplied by the Customer for processing or are given to us as supplies for processing an order, an incoming inspection for non-obvious errors shall not be undertaken, unless expressly agreed otherwise.

§ 11

Material defects in the software

For material defects in the software, the following conditions shall apply in addition to clause §10 above. In the event of objections, the conditions specified in § 11 of this document take precedence.

The contracting parties hereby agree that it is not possible to develop computer programs in such a way that they are error free for all application conditions.

- (1) The functionality of software shall conform to the description in the user documentation and the agreements made in addition to this.
- (2) During the statutory warranty period, the manufacturer guarantees that the software is delivered free from defects. A defect exists if the software does not perform the functions indicated in the product description.
- (3) If these types of defects are present, the manufacturer is entitled to rectify or replace the product as he chooses. If the manufacturer is unable to rectify or circumvent the problem through supplementary performance during a reasonable time limit, the buyer – while taking statutory exemptions into account – can demand, at his own discretion, a reduction in the licencing fee or cancel the licence agreement if it is not possible for the buyer to use the software in accordance with the contract.
- (4) If only a minor defect exists, the buyer merely has the right to reduce the licencing fee. The clauses above include conclusive provisions for the warranty for the software and exclude any other warranty claims.

§ 12

Cancellation of the contract, impossibility of fulfilment of contract

- (1) The Customer can also cancel the contract with a written statement – with the exception of the other cases not covered elsewhere in these business terms and conditions – if the fulfilment of the contract has become completely impossible prior to the transfer of risk. If it is only partially impossible, the right to cancel only is valid if it can be proved that the Customer does not have any interest in partial delivery and/or partial service – apart from that he can demand an appropriate reduction in the price. Additional claims made by the Customer against us are excluded unless otherwise specified in §13 below. Furthermore, cancellation of the contract is only permissible if there is a substantial breach of duty.
- (2) If the impossibility is not attributable to any of the contracting parties, we have a right to claim payment for the part of the service rendered.

§ 13

Liability

- (1) For whatever legal reasons, we are liable only:
 - a) insofar as we, our legal representatives, executive employees or vicarious agents are responsible for wrongful intent or gross negligence
 - b) for culpable injury to life, body and health
 - c) for negligent breach of major contractual obligations
 - d) for defects which we maliciously concealed or which we guaranteed were absent
 - e) insofar as the German Product Liability Act makes us liable for injury to persons or for damage to privately used property.

We are not liable for further claims for damages.

- (2) A material contractual obligation is a duty whose fulfilment makes the proper execution of the contract possible in the first place and the fulfilment of which the contracting parties regularly rely upon and may rely upon.
- (3) However, for a culpable breach of material contractual obligations, liability shall be limited to damages that are typical for this type of contract and that are reasonably foreseeable. The typical and foreseeable damages shall be set at the amount of the contractual value of the performance concerned.

§ 14

Exports to USA and Canada

- (1) The Customer shall not be entitled – either himself or through a third party – to export our products directly or indirectly, or by any other means, to the USA and/or Canada. The Customer is obliged to impose equivalent obligations to his clients.
- (2) The Customer shall indemnify us against all claims that are raised by third parties, which come from the USA and/or Canada, and which are the result of exporting to these countries which the Customer is responsible for, even if we have agreed to the export to these countries.

§ 15

General terms and conditions for services

The following additional conditions shall apply for our services, including assembly/installation and start-up operations that are part of our scope of goods and services:

- (1) The services rendered shall be calculated based on the amount of time involved, plus VAT at the statutory rate. Prices are based on the current rates applicable for each service rendered. Costs for materials, replacement parts, travel costs, costs for accommodation and the like shall be invoiced separately.
- (2) Maintenance includes the maintenance and repair of equipment. Maintenance and repair is a precautionary measure required for proper functioning.
- (3) Repairs include repairs of the equipment. Repairing is the correction of malfunctions that occur. If it becomes apparent that repairs are necessary during maintenance or during the provision of other services agreed upon, the Customer shall be explicitly notified and then he shall decide if the repairs should be carried out. If the Customer decides not to have the suggested repairs done, only the services agreed upon shall be carried out provided that this is possible given the circumstances. We cannot be made liable for injury to people or damages to goods resulting from repairs that have not been made.

