

## **General terms and conditions**

### **I. Scope of application**

1. Our following terms and conditions shall apply to all contracts concluded between us and the seller for the delivery of goods. They shall also apply to all future business relations, even if they are not expressly agreed again. Any deviating terms and conditions of the Seller which we do not expressly acknowledge shall not be binding on us, even if we do not expressly object to them. Our terms and conditions shall also apply if we accept the Seller's delivery without reservation in the knowledge of terms and conditions that are contrary to or deviate from his terms and conditions.
2. All agreements made between us and the seller in connection with the purchase contracts are set out in writing in the purchase contracts, these terms and conditions and our offers.

Any ancillary agreements deviating from these terms and conditions of purchase, namely reservations, amendments, supplements or cancellation of this contract shall only become binding upon our written confirmation.

3. In all other respects, these terms and conditions shall only apply if the Seller is a company, a corporation under public law or a special fund under public law.

### **II. Offer and conclusion of contract**

1. We shall be bound by the offer for the conclusion of a purchase contract (order) for two weeks. The Seller can only accept the offer within these two weeks by written declaration to us.

Silence on our part in response to order confirmations shall always be regarded as a rejection, unless the order confirmation refers to orders placed in writing and fixed in all details.

2. The Supplier may not subcontract the manufacture or delivery of ordered parts to other companies without our written consent. Suppliers or subcontractors of the Supplier shall be subject to the same conditions as the Supplier towards us as vicarious agents of the Supplier.

### **III. Prices**

1. The price stated by us in the order shall be binding and shall apply free domicile, unless otherwise agreed in writing between the parties. Packaging costs shall be included in the price. The price shall be inclusive of the statutory value added tax applicable at the time. All invoices of the Seller shall show the order number specified by us.
2. Surcharges or increases in price shall only be taken into account if they are notified to us in the order confirmation. If, in exceptional cases, prices are not yet finally fixed when the order is placed, they must be communicated immediately for approval. In any case, prices exceeding those stated in our order shall only be deemed to be agreed upon our written confirmation.

#### **IV. Delivery time**

1. The delivery period or delivery date specified by us in the order shall be binding on the Seller.
2. If the Seller is in default, we shall be entitled to the statutory claims. If we assert claims for damages, the Seller shall be entitled to prove that he is not responsible for the breach of duty.

If it becomes impossible for the Seller to meet the deadline or date, the Seller shall notify us of this without delay. In the event of early delivery, which is to be agreed with us, the term of payment shall be calculated from the original agreed delivery date.

#### **V. Shipping**

Shipment must be made in strict compliance with our respective shipping instructions and must be notified to us in duplicate on the day of shipment, stating the order number and the order date. The net weight must be confirmed by the weight ticket of a calibrated scale. In the case of wagon loads whose loading weight is not utilized, the loss of freight shall be borne by the Supplier.

We shall bear the costs for breakage insurance only if we expressly requested this.

The delivered goods must be packaged in a manner customary in the trade. The packaging costs shall be borne by the Supplier.

Packaging materials shall only be returned if expressly requested and in the condition in which they were after removal of the goods. The costs of the return shipment shall be borne by the Supplier. At our request, the Supplier shall be obliged to take back packaging materials used by him at his own expense.

#### **VI. Invoicing**

Invoices shall be issued in duplicate immediately after delivery, stating the order number and order date. Invoices for monthly deliveries shall be issued no later than the 5th day of the following month. The Supplier shall be responsible for all consequences arising from non-compliance with the obligation, unless he can prove that he is not responsible for them.

#### **VII. Warranty and Liability**

1. The obligation to inspect the goods and to give notice of defects shall commence in all cases when the delivery has been received at the destination specified in the order and a proper notice of dispatch (in accordance with Section V.) of these terms and conditions of purchase or a delivery bill is available. In the case of deliveries with installation, these obligations shall only commence at the time of acceptance.
2. We shall be obligated to inspect the goods for deviations in quality and quantity within a reasonable period of time after delivery by the Seller. Notification of obvious defects shall be deemed to have been made in good time if it is sent by us within three working days from delivery of the goods and if it is subsequently received by the Seller; notification of hidden defects shall be deemed to have been made in good time if it is sent by us within three working days from their discovery and if it is subsequently received by the Seller.



