

General Terms and Conditions of Contracts and Delivery
of
Henkelhausen GmbH & Co. KG
in business transactions with companies
and public authorities
status February 2024

A. General Terms and Conditions

1. Scope, general

1.1 These General Terms and Conditions of Contracts, Delivery and Services (General T&Cs) of Henkelhausen GmbH & Co. KG (we/us) apply exclusively to companies within the meaning of Section 14 of the German Civil Code (*BGB*) i.e. natural persons or legal entities or partnerships having legal capacity that purchase the goods or service for commercial or professional use. They apply further to entities subject to public law and special funds under public law.

1.2 The terms and conditions set forth below (General T&Cs) apply exclusively to our business relations with our customers, also with respect to information and advice. Where our General T&Cs are implemented in business with a customer, they shall also apply to all further business relations between the customer and ourselves, unless otherwise expressly agreed.

Differing terms and conditions of the buyer and/or ordering party, hereinafter referred to as "**customer/s**", shall only apply if and insofar as expressly acknowledged by us; otherwise they shall be rejected. Our silence regarding such differing terms and conditions shall not be deemed in particular to be acknowledgement or consent, and this shall also apply to future contracts.

Our General T&Cs shall apply in place of any terms and conditions of purchase (**T&Cs of Purchase**) of the customer, also where, according to such terms and conditions of purchase, acceptance of an order is deemed to be the unconditional recognition of the terms and conditions of purchase, or we deliver, after the customer has indicated the validity of its General Terms and Conditions of Purchase, unless we have expressly waived the validity of our General T&Cs vis-à-vis the customer. The exclusion of the customer's General Terms and Conditions shall also apply if the General Terms and Conditions do not include a separate provision on individual regulatory points.

1.3 If framework contracts or other contracts have been concluded with our customers, these shall take precedence. They shall be supplemented by these General T&Cs, unless more specific provisions are agreed therein.

1.4 If claims for damages are specified below, this shall in the same way also mean claims for the reimbursement of expenses within the meaning of Section 284 *BGB*.

2. Information / Advice / Properties of the products and services / Cooperation of the customer

2.1 Information and explanations regarding our products and services provided by ourselves or our distributors shall be provided solely on the basis of our experience to date. They do not constitute any properties or guarantees whatsoever in relation to our products. Values specified in this context shall be deemed average values of our products.

By way of derogation from Section 434 *BGB*, the delivery item shall be free of material defects if it has the properties agreed in the specification according to the contract, in the absence of such the properties listed in the technical data sheet from us at the time of conclusion of the contract, and is suitable for the purpose provided under the contract. Section 434 (3) No 4 (accessories and instructions) and Section 434 (3) No 2 b) (properties from public statements and advertising) as well as Section 434 (3) last paragraph (seller not being bound by public statements) remain unaffected. Further properties of the delivery item, especially (i) customary quality that the buyer can expect of items of this nature, (ii) suitability for customary use (iii) quality of a specimen or sample, shall not be owed by us in the absence of express agreement to the contrary.

2.2 Data of our products without tolerances too as included on our website or in our catalogues and/or brochures are subject to production-related deviations and changes which are customary in the trade and/or customary in the industry, especially due to further developments in production technology and related materials.

2.3 If we provide instructions for use/operating instructions relating to our products and/or services, these shall be drawn up with the care customary in the industry but do not release our customers from the obligation to inspect the products and/or

services carefully regarding their suitability for the purpose intended by the customers. The same shall apply to indications regarding import, customs and certification regulations. The customer shall remain obliged in any case, unless otherwise agreed, to check, on the customer's own responsibility prior to purchase and use of the delivery item, whether our products and/or services can be used for the purpose intended by the customer.

2.4 We assume an obligation to provide advice regarding our products and their use and/or services only on the basis of an expressly agreed, separate consultancy agreement.

2.5 We shall only be deemed to have given a no-fault guarantee if we have expressly designated a property and/or the outcome of performance as "*guaranteed by law*".

2.6 We shall assume no liability for the usability and/or eligibility for approval and/or registration and/or marketability of our products or services for the customer's intended purpose other than liability mandatory by law, unless we have expressly agreed otherwise with the customer. This shall not affect the provision in Art. 11.

2.7 The customer shall be obliged to provide us, as a material duty of cooperation, with all information and data from the customer's sphere required to perform in due time and in full and to provide any cooperation from the customer's sphere in a timely manner and free of charge to enable us to perform according to the contract. This also includes in particular obtaining any necessary official authorisations for performance in due time and notifying us in a timely manner of any authorisation requirements for executing performance according to the contract.

3. Specimens / Documents and data provided / Samples / Estimates of cost

3.1 Properties of specimens or samples shall only become an integral part of the contract if this was *expressly* agreed. The customer is *not* authorised to utilise and pass on samples.

Where goods are sold by us to the customer based on a demonstration specimen or sample under agreement of its properties for the delivery item, deviations therefrom in the goods supplied shall be admissible and shall not give cause for complaints and claims against us, unless otherwise expressly agreed, if they do not have a sustained impact on the normally intended use of the delivered goods and the delivery item complies with any specifications agreed.

3.2 We shall retain all title and copyright to samples, illustrations, images, photos, drawings, data, estimates of cost and other documents about our products and services disclosed or provided to the customer. The customer undertakes not to make the samples, data, photos and/or documents specified in the foregoing sentence available to third parties, unless we give our express consent. The customer shall return them to us immediately on request if an order based on them has not been placed with us. This shall apply if entitlement to retain the above-mentioned items and/or data is not otherwise contractually regulated with us in favour of the customer.

The stipulations in sentences 1 and 2 shall apply accordingly to the customer's documents, drawings or data. We may, however, make them available to such third parties, to whom we are permitted to transfer deliveries and / or services under the contract with the customer or whom we use as vicarious agents or suppliers.