- (4) The Customer shall verify the working hours, travel time and waiting time with our service personnel, as well as verify the services rendered, the materials used and the ancillary costs incurred on the basis of supporting documents supplied by the service personnel. If a service being rendered is interrupted for which a fixed price was agreed upon, and we are not responsible for these reasons, then the additional costs shall be calculated according to our rates. If the Customer refuses to issue verification or it is not possible for our staff to receive verification due to other reasons, the calculation shall be done according to the assembly records filled out by our personnel.
- (5) The work we carry out on behalf of the client which is not listed separately by quantity and price in the order is to be paid additionally according to our rates. The same shall apply to additional costs which we incur if a service is halted for reasons which we are not responsible for.
- (6) The fees for services rendered, replacement parts and any other materials used is due in full without deductions within 30 days after receipt of the invoice concerned. Payments are to be made by us in cash or by bank transfer and free of transaction charges. Payment is deemed to have been effected as soon as we can finally dispose of the amount in question.
- (7) The Customer is obligated to lend assistance with the work being carried out. In particular, he must provide heating, air-conditioning, lighting, water and energy including all connections, as well as to provide the suitable workers necessary, the instructions about the position of concealed electrical lines or other similar equipment, and he must make the dry, lockable rooms necessary for storing tools available, as well as make worker lounges/common rooms available to assembly personnel. Furthermore, he must assist our personnel in such a way that they can work according to safety regulations; for work outside of the Federal Republic of Germany, he must obtain the permits required for our assembly personnel's entry into the country and the work permits which may be required, and he must inform our personnel of important safety regulations if required.
- (8) The deadline or time period shall only be binding if it is indicated as such in the confirmation of the order.
- (9) We shall not be in default as long as the maintenance or service work has stopped due to circumstances which are not our fault.
- (10) If the Customer suffers damages because of a delay which is our fault, he is entitled to demand compensation for the delay. It amounts to 0.2 % for each full week of delay; but there is a total maximum of 5 % of the value of the service rendered. Both parties have the right to make an assertion of more or less damage.
- (11) We shall retain ownership of the delivered items (articles of sale) until all payments have been received. If the Customer is in default, we are entitled to remove the parts that have been installed until payment has been received in full.
- (12) We are to be informed of shortcomings in the services provided in writing. The Customer is responsible for the costs associated with this notice.

- (13) If the services we render are subject to the seller's statutory warranty obligation, clause § 10 above shall apply accordingly.
- (14) For essential third-party products, our liability is limited to the assignment of liability claims, which we are entitled to against the supplier of products from external sources.
- (15) We shall not assume liability for damages which result from the following reasons (provided that they are not attributed to fault on our part):
- Unsuitable or improper use
 - Negligent or inadequate maintenance
 - Faulty assembly/installation or start-up by the Customer or a third party
 - Natural wear and tear
 - Incorrect or negligent handling
 - Unsuitable operational equipment
 - Chemical, electro-chemical or electrical influences
 - Defective construction work
 - Unsuitable foundation.
- (16) The Customer must give us the opportunity and time required to carry out all of the repairs we deem necessary, otherwise the liability for defects shall not be applicable.
- (17) Within the scope of our warranty obligation, we shall be responsible for the costs for the replacement part, including shipment, mounting and dismounting costs.
- (18) The warranty period for the replacement part and the improvements is 6 months; however, it shall extend at least until the end of the original warranty period for the equipment supplied.
- (19) As soon as we have notified the Customer that the assembly/installation work has been completed, the Customer is obliged to carry out acceptance of the assembly/installation. The equipment is considered to have been accepted after it has undergone a successful test-run, even if the Customer was not involved in this despite having been requested to do so.

Upon request, individually completed phases of the total work performed are to be specially accepted. If the equipment has been put into use fully or in part, or acceptance is delayed through no fault of our own, acceptance shall be considered as made at the end of two weeks after notification of completion was made.

The Customer is only entitled to use the equipment with our express permission prior to acceptance and the already mounted parts of the equipment shall be considered as accepted with their use.

§ 16

Non-disclosure

- (1) The contracting parties are obligated to treat as confidential all items which they receive from or learn from the other party either prior to or during the contractual performance (e.g. software, documents, information) and which are protected by law or contain business and trade secrets or which are considered confidential, even after the term of the contract ends. The contracting parties shall store and secure these items in such a way that prevents access by a third party.
- (2) All of the following information is expressly exempt from the requirement above:
 - a) Information that can be proven on the basis of their documentation that the Customer already knew at the time of its disclosure or that was developed independently by the Customer afterwards without breaching this contract;
 - b) Information that is accessible to the public at the point in time of disclosure or that is made public afterwards without wrongful handling on the part of the Customer;
 - c) Information which is received from a third party without any violation of these General Business Terms and Conditions.
- (3) The Customer shall make the subject of the contract available only to the employees and other third parties which require their access for performing their job-related duties. He shall instruct these individuals on the need for handling the subject matter in a confidential manner.
- (4) We shall process the Customer's data required for business processing in full compliance with data processing laws. We shall be allowed to use the name of the Customer as a reference customer after successful completion of the work.

§ 17

Place of performance, jurisdiction, applicable law

- (1) The place of performance for all claims arising out of the business relationship is 72379 Hechingen, Germany.
- (2) The sole place of jurisdiction for all claims arising out of the business relationship, including those resulting from cheques and bills of exchange shall be the place of performance provided the Customer is a business person, a legal person under public law, or a public-sector entity with special assets. However, we are entitled to initiate legal proceedings against the Customer at his general place of jurisdiction.
- (3) The laws of the Federal Republic of Germany shall apply exclusively to these General Terms and Conditions and all legal relationships between us and the Customer. Application of the UN Convention for the International Sale of Goods and International Private Law shall be excluded.
- (4) If individual provisions be or become invalid, this shall not affect the validity of the remaining provisions.
- (5) Should any of the provisions be invalid in their entirety or in part, the contracting parties will make an immediate attempt to achieve the economic intent and purpose of the invalid provision in a legally permissible way.

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