3. We shall be entitled to the statutory claims for defects against the Seller. The Seller shall be liable to us to the extent provided by law. In case of imminent danger or in case of great urgency, we shall be entitled to remedy the defects ourselves at the Seller's expense.

The liability of the Supplier for defects shall also extend to the parts manufactured by subcontractors.

The Supplier shall be liable for all damages caused by him or his vicarious agents to the extent provided by law. No limitation or restriction of liability shall be recognized. In the event of rectification or replacement delivery, the Supplier shall be obliged to bear all expenses necessary for the purpose of rectification or replacement delivery.

#### **VIII. Unforeseen events**

In the event of force majeure or other circumstances, e.g., mobilization, war, riot, interruption of operations by us or our customers, strikes, lockouts, import or export bans, non-granting of official permits, lack of further processing possibilities, justified refusal of acceptance by our customers for which we are not responsible, makes it unreasonable for us to accept the delivery in accordance with the contract, we may demand that the contract be adapted appropriately to the circumstances that have occurred, or withdraw from the contract if we reimburse the Supplier for the proven costs incurred by him..

#### **IX. Liability of the Seller/Insurance Coverage**

1. If claims for damages are asserted against us by third parties on account of product damage for which the Seller is responsible, the Seller shall indemnify us on first demand against all claims by third parties, including the costs necessary to defend against such claims, if the cause lies within the Seller's sphere of control and organization.
2. If we have to carry out a recall action due to a case of damage within the meaning of Section IX Item 1, the Seller shall be obliged to reimburse us for all expenses arising from or in connection with the recall action carried out by him. Insofar as it is possible and reasonable in terms of time, we shall inform the Seller of the content and scope of the recall action and give him the opportunity to comment. Our further legal claims shall remain unaffected.
3. The Seller shall be obliged to take out and maintain product liability insurance for personal injury/property damage. The amount of coverage must be appropriate to the scope of the Seller's business operations and the risks of its industry.

Our further legal claims shall remain unaffected by this.

4. If claims are asserted against us by a third party because the Seller's delivery infringes a statutory property right of the third party, the Seller shall undertake to indemnify us against such claims upon first request, including all necessary expenses incurred by us in connection with the claim by the third party and its defense. We shall not be entitled to acknowledge the claims of the third party and/or to conclude agreements with the third party regarding these claims without the written consent of the Seller. The limitation period for these claims for indemnification shall be three years, calculated from our knowledge of the claim by the third party, but no longer than 10 years from the delivery of the item.

#### **X. Retention of title Provision of tools**

Insofar as we provide parts to the Supplier, we shall retain title thereto. Processing or transformation by the Supplier shall be carried out for us. If our goods subject to retention of title are processed together with other items which also belong to us, we shall acquire co-ownership of the new item in the ratio of the value of our item to the other processed items at the time of processing.

If the item provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the item subject to retention of title to the other mixed items at the time of mixing. If the mixing takes place in such a way that the Supplier's item is to be regarded as the main item, it shall be deemed agreed that the Supplier transfers co-ownership to us on a pro rata basis, and the Supplier shall hold the sole ownership or co-ownership in safe custody for us.

Insofar as the security rights to which we are entitled in accordance with the two preceding paragraphs exceed the purchase price of all our reserved goods not yet paid for by more than 20%, we shall be obliged, at the Supplier's request, to release the security rights at our discretion.

The Supplier shall assume full liability for damages, including those resulting from processing, and losses of the parts provided by us as long as the parts provided are in his care.

#### **XI. Assignment of claims, right of set-off and right of retention**

We shall be entitled to the statutory rights of set-off and retention in full. We shall be entitled to assign all claims arising from the purchase contract without the consent of the Seller. The Seller shall not be entitled to assign claims arising from the contractual relationship to third parties without our prior written consent.

#### **XII. Customer Documents Secrecy/Retention of Title**

We shall reserve the right of ownership and copyright to illustrations, drawings, calculations and other documents. All drawings, technical data and information made available to the Supplier by us must be kept secret and, in the event of non-acceptance of the manufacture, must be returned without request within the period for acceptance and at the latest after completion of the order. They may only be used by the Supplier for the execution of the order, but not for his own purposes. They may not be made accessible to third parties without our express written consent and must be kept secret from third parties even after the execution of this contract. The Supplier shall be liable for all damages incurred by us as a result of a breach of one of these obligations.

