



General terms and conditions of sale for deliveries of machines and spare parts (version: June 2019)

I. Scope of application

(1) These general terms and conditions of sale (hereafter: "Conditions of Sale") apply exclusively to entrepreneurs, legal persons under public law and special funds under public law according to section 310 (1) of the German Civil Code (BGB). We do not acknowledge any of the customer's conditions that conflict with or deviate from these Conditions of Sale, unless we have expressly agreed in writing that they shall apply. Our Conditions of Sale shall apply even if we make deliveries to the customer without reservation despite knowing that the customer has conditions that conflict with or deviate from our Conditions of sale.

(2) These Conditions of Sale shall also apply to all future business with the customer, where this involves transactions of a similar kind.

(3) If a framework agreement between us and the customer is in place, these Conditions of Sale shall apply both to the framework agreement and to any individual order.

(4) These Conditions of Sale form part of the contract. All agreements concluded between us and the customer for the purpose of performing this contract have been written into this contract.

II. Quotation, order, and formation of contract

(1) Our quotations are subject to change and are non-binding. We may withdraw quotations at any time until written order acceptance is received from us or the delivery items are delivered. Quotation-related documents, such as illustrations, drawings and information about weights and quantities, are approximations only, unless we expressly confirm that they are binding.

(2) Customer orders are binding on the customer. If no other written confirmation is received from us, delivery of goods or issue of an invoice shall constitute confirmation of an order. If an order qualifies as an offer according to section 145 BGB, we have four weeks to accept the offer. This period begins when the order is placed. If goods are delivered before expiry of this period, then a contract shall be formed exceptionally even without any written order confirmation.

(3) If a concluded contract contains errors for which we are not responsible, for example errors due to miscommunication or misunderstandings, we shall have no duty to pay damages under section 122 BGB.

III. Documents provided

(1) We retain ownership of and copyright in cost estimates, drawings and other documents; third parties must not be given access to these documents. They are to be kept confidential if we so require. If an order is not awarded to us, quotation documents are to be returned to us immediately if we so require. The customer has no right to retain these documents.

(2) We are required to obtain the customer's consent before giving third parties access to any plans marked as confidential by the customer. We may grant access to the customer's documents to third parties to whom we have legitimately subcontracted our deliveries and services.

IV. Details of contract, scope of delivery, retrospective modifications

(1) Scope and details of the deliveries and services due shall be exclusively as set forth in the contract documents. If the customer is a merchant, the details of orders and agreements that constitute the contract shall be exclusively as set forth in our written confirmation, unless the customer immediately objects to this in writing. The same shall apply in particular to orders placed by word of mouth or



telephone and agreements made during formation of the contract. Any notice of objection that does not reach us within seven days shall not be considered to have been made immediately.

(2) Where we have offered a time-limited quotation and this has been accepted within the time limit, details of the contract shall be as set forth in the quotation, unless order confirmation has been sent promptly. Any supplementary agreements and modifications shall require our written confirmation.

(3) We reserve the right to make the following modifications after a contract has been formed, provided that the customer can reasonably be expected to accept them:

- changes to products resulting from ongoing development and improvement;
- minor and immaterial variations in colour, shape, design, dimensions, weight and quantity;
- variations that are part of normal business practice.

If no variations from the customer's specifications and stipulations are allowed, the customer is required to inform us of this fact at the time of ordering.

(4) We shall make every effort to comply with customer requests for changes to contractual deliveries and/or services after a contract has been formed, if it is operationally possible for us to do so.

V. Prices, payment, delayed payment, customer's rights of set-off and retention

(1) Except as specifically provided otherwise, our prices are ex works and do not include postal charges, freight, packaging, insurance, installation and assembly, or any additional costs. The legally required amount of VAT will additionally be charged on each order.

(2) Unless specifically agreed otherwise, payment shall be made in cash without deductions and free of transfer fees to the supplier's designated account, in the following instalments: 40% down payment upon receipt of order confirmation, 50% when the customer is notified that the main parts are ready for dispatch, and the balance within one further month. Deductions for early payment shall be allowed only with our prior express written agreement. Payment shall be considered made only when and if we are in possession of cleared funds. Our invoices, except as separately agreed otherwise, are due and payable within 10 days of receipt. An invoice shall be issued each time one of the conditions mentioned in the first sentence of this paragraph applies. If goods that are ready for dispatch are prevented from being dispatched by circumstances within the customer's sphere of risk, the relevant invoice shall be issued nonetheless.