#### **XIII. Acceptance**

We shall reserve the right to inspect the delivery items during production or before shipment at the Supplier's premises. However, such an inspection shall not affect the Supplier's warranty obligation. All acceptance documents, material certificates etc. are part of the delivery and must reach us with the delivery at the latest.

#### **XIV. Place of Jurisdiction, Place of Performance, Applicable Law**

1. The place of performance and jurisdiction for deliveries and payments (including actions on checks and bills of exchange) as well as all disputes arising between the



Seller and the Buyer from the contracts concluded between them shall be our place of business. However, we shall be entitled to sue the Seller at his place of business.

2. The relations between the contracting parties shall be governed exclusively by the law applicable in the Federal Republic of Germany.

#### **XV. Partial invalidity**

Should any provision in these Terms and Conditions of Purchase or any provision within the scope of other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements..

## **Terms and conditions of sale and delivery**

### **A. General provisions**

#### **I. Contracts**

1. Our offers shall be subject to change without notice and shall not be binding unless we have expressly designated them as binding.
2. Our terms and conditions of sale shall apply exclusively; we shall not recognize any terms and conditions of the Purchaser that conflict with or deviate from our terms and conditions of sale unless we have expressly agreed to their validity in writing. Our terms and conditions of sale shall also apply if we carry out the delivery to the customer without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our terms and conditions of sale.
3. All agreements made between us and the Purchaser for the purpose of executing this contract are set down in writing in this contract. Deviating ancillary agreements, namely reservations, supplements or the cancellation of this contract as well as verbal agreements and assurances made by our sales personnel who are not authorized to conclude the contract shall only become binding upon our written confirmation. This shall also apply to details in public statements made by us or by the manufacturer and his assistants (§434 I, 3 of the German Civil Code (BGB)).
4. Our terms and conditions of sale shall also apply to all future transactions with the Purchaser.
5. With the placing of the order or at the latest with the uncontradicted acceptance of our goods, the purchaser shall accept our terms and conditions of sale and delivery.
6. Our terms and conditions of sale shall only apply to companies, legal entities under public law or special funds under public law (§§ 14, 310 of the German Civil Code (BGB)).

#### **II. Prices**

1. Our prices shall be net cash plus freight ex works or ex warehouse as well as value added tax at the legally valid rate.
2. We shall reserve the right to change our prices accordingly if, after conclusion of the contract, cost reductions or cost increases occur, in particular due to collective wage agreements or changes in the price of materials, due to increases in existing or the introduction of new public taxes, duties and freight. We shall provide evidence of these to the Purchaser upon request.
3. In the case of deliveries agreed to be carriage paid, the Purchaser shall pay the legally permissible freight costs to the freight forwarder at the latter's request; the Purchaser shall be entitled to deduct the amount presented from our invoice.
4. The costs of packaging shall be borne in full by the Purchaser. The packaging shall become the property of the Purchaser.
5. The deduction of discount shall require special written agreement.

#### **III. Terms of payment**



1. Unless otherwise agreed, payment of the purchase price shall be made to us within the agreed period by the 15th of the month following delivery, either in cash or by transfer to our account without deduction. The customer shall only be entitled to set-off rights if his counterclaims have been legally established, are undisputed or have been acknowledged by us. Furthermore, he shall be entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.
2. Checks shall always be accepted only on account of performance. They are accepted without guarantee for correct presentation and protest. Credit notes for checks shall be subject to receipt of the value date of the day on which we can dispose of the countervalue. Other methods of payment and financing shall require our prior written consent.
3. In the event of default in payment on the part of the Purchaser, interest shall be charged at a rate of 8 percentage points above the respective base interest rate. We shall reserve the right to claim further damage caused by default.
4. All our claims shall become due immediately if the terms of payment are not complied with or if it becomes apparent to us after conclusion of the contract that our claims to counter-performance are jeopardized by the Purchaser's inability to pay.
5. Without prejudice to further legal rights, we shall also be entitled to make outstanding deliveries only against advance payment. The right to refuse performance shall not apply if the counter-performance is effected or security is provided for it. We may also set a reasonable deadline within which the customer must effect counter-performance or provide security. After unsuccessful expiry of the deadline, we may withdraw from the contract. Our rights to claim damages shall remain unaffected.
6. Until our claim has been satisfied, we may also, without withdrawing from the contract, prohibit the resale and processing of the goods delivered, revoke the authorization to collect pursuant to Section A IV/4 and demand the return of the goods at the Purchaser's expense or put ourselves in possession of them, without the Purchaser having any right of retention or any other right. We shall be entitled to dispose of the goods taken back by private sale to offset the outstanding purchase price claim less any costs incurred. However, we shall only be entitled to the rights pursuant to A III/6 in the event of a breach of contract by the Purchaser, in particular default of payment, or in the event that an application for the opening of composition or insolvency proceedings has been filed against the Purchaser or payments have been suspended.

#### **IV. Securities**

1. We shall retain title to the delivered goods (goods subject to retention of title) until receipt of all payments arising from the business relationship with the Purchaser. If a current account relationship within the meaning of § 355 of the German Commercial Code (HGB) exists between us and the Purchaser, we shall retain title to the delivered goods until receipt of all payments from the existing current account relationship (business relationship) with the Purchaser; the reservation shall relate to the recognized balance.
2. The Purchaser shall be obliged to treat the reserved goods with care; in particular, he shall be obliged to insure them adequately at replacement value at his own expense against damage by fire, water and theft. If maintenance and inspection work is required, the Purchaser must carry this out in good time at his own expense.



3. In the event of seizure or other interventions by third parties, the Purchaser must notify us immediately in writing so that we can take legal action in accordance with § 771 of the German Code of Civil Procedure (ZPO). Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of an action pursuant to § 771 ZPO, the Purchaser shall be liable for the loss incurred by us.
4. The Purchaser shall be entitled to sell and/or use the reserved goods in the ordinary course of business as long as he is not in default of payment. Pledges or transfers of ownership by way of security shall not be permitted. The claims arising from the resale or any other legal reason (insurance, tort) with regard to the reserved goods (including all balance claims from the current account) shall be assigned to us in full by the Purchaser already now by way of security; we hereby accept the assignment. We shall revocably authorize the Purchaser to collect the claims assigned to us for his account in his own name. The direct debit authorization may be revoked at any time if the Purchaser does not properly meet his payment obligations. The Purchaser shall not be authorized to assign this claim for the purpose of collecting the claim by way of factoring, unless the obligation of the factor is simultaneously established to effect the counter-performance in the amount of the claims directly to us for as long as we still have claims against the Purchaser.
5. If the Purchaser's right to collect expires in accordance with the above provisions, we may demand that the Purchaser inform us of the assigned claims and their debtors, provide all information required for collection, hand over the relevant documents and inform the debtors (third parties) of the assignment.
6. The processing or transformation of the reserved goods by the customer shall always be carried out on our behalf. If the goods subject to retention of title are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the goods subject to retention of title (final invoice amount, including VAT) to the other processed items at the time of processing. In all other respects, the same shall apply to the item created by processing as to the goods delivered subject to retention of title.
7. If the delivered goods are inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the reserved goods (final invoice amount, including VAT) to the other mixed items at the time of mixing. If the mixing takes place in such a way that the Purchaser's item is to be regarded as the main item, it shall be deemed to have been agreed that the Purchaser shall transfer co-ownership to us on a pro rata basis. The Purchaser shall hold the sole ownership or co-ownership thus created in safe custody for us. The Purchaser shall also assign to us the claims to secure our claims against him which arise against a third party as a result of the combination of the reserved goods with a property.
8. We shall undertake to release the securities to which we are entitled at the request of the Purchaser to the extent that the realizable value of our securities exceeds the claims to be secured by more than 10%; the choice of the securities to be released shall be ours.

## **V. Place of performance, place of jurisdiction and applicable law**

1. The place of performance and jurisdiction for deliveries and payments (including actions on checks and bills of exchange) as well as for all disputes arising between us and the Purchaser from the purchase contracts concluded between us and the Purchaser shall be our registered office. However, we shall also be entitled to sue the Purchaser at his place of residence and/or business.



2. The relations between the contracting parties shall be governed exclusively by the law applicable in the Federal Republic of Germany. The application of the Uniform Law on the International Sale of Goods and the Law on the Formation of Contracts for the International Sale of Goods shall be excluded.