(3) Price increases are allowed if they are justified by pricing factors arising after conclusion of a contract, and if our delivery or performance was not delayed at the time that the cost-increasing factors arose. If prices rise more than 20% above contractual prices, the customer shall have the right to withdraw from the contract. This shall not apply however, if the price-increasing factors came into play when our deliveries or services were delayed for reasons attributable to the customer. The customer shall have no right of withdrawal in the event that prices increase because of changes requested by the customer after a contract has been formed.

(4) If the customer falls into arrears of payment, the provisions of statute on consequences of delayed payment shall apply without restriction. We reserve the right to claim specific damages for delay. Should the customer owe large arrears of payment, all our claims against the customer arising from the same legal relationship according to section 273 BGB shall immediately become due and payable.



(5) The customer shall have rights of set-off or retention only if its counter-claims are upheld in court, undisputed, or recognised by us. In addition, the customer shall be entitled to exercise a right of retention only if its counter-claim is based on the same contractual relationship.

VI. Defence of uncertainty

If we are required to do preliminary work, and it becomes apparent after a contract is formed that there is a risk of the customer's being unable to meet its financial obligations to us, we shall, without prejudice to our legal rights, have the right to proceed as follows against the customer:

- We may refuse deliveries or services until the customer has satisfied all our claims arising from the same legal relationship according to section 273 BGB in advance or has provided us with reasonable security.
- Should we already have provided deliveries or services, we shall have the right to demand immediate payment of any resulting claims that have not yet fallen due, including claims for which banker's drafts or cheques have been issued.

Where the customer, despite a reasonable period of notice, does not comply with our request for payment against performance or for the provision of security, we shall be entitled, at our discretion, to withdraw from the contract and/or demand damages. In this case we may additionally forbid the resale of goods delivered in which we retain ownership, demand their return or the transfer of their custody at the customer's expense, and revoke any authorisation to collect claims assigned to us.

VII. Delivery times, delayed delivery

(1) It is agreed that delivery deadlines and periods are approximate, unless we agreed in writing when the contract was formed that they shall be binding. Even deadlines agreed to be binding shall not be regarded as fixed dates unless they have expressly been defined as such. The delivery period begins when we send confirmation of order, but not before the customer provides all of the required documents, permits and releases and the agreed down payment has reached us.

(2) The delivery deadline shall be considered met if by this date the delivery items have been dispatched from the factory, or the customer has been informed that they are ready for dispatch. Our adherence to deadlines shall depend on the customer's prompt and full compliance with its duty of cooperation, in particular with regard to the provision of any documents or information required from the customer, clarification of all technical details with the customer, completion of the agreed instalment payments, opening of credits where necessary and presentation of official permits and import licences.

(3) Delivery items shall be considered delivered at the latest when we issue our final invoice. We shall be entitled to issue our final invoice when start-up is complete or if start-up is delayed through the fault of the customer.

(4) The delivery period shall be extended for a reasonable time in the event of acts carried out during industrial disputes (in particular strikes or lock-outs), force majeure, actions by the authorities, non-delivery by our suppliers, or unforeseen impediments due to circumstances beyond our control, provided that these impediments demonstrably have a major impact on manufacture or delivery of the delivery items. The same shall also apply when the above circumstances affect sub-suppliers. We shall likewise not be held responsible for the above-mentioned circumstances if they arise during an already existing delay. We shall immediately notify the customer when such impediments begin or end. The customer's claims for damages in such cases shall be excluded to the extent



provided by article XII (Joint liability). We shall have a right of withdrawal if we can prove to the customer that the delay in delivery or service will last indefinitely.

(5) If our performance is delayed, the customer must, to the extent required by law, offer us a reasonable period of extension. Once this period has expired without result, the customer may withdraw from the contract, provided that by this time it has not been notified that goods are ready for dispatch.

(6) We shall be liable to the extent provided by law for delay in performance if the relevant contract of sale is for a transaction with an immovable deadline according to section 286 (2) sentence 4 BGB or section 376 of the German Commercial Code (HGB). We shall also be liable to the extent provided by law if, as a result of a delay in delivery for which we are responsible, the customer is entitled to claim that continued fulfilment of the contract is no longer in its interest.