## **B. Terms of delivery and warranty**

### **I. Delivery periods, delivery dates**

1. Delivery dates or delivery periods must be stated in writing. They shall not be binding unless their binding nature is expressly confirmed by us in writing. Transactions for delivery by a fixed date must be expressly designated as such.
2. Delivery periods shall commence on the date of our order confirmation; they refer to the time of delivery ex works or ex warehouse. They shall also be deemed to have been met upon notification of readiness for dispatch if the goods cannot be dispatched on time through no fault of our own. We shall not assume any liability for punctual transport.
3. The start of the delivery period stated by us shall be subject to clarification of all technical questions. Compliance with our delivery obligations shall further presuppose the timely and proper fulfillment of the Purchaser's obligations. We shall reserve the right to plead non-performance of the contract.
4. If the Purchaser is in default of acceptance or violates other obligations to cooperate, we shall be entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses. We shall reserve the right to assert further claims.
5. Insofar as the prerequisites of point 4.) exist, the risk of accidental loss or accidental deterioration of the delivered goods shall pass to the Purchaser at the point in time at which the Purchaser is in default of acceptance or debtor's delay.
6. If the underlying contract is a transaction for delivery by a fixed date within the meaning of Section 286 (2) No. 4 of the German Civil Code (BGB) or Section 376 of the German Commercial Code (HGB), we shall be liable in accordance with the statutory provisions. The same shall apply if, as a result of a delay in delivery for which we are responsible, the customer is entitled to claim that he no longer has an interest in the further performance of the contract. In this case, our liability shall be limited to the foreseeable, typically occurring damage if the delay in delivery is not due to an intentional breach of contract for which we are responsible, whereby fault on the part of our representatives or vicarious agents shall be attributed to us.
7. Likewise, we shall be liable in the event of a delay in delivery in accordance with the statutory provisions if this is based on an intentional or grossly negligent breach of contract for which we are responsible, whereby fault on the part of our representatives or vicarious agents is to be attributed to us. Our liability shall be limited to the foreseeable, typically occurring damage if the delay in delivery is not due to an intentional breach of contract for which we are responsible.
8. We shall also be liable in accordance with the statutory provisions insofar as the delay in delivery for which we are responsible is based on the culpable breach of a material contractual obligation; in this case, however, the liability for damages shall be limited to the foreseeable, typically occurring damage.

9. Any further liability for a delay in delivery for which we are responsible is excluded. The Purchaser's further statutory claims and rights to which he is entitled in addition to the claim for damages due to a delay in delivery for which we are responsible shall remain unaffected.

## **II. Force majeure and other impediments to delivery**

1. In the event of force majeure and other unforeseeable extraordinary circumstances for which we are not responsible, e.g., difficulties in procuring materials, disruption of operations, fire, strike, lockout, lack of means of transport, traffic blocks, official interventions, failure of machinery, export and import bans, energy supply difficulties, mobilization, war, blockade, etc., the delivery period shall be extended by the duration of the impediment, even if they occur at our suppliers, the delivery period shall be extended by the duration of the impediment to performance if we are thereby prevented from fulfilling our obligations in a timely manner..
2. If our delivery becomes impossible or unreasonable due to the aforementioned circumstances, we shall be released from our delivery obligation.
3. If the delay in delivery lasts longer than two months, both the Purchaser and we shall be entitled to withdraw from the contract to the exclusion of any claims for damages.
4. If the delivery time is extended or if we are released from the delivery obligation, the Purchaser shall not be able derive any claims for damages from this. We may only invoke the aforementioned circumstances if we notify the Purchaser immediately from the beginning and end of such hindrances.
5. The Purchaser may demand a statement from us as to whether we intend to deliver within a reasonable period of time. If we do not declare our intention to deliver within a reasonable period of time, the Purchaser may, for his part, withdraw from the part of the delivery not yet fulfilled.
6. If, as a result of the unforeseen events referred to in clause 1, the economic significance or the content of the contractual performance changes, or if these events have a significant effect on our operations, the contract shall be adjusted appropriately in the event of subsequent impossibility of performance. Insofar as this is not economically justifiable, we shall only have the right to withdraw from the contract in whole or in part.

## **III. Quality, dimensions, quantities and weights**

1. The Purchaser may not reject partial deliveries.
2. The quality and dimensions of the material supplied by us shall be determined exclusively in accordance with German material standards, unless the application of specific standards or steel, iron material sheets is expressly agreed. The weights shall be determined on our scales or on the scales of the pre-supplier and shall be decisive for the calculation.