We shall be additionally liable to the extent provided by law if the delay in delivery is due to an intentional or grossly negligent breach of contract for which we are responsible. We shall be responsible for any fault on the part of our representatives or agents. Where delay in delivery is due to a grossly negligent breach of contract for which we are responsible, our liability to pay damages shall be limited to foreseeable, typically occurring loss. We shall also be liable to the extent provided by law if the delay in delivery for which we are responsible is due to our culpable breach of a material contractual duty. In this case our liability to pay damages shall be limited to foreseeable, typically occurring loss.

(7) If, in any case other than one of those mentioned above, the customer incurs a loss as a result of a delay for which we are responsible, then the customer shall be entitled to claim compensation for delay only if this has been expressly agreed in writing; any further claims shall be excluded. Compensation for each full week of delay shall be paid up to a maximum of 0.5% of the value of the part of the delivery that the delay prevents the customer from using promptly or as per the contract, but shall not exceed 5% of this value in total.

(8) If delivery is delayed for reasons that are attributable to the customer, then, from one month after notification that the goods are ready for dispatch, the customer shall be billed every month for the cost of storing the goods (for at least 0.5 % of the invoice amount if the goods are stored at our plant), unless the customer can prove that the delay caused no or only minimal loss to us. Once a reasonable deadline has expired without result, we shall be entitled to make other arrangements for the delivery item or deliver it to the customer within a reasonable additional period.

VIII. Transfer of risk, acceptance, partial deliveries

(1) The risk of accidental destruction or deterioration of the goods passes to the customer at the start of loading or on dispatch of the delivery item to the customer, or on handover to the shipper, forwarder, carrier or other person or organisation designated to collect or deliver the item, or at the latest when the item leaves our plant/warehouse. The same shall apply to partial deliveries, deliveries made using our own vehicles, and carriage-free and unpacked deliveries. The same shall also apply in cases where we have agreed to carry out assembly, installation or other services on the customer's site. At the customer's request and expense, the consignment can be insured by us against theft, breakage, damage in transit, fire and water damage and other insurable risks.

(2) If the customer fails to take delivery of, accept, collect or request delivery of the goods in time, or if our deliveries or services are delayed for reasons that are attributable to the customer, the risk of accidental destruction or deterioration passes to the customer at the time that the delay due to the customer begins or at which deliveries could have been made or services provided as per the contract if the customer had complied with its duty. Nonetheless, at the customer's request and expense, we shall obtain the insurance policies that the customer requires.

(3) Where acceptance of a delivery item is required, risk shall be transferred on acceptance. Acceptance must take place by the deadline for acceptance, or alternatively once we have notified the customer that the goods are ready for acceptance, and may not be refused by the customer merely because of an immaterial defect. Should acceptance be delayed for reasons that are attributable



to the customer, risk shall pass to the customer when it receives notification that the goods are ready for acceptance. If the goods are ready for acceptance, and their dispatch is delayed for reasons that are attributable to the customer, risk shall pass to the customer when it receives notification that the goods are ready for acceptance.

(4) Without prejudice to the rights set forth in article IX, the customer shall take delivery of dispatched items even if they present immaterial defects.

(5) Partial deliveries are allowed, unless it would not be practical for the customer to accept them. In particular, we shall be entitled to make partial deliveries or provide partial services, provided that the remaining partial deliveries or services are completed within the agreed period and the quantity of the partial deliveries or services is not below the minimum that it would be practical for the customer to accept. In the event of partial delay in delivery on our part or partial impossibility of performance for reasons that are attributable to us, the customer shall have no right to demand damages in lieu of full performance of our obligations or to withdraw from the entire contract, unless partial performance would not be in the customer's interest.

(6) The customer must check and sign for the delivery note. We shall be immediately notified in writing of any complaints. Otherwise, the signed-for quantity delivered shall be considered accepted.