## **IV. Shipment and transfer of risk**

1. In the absence of instructions from the Purchaser, we shall determine the forwarding agent or carrier. The same shall apply to the route and means of shipment. If the



Seller acts as forwarding agent, the general German forwarding agent conditions shall apply as far as legally permissible. We shall only be liable for incorrect selection of the forwarding agent or carrier, the shipping route or means and for errors in our own transport in the event of gross negligence or intent. We shall be entitled, but not obliged, to insure deliveries on behalf of and for the account of the Purchaser.

2. The risk of loss of the goods shall in any case pass to the Purchaser when the goods are handed over to the carrier or freight forwarder or when they are loaded onto the Seller's vehicles, but at the latest when they leave the factory or warehouse, even in the case of freight-free delivery. The loss of the goods is equivalent to their seizure.
3. In the event of transport-related defects in delivery items, these shall nevertheless be accepted by the Purchaser without prejudice to any rights, provided that they were not caused by gross negligence or intent on the part of the Seller.

## **V. Acceptance and test certificates**

1. The Purchaser shall be obliged to accept and take over the work produced in accordance with the contract, unless acceptance is excluded due to the nature of the work.
2. Goods or products for which acceptance is mandatory or prescribed by the Purchaser shall be accepted at the Supplier's premises. Otherwise, these goods shall be deemed to have been delivered in accordance with the conditions when they leave the premises.
3. The Purchaser shall inquire with us as to the possible date of acceptance. The costs of any experts engaged shall be borne by the Purchaser. If he fails to accept or inspect the goods, if he unreasonably delays acceptance or if he waives acceptance, we shall be entitled to dispatch the goods without acceptance or to store them at the expense and risk of the Purchaser. This shall not constitute an obligation to insure the goods.

## **VI. Warranty/Liability**

1. Claims for defects on the part of the Purchaser shall only exist if the Purchaser has properly fulfilled his obligations to inspect the goods and give notice of defects in accordance with § 377 of the German Commercial Code (HGB).
2. In the event of a defect in the goods for which we are responsible, we shall be obliged to remedy the defect, to the exclusion of the Purchaser's rights to withdraw from the contract or to reduce the purchase price (reduction), unless we are entitled to refuse to remedy the defect on the basis of statutory provisions. The Purchaser shall grant us a reasonable period of time for subsequent performance. Subsequent performance may be effected, at the Purchaser's option, by rectifying the defect (subsequent improvement) or by delivery of new goods. In the event of rectification of the defect, we shall bear the necessary expenses insofar as these are not increased because the subject matter of the contract is located at a place other than the place of performance. If the subsequent performance has failed, the Purchaser may, at his option, demand a reduction of the purchase price (abatement) or declare his withdrawal from the contract. The subsequent improvement shall be deemed to have failed with the second unsuccessful attempt, unless further attempts at subsequent improvement are reasonable and acceptable to the Purchaser due to the subject matter of the contract. The Purchaser may only assert claims for



damages under the following conditions on account of the defect if the subsequent performance has failed. The right of the Purchaser to assert further claims for damages under the following conditions shall remain unaffected.

3. The warranty claims of the Purchaser shall expire one year after delivery of the goods to the Purchaser, unless we have fraudulently concealed the defect; in this case, the statutory provisions shall apply. Our obligations under Section VI No. 4 and Section VI No. 5 shall remain unaffected.
4. In accordance with the statutory provisions, we shall be obliged to take back the new goods or to reduce the purchase price even without setting the otherwise required deadline if the customer of the Purchaser as consumer of the sold new movable goods (purchase of consumer goods) could demand the return of the goods or the reduction of the purchase price from the Purchaser due to the defect of these goods or if the Purchaser is subject to a similar resulting right of recourse. In addition, we shall be obliged to reimburse the Purchaser for expenses, in particular transport, travel, labor and material costs, which the Purchaser had to bear in relation to the end consumer within the scope of subsequent performance due to a defect in the goods existing at the time of the passing of risk from us to the Purchaser. The claim shall be excluded if and to the extent that the duties of inspection and notification of defects owed in the supplier chain pursuant to Section 377 of the German Commercial Code (HGB) have not been fulfilled.
5. The obligation pursuant to Section VI No. 4 shall be excluded if the defect is based on advertising statements or other contractual agreements not originating from us, or if the Purchaser has given a special warranty to the end user. The obligation is also excluded if the Purchaser himself was not obliged to exercise the warranty rights vis-à-vis the end user on the basis of the statutory regulations or did not make this complaint vis-à-vis a claim made against him. This shall also apply if the Purchaser has assumed warranties vis-à-vis the end user which exceed the statutory scope.
6. We shall be liable without limitation in accordance with the statutory provisions for damage to life, limb and health resulting from a negligent or intentional breach of duty by us, our legal representatives or our vicarious agents, as well as for damage covered by liability under the Product Liability Act. For damages which are not covered by Sentence 1 and which are based on intentional or grossly negligent breaches of contract as well as fraudulent intent by us, our legal representatives or our vicarious agents, we shall be liable in accordance with the statutory provisions. In this case, however, the liability for damages shall be limited to the foreseeable, typically occurring damage, unless we, our legal representatives or our vicarious agents have acted intentionally. To the extent that we have given a guarantee of quality and/or durability with regard to the goods or parts thereof, we shall also be liable within the scope of this guarantee. However, we shall only be liable for damage based on the absence of the guaranteed quality or durability, but which does not occur directly to the goods, if the risk of such damage is obviously covered by the guarantee of quality and durability.
7. We shall also be liable for damages caused by simple negligence, insofar as the negligence relates to the breach of such contractual obligations, compliance with which is of particular importance for the achievement of the purpose of the contract (cardinal obligations). However, we shall only be liable insofar as the damage is typically associated with the contract and is foreseeable.
8. Any further liability shall be excluded irrespective of the legal nature of the claim asserted; this shall apply in particular to tortious claims or claims for reimbursement