IX. Customer's delay in taking delivery, acceptance, collection or requesting delivery

If the customer delays in taking delivery or performing acceptance at the place of performance, collecting ordered goods, or requesting delivery (even for partial deliveries or services), or if deliveries or services are otherwise delayed for reasons that are attributable to the customer, then, without prejudice to our statutory rights, we shall be entitled to:

- demand compensation for any resulting loss, including any additional expenditure;
- demand immediate payment for the deliveries or services affected by the delay, and to put delivery items into storage at the customer's risk and expense;
- on expiry of a reasonable period of extension, having informed the customer of our right to make other arrangements for the items affected by the delay, deliver them to the customer within a reasonable additional period, withdraw from the contract or demand damages in lieu of payment. Should we demand damages, we may without proof demand 20% of the gross order price as compensation, provided that the actual amount of loss is not proven to be considerably smaller. We reserve the right to claim a higher amount corresponding to the actual loss.

X. Retention of ownership, securities

(1) We retain ownership of delivery items until we have received all payments due under our business relationship with the customer. In the event of a breach of contract by the customer, in particular delay in payment, we shall be entitled to repossess the delivery item. The customer shall be obliged to surrender it. The customer may not rely on any right of retention to oppose our claim for return of the delivery item. Repossession of the delivery item by us may constitute withdrawal from the contract. Seizure of the delivery item by us shall always constitute withdrawal from the contract. After repossession of the delivery item, we shall be entitled to make use of it, and the resulting proceeds, minus reasonable use costs, shall be credited against the customer's debt to us.

(2) The customer is entitled to resell the delivery item in the normal course of business; however, it shall immediately assign to us all claims against its own customers or other third parties arising from the resale, up to the value of the final invoice amount (including value-added tax) due to us, whether or not the delivery item was processed before being resold. If the customer's claim arising from the resale of the goods in which we retain ownership is part of an open account with its own customer under section 355 HGB, its open account claim up to the value of the agreed balance shall be assigned to us. The same shall apply to the available balance in the event that its own customer becomes insolvent. Authorisation to resell the delivery item does not entitle the customer to pledge it or assign it as security. The customer remains authorised to collect its own claim even after this claim has been assigned to us.



Our right to collect the claim ourselves remains unaffected. However, we undertake not to collect the claim provided that the customer uses the proceeds of resale to comply with its payment obligations, does not fall into arrears of payment and does not apply for insolvency proceedings or become bankrupt. If any of these events occurs, however, we may require the customer to inform us of the assigned claims and the debtors concerned, provide all information required for collection of the claims, surrender the relevant documents and notify the debtors (third parties) that the claims against them have been assigned.

(3) The customer is required to treat the delivery item with care; in particular, to insure, at its own expense, the delivery item up to its value as new against fire and water damage or theft. The customer hereby assigns all insurance claims in respect of the delivery item to us. We hereby accept the assignment of these claims. Should the customer not submit proof of an insurance policy for the delivery item to us, we shall be entitled to take out such insurance ourselves at the customer's expense, up to the value as new of the delivery item. Where maintenance and inspection work is required, the customer must have this carried out promptly and at its own expense.

(4) In the event of goods seizure or similar acts by third parties, the customer must inform us immediately in writing, so that we can file a court action under section 771 of the German Code of Civil Procedure (ZPO). Should the third party not be in a position to reimburse us for the court costs and other costs resulting from an action under section 771 ZPO, the customer shall be liable to us for these expenses. Even if the delivery item is released without court proceedings, the cost of obtaining its release may be charged to the customer, in addition to costs for the return of pledged goods in which we retain ownership.

(5) Processing or reconfiguration of the delivery item by the customer shall at all times be carried out on our behalf. Should the delivery item be combined with other items not belonging to us, we shall acquire a share in the ownership of the new object corresponding to the ratio of the value of the delivery item (the final invoice amount including value-added tax) to that of the other processed items at the time of processing. Otherwise, the provisions applicable to the delivery item in which we retain ownership shall also apply to the object created by processing.

(6) If the delivery item is inseparably mixed with other items not belonging to us, we shall acquire a share of the ownership of the new object corresponding to the ratio of the value of the purchased goods (the final invoice amount including value-added tax) to the other items with which they were mixed at the time of mixing. If the mixing is done in such a way that the customer's items must be considered the main constituents, it is agreed that the customer shall transfer a proportionate share of the ownership of the new object to us. The customer shall safeguard for us the object thus created, which is our sole or shared property. If purchased goods are combined with other movable items into a unit, and if the other items must be considered the main constituents of the unit, it is agreed that, the customer shall transfer a proportionate share of ownership to us if the main constituents belong to the customer. Otherwise, the provisions applicable to the delivery item in which we retain ownership shall also apply to the object created by processing, reconfiguration, connection or mixing.

(7) The customer shall also assign to us, as security for our claims against it, its claims against a third party arising from the integration of the delivery item into any site.

(8) If goods in which we retain ownership are resold after processing, reconfiguration, mixing or connection, the customer hereby assigns its claim for payment up to the value of our final invoice amount (including value-added tax) to us as security for our claims. If, under paragraphs 5 to 7 above, we have acquired only shared ownership in an object created by processing or reconfiguring goods in which we retain ownership, or by mixing or combining them with other items not belonging to us, then we shall be assigned only the share of the customer's claims for remuneration corresponding to the ratio of the value of the goods in which we reserve ownership (the final invoice amount including value-added tax) to the value of the other items not belonging to us. Otherwise, paragraphs 1 and 2 above shall apply as appropriate to any claims assigned to us in advance.



(9) If retention of ownership or assignment of a claim is ineffective under the laws of a foreign jurisdiction in which the goods in which we retain ownership are located, it is agreed that security equivalent to retention of ownership and assignment of a claim in this jurisdiction shall be provided. If the customer's cooperation is required for such rights to be established, the customer shall, if we so demand, be required to take all necessary steps to establish and uphold these rights.

(10) We shall be entitled to demand reasonable securities for the proper performance of the customer's obligations. We undertake to release securities due to us if the customer so demands, provided that the realisable value of these securities exceeds that of the claims secured by more than 10%. The choice of the securities to be released shall be at our discretion.

XI. Liability for defects in delivered items

(1) If the customer is a merchant according to the HGB, then it must have duly complied with its legal obligations to inspect deliveries and provide notice of defects under section 377 HGB before raising any defect claim against us. Defects shall be notified to us in writing immediately, or at the latest within 8 days following their discovery by careful examination. The same shall apply to excess and incomplete deliveries, as well as to any incorrect delivery. The duty to inspect deliveries and provide notice of defects shall also apply to assembly instructions. On receipt of notice of defects, we shall inform the customer whether the reportedly defective delivery items or their parts are to be sent back to us or kept for collection by us from the customer's site or examination by us there.

(2) Quality statements about our goods on which the details and scope of the services due under article IV (1) above depend shall not constitute any guarantee according to section 443 BGB, unless it has been expressly agreed that they shall do so. Should we be required to supply products based on the customer's drawings, specifications, samples etc., the risk of their being unsuitable for their intended use shall be borne by the customer. The question whether delivery items are in their contractually required condition shall be decided on the basis of their condition at the time of transfer of risk under article VIII (1)–(3).

(3) If the customer identifies a defect, the customer must not modify or process the purchased goods or hand them over to a third party. The customer must allow us sufficient time and opportunity to verify the existence of the defect and, if necessary, provide a remedy (by rectifying the defect or delivering new non-defective goods); failure to do so shall exclude all defect claims. Only where there is an urgent risk to workplace safety or a need to prevent disproportionately large loss, in which case we are to be informed immediately, shall the customer have the right to rectify the defect itself or have it rectified by a third party and demand that we reimburse any costs incurred. Regardless of the presence of any defect, warranty claims shall be excluded if the customer or any third party carries out modifications or repair work without our approval.

(4) If the purchased goods are faulty, we shall be entitled to provide a remedy by either rectifying the defect or delivering a new non-defective item, at our discretion. The customer shall have no right to choose the manner of remedy. The customer must always give us the opportunity to provide a remedy within a reasonable period.

When we rectify a defect or deliver a replacement, we shall bear all necessary expenses for providing the remedy, up to the value of the purchase price, provided that these expenses were not increased because the purchased goods were moved to a place other than the place of fulfilment, unless they were moved in accordance with their intended use. However we shall not be obliged to pay the costs of removal and new installation unless there are grounds to impute fault-based liability for damages to us. We shall be entitled to have repairs carried out by third parties. Replaced parts shall become our property. In respect of replacement deliveries and work to rectify defects, the client shall have no rights beyond those applicable to the original contractual products.