of futile expenses in lieu of performance; this shall not affect our liability pursuant to Section IV No. 2 to Section IV No. 5 of this contract. Insofar as our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff, representatives and vicarious agents.

9. Claims for damages by the Purchaser due to a defect shall become time-barred one year after delivery of the goods. This shall not apply in the event of injury to life, limb or health for which we, our legal representatives or our vicarious agents are responsible, or if we, our legal representatives have acted with intent or gross negligence, or if our ordinary vicarious agents have acted with intent.
10. In the event of the sale of used goods or other goods that have been sold as declassified material (e.g., so-called II a material), the Purchaser shall not be entitled to any rights in respect of defects unless we are responsible for the defect intentionally or have fraudulently concealed the defect or have assumed a guarantee for the quality of the item.

## **C. Miscellaneous**

### **1. Contract work**

1. In the case of contract work, we guarantee careful and proper processing. If the material supplied by the Purchaser is demonstrably damaged or rendered unusable through our fault, we shall be obliged to supply replacement of the damaged material or compensation for its value. Further claims, in particular claims for damages arising from delay and loss of profit, may only be asserted against us if we have damaged the material intentionally or through gross negligence.
2. If the parts provided by the Purchaser are rejected for material reasons, we shall be entitled to invoice the processing costs incurred by us.

### **2. Partial invalidity**

Should any provision of these terms and conditions of sale and delivery or any provision within the scope of other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements.

## **ADDITIONAL CONDITIONS**

for contract work and machining orders

Our terms and conditions of sale and delivery shall apply to contract work and machining orders with the following additions and modifications:

1. The Purchaser shall deliver the material and the necessary technical documents in due time at his own expense.
2. The material must be flawless and correspond to the specified values.  
If machining has been agreed, it must have normal machining allowances.
3. Additional costs and damages incurred by us due to the fact that the material does not comply with the requirements of point 2 (e.g., porosity, material characteristics, sand inclusions, brittleness, poor surface condition), shall be charged additionally.
4. Scrap, chips and other waste shall become our property. Their value shall be taken into account in the price.
5. Invoices must be paid in cash without deduction immediately upon receipt, excluding the right of set-off and the right of retention.
6. We shall assume the guarantee for proper and careful execution of the work undertaken by us. However, we shall not be liable for damage that is attributable to defects in the material or to errors in the technical documents or other specifications.

In the event of justified notices of defects in due form and time, we shall fulfill our obligation by rectifying the defects. If the material becomes unusable as a result of material defects or otherwise through no fault of our own, we shall be reimbursed by the Purchaser for the costs incurred until the defect was identified.

We are prepared to accept replacement material sent to us free of charge under the terms of this contract in work.

If the material is damaged or rendered unusable through our fault, we shall be obliged to deliver replacement of the damaged material or compensation for the value and shall bear the costs incurred to us up to the time the defect was identified.

All other claims, in particular for damages and replacement of the material, irrespective of their whatever legal grounds, shall be excluded.

Gau-Algesheim, 1.7.2018