(5) In the event of our serious and definitive refusal to provide a remedy, or if the remedy fails or proves impractical for the customer, the customer shall be entitled, at its discretion, to withdraw from the contract or demand a price reduction. If the defect represents an immaterial breach of our contractual duties, however, the customer may neither withdraw from the contract nor demand damages.

(6) We shall be liable to the extent provided by law if the customer asserts claims for damages based on intentional acts or gross negligence, including intentional acts or gross negligence by our representatives or agents. Provided that no claim of an intentional breach of contract is made against us, our liability to pay damages shall be limited to foreseeable, typically occurring loss.

We shall be liable to the extent provided by law if we are at fault for a material breach of contract. In this case, however, our liability to pay damages shall be limited to foreseeable, typically occurring loss. Otherwise, if a negligent breach of contract entitles a customer to claim compensation for damages in lieu of performance, our liability shall be limited to compensation for foreseeable, typically occurring loss.

(7) Our liability in the event that we are responsible for any death, bodily injury or illness shall remain unaffected. The same shall apply to strict liability under the Product Liability Act (Produkthaftungsgesetz).

(8) Except as otherwise provided above, liability on our part is excluded.

Any other claims by the customer, in particular claims for compensation for loss not resulting from the delivery item itself, in particular production downtime loss, are excluded. Liability for defects shall also be excluded in the following cases:

- damage due to normal wear and tear or caused by external factors;
- damage caused by incorrect or unsuitable handling or use, incorrect assembly or start-up, overuse, erroneous or negligent handling, or the use of unsuitable tools and materials or substitute materials by the customer or its own customers;
- damage caused by faulty construction work, unsuitable building ground, or any chemical, electrochemical or electrical effects for which we are not responsible;
- damage caused by use of a substitute solvent, addition of stabilisers to the solvent, or mixing with any type of additive or other substance by the customer without consulting us. Consultation with us is required even if the solvent should be considered a "pure substance" in legal or chemical terms after being mixed with other substances. All chemical and solvent-related processes shall be at the customer's sole responsibility. The same shall apply even if we arrange any consultation with a solvent manufacturer or offer the manufacturer's laboratory services;
- consequences of incorrect modifications or repair work carried out by the customer or third parties without our agreement;
- if the customer or one of its own customers fails to comply with legal requirements or our own rules for installation and handling, unless the defect is not due to the failure to comply with these requirements or rules;
- if, without our agreement, the customer repairs, modifies or processes contractual deliveries or services or has them repaired, modified or processed by third parties;
- if the contractual products are not handled, operated or used in accordance with our conditions of use and guidelines, or they are otherwise incorrectly handled, used or operated.



Our liability is, however, not excluded if, in any of the above-mentioned cases, the customer submits proof that the defect was not wholly or partly due to any of the above-described circumstances, and that none of these circumstances would make rectifying the defect impractically difficult for us.

(9) All warranty claims by the customer shall be invalid unless the customer has regularly complied with the maintenance schedule. The first maintenance should be carried out after 2000 operating hours, or at the latest 12 months after start-up. Further maintenance should be carried out at 12-month intervals or at the intervals stipulated by us.

(10) Unless agreed otherwise, the period of warranty shall be 12 months from delivery of the purchased goods. This shall not apply if the purchased goods are normally used for a building and have caused the defect. Once risk has been transferred under article VIII (2), our liability for defects shall be extinguished at the latest 18 months after the transfer.

Statutory warranty periods shall however remain unaffected in the event of the following:

- loss arising from death, bodily injury or illness;
- loss arising from an intentional or grossly negligent breach of contractual duties by us, our legal representatives or our agents.

The statutory period of limitation shall remain unaffected even in the event of recourse against a supplier under section 478 BGB in conjunction with section 445b BGB.

(11) The warranty period for replacement parts and repairs shall be one year. The liability period for defective parts of the delivery items is extended by the duration of the business interruptions caused by the remedial work.

XII. X. Liability for subsidiary obligations, joint liability

(1) If through our own fault the customer is unable to use the goods delivered as per the contract, because we have failed to abide by or correctly implement recommendations and advice, whether given before or after the contract was formed, or other subsidiary contractual obligations – in particular instructions for the operation and maintenance of the delivery items – then the provisions of articles XI and XIII shall apply as appropriate; all other claims by the customer shall be excluded.

(2) All further liability for damages other than that provided for in articles VII and XI, regardless of the legal basis of any claim asserted, is excluded. This shall apply in particular to claims for damages resulting from failure to conclude the contract in good faith or other breaches of contractual duties and to claims in tort for compensation for property damage under section 823 BGB.

(3) The limitation in paragraph (2) shall also apply if the customer, instead of claiming compensation for damages in lieu of performance, demands compensation for unnecessary expenditure.

(4) Any exclusion or restriction of our liability shall also apply to the personal liabilities of our staff members, employees, workers, representatives and agents.

(5) Limitation of claims between us and the customer shall be governed by article XI (10), unless the claims in question arise from acts prohibited under sections 823 ff. BGB.

(6) Statutory provisions on burden of proof shall not be affected.



XIII. Obligation to perform, impossibility to perform, customer's right of withdrawal, price reduction and other liability

(1) Our obligation to deliver is subject to our receiving correct, complete and prompt deliveries from our suppliers.

(2) The customer may withdraw from the contract if it is permanently impossible for us to perform the contract in full prior to the transfer of risk. The same shall apply if we become incapable of performing it. The customer may also withdraw from the contract if we are unable to deliver the full quantity of an order consisting of items of the same type, and the supplier has a valid reason for declining a partial delivery. If this is not the case, then the customer may reduce the payment owed accordingly.

(3) If there is a delay in delivery according to article VII of these Conditions of Sale, and the customer grants us a reasonable period of extension with the express proviso that it will refuse to accept performance after the expiry of this period, the customer shall be entitled to withdraw from the contract if delivery is not made within this period.

(4) If our performance of the contract becomes impossible during a customer's delay in taking delivery, or should the customer be solely or chiefly responsible for circumstances that release us from the obligation to perform, the customer shall still be obliged to perform. Once we have withdrawn from the contract, or given a deadline with a warning that performance after this time will not be accepted, we shall be entitled to make free use of any goods that we have repossessed.

(5) All further claims by the customer, in particular for contract cancellation or price reduction, are excluded, unless requests for these are prompted by the failure of remedial measures. Claims for damages shall be excluded or restricted in accordance with the provisions of articles IX and XII.

XIV. Contractual penalty

(1) All rights in contractual documents (blueprints, drawings, prospectuses, catalogues etc.) provided to the customer for the purpose of our business relationship, as well as in samples, models and prototypes, shall remain exclusively vested in us. The customer may make use of the above-mentioned documents, samples, models and prototypes only for the purpose of contracts concluded with us and only with our agreement; in particular, our delivery items may not be imitated or otherwise copied with the help of the above-mentioned documents, samples, models and prototypes, nor may product copies or imitations or copies thus produced be sold or otherwise made use of.

(2) The customer undertakes to pay us a contractual penalty of €25,000 for every breach of the above-mentioned obligations, unless it can prove that it is innocent of such a breach. We reserve the right to claim damages exceeding this amount.

XV. Place of performance, place of jurisdiction, applicable law, intra-European purchases, severability clause, written form

(1) If the customer is an entrepreneur, legal person under public law or special fund under public law, the exclusive place of jurisdiction for all disputes shall be our place of business. We are also entitled to sue the customer at its own place of business. Further, if the customer has no place of general jurisdiction in Germany, the place of jurisdiction for all claims by the parties to this contract arising from their business relationship shall be our place of business.

(2) Unless contractually agreed otherwise, the place of performance for payment and goods deliveries shall be our place of business.

(3) All rights and duties arising from the contractual relationship between us and the customer shall be governed exclusively by the laws of the Federal Republic of Germany; application of the UN Convention on Contracts for the International Sale of Goods (CISG) of 11/04/1980 shall be excluded.

(4) Customers from EU member states who make intra-Community purchases shall be liable to compensate us for any loss arising



- from tax offences committed by the customer itself or
- from false information given or information withheld by the customer regarding circumstances with a significant bearing on its tax liability.

(5) Should one of the provisions of these Conditions of Sale be or become ineffective, the validity of their remaining provisions shall be unaffected. The relevant statutory regulation shall apply in lieu of the invalid provision. Under no circumstances shall the invalid provision of these Conditions of Sale be replaced by any of the Customer's terms and conditions.

(6) Legally important declarations of intent, such as cancellations, withdrawals or demands for price reduction or damages, shall be effective only if made in writing.

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