3.3 Our estimates of cost shall only be binding when they are expressly designated as binding and the performance included therein begins immediately after receipt of the estimate of cost by the customer on a contractual basis.

4. Conclusion of contracts / Scope of delivery and service / Procurement risk and guarantee

4.1 Our quotations are subject to change unless they are expressly designated as binding or expressly contain binding commitments or their binding nature was otherwise expressly agreed with the customer. They are requests for purchase orders by the customer and are not binding quotations on our part.

In the case of the customer's positive entry in official embargo directories or violations by the customer of relevant embargo regulations, we shall have the right to break off contract negotiations exempt from liability and to rescind the part of concluded contracts not yet fulfilled exempt from liability.

The customer shall be bound by its purchase order as a contract application for 14 calendar days - in the case of electronic purchase orders 5 working days (in each case at our registered office) - after our receipt of the purchase order, unless the customer must also expect a later acceptance on a regular basis by us (Section 147 BGB). This shall also apply to reorders of the customer.

4.2 A contract is created - also in day-to-day business - only when we confirm the customer's purchase order by order confirmation in writing or text form (i.e. also by telefax or email). Where delivery is made or a service provided within the period by which the customer is bound by the quotation, our order confirmation can be replaced by our delivery or service, whereby the date of shipment of the delivery or provision of the service shall be decisive for this.

Our order confirmation shall only apply subject to the proviso that payment arrears of the customer still outstanding are settled and that any credit assessment of the customer undertaken by us and any examination of a negative export control entry in a relevant embargo list carried out by us does not disclose any negative information.

4.3 In the event of call-off orders or acceptance delays caused by the customer, we shall have the right to procure the material for the entire order and to manufacture the total quantity ordered of agreed delivery items immediately resp. to buy the total quantity ordered. After the order is placed, any change requests from the customer can, therefore, no longer be considered, unless this has been expressly agreed between ourselves and the customer.

4.4 The customer must notify us in writing or in text form (i.e. by telefax or by email) in due time prior to conclusion of the contract of any special requirements of our products. Such notification shall not, however, extend our contractual obligations and liability. Special requirements are requirements which deviate from the properties of such a delivery item agreed with us or declared in our advertising.

Unless otherwise expressly agreed, we shall only be obliged to supply the ordered products as goods which are marketable and eligible for approval in the Federal Republic of Germany.

4.5 We shall only be obliged to deliver from our own stock (obligation to deliver from stock).

4.6 The assumption of a no-fault procurement risk, equivalent to a guarantee within the meaning of Section 276 BGB or a procurement guarantee is not based solely on our obligation to deliver an item which is defined solely by its class.

4.7 We shall only assume such a procurement risk within the meaning of Section 276 BGB by virtue of an express, separate agreement stating "we assume the procurement risk..."

4.8 If there is a delay in the acceptance of the products or in their shipment or the acceptance of our service is delayed for a reason for which the customer is responsible, we shall have the right, after setting an extension and expiry time of 14 calendar days, at our option to request immediate payment of the remuneration or to rescind the contract or refuse performance and request damages in lieu of full performance. The time limit must be given in writing or text form (i.e. by telefax or email). We do not have to refer again in this to the rights under this clause.

In the event of our requesting damages as stipulated above, the damages to be paid shall amount to 20% of the net delivery price in the case of purchase contracts or 20% of the agreed net remuneration in the case of service contracts. The right is reserved for the customer to prove considerably lower damage (more than 10 % lower). There is no connection between the reversal of the burden of proof and the foregoing provisions.

4.9 If the shipment is delayed at the customer's request or for reasons, for which the customer is responsible, we shall have the right to store the goods, beginning upon expiry of the reasonable period set in writing or text form in the notice that the goods are ready for shipment, at the customer's risk of loss and

deterioration of the goods, and to invoice the costs incurred for this at 0.5% of the net remuneration for the stored goods for each full week or part thereof. The stored goods shall only be insured at the customer's specific, express request. This shall not affect the assertion of further rights. The right is reserved for the customer to prove that considerably lower costs (more than 10% lower) were incurred.

Furthermore, we shall have the right, after the foregoing period expires according to sentence 1 of para. 4.8, to dispose of the goods under the contract otherwise, and to make a new delivery to the customer after a reasonable period (= original delivery period plus 14 calendar days scheduling period).

4.10 If an order or call-off for delivery is delayed by the customer, we shall have the right to postpone the delivery by the same period as the customer is behind schedule plus a scheduling period of 4 working days at the place of our registered office.

If a call-off purchase is concluded, the customer's individual call-offs must be received by us at least 6 weeks prior to the requested delivery date unless a shorter call-off or delivery period was expressly agreed. Unless otherwise expressly agreed, the customer shall be obliged to accept the purchased goods in full within one year of receipt of the order confirmation. If the call-offs are not made in due time, we shall have the right to send a reminder about the call-offs and their planning and to set an extension of time for making call-offs and planning of 14 calendar days, which must provide for acceptance within 4 weeks of receipt of our request. If the period expires without effect, we shall have the right to rescind the contract or to claim damages in lieu of performance. We do not have to refer again in this to the rights under this clause. Para. 4.8 (2) shall apply *mutatis mutandis*.

4.11 Unless otherwise expressly agreed in writing or text form or if we are subject to different statutory provisions, we shall only be required to provide user information for our products and a product label in German or, at our option, in English.

4.12 We reserve the right to change the specifications of the goods in so far as this is necessary to comply with legal requirements provided that such change does not cause any deterioration in terms of quality and usability for the usual purpose, and, if fitness for a specific purpose was agreed, for that purpose.

4.13 We shall have the right to make excess or short deliveries of up to 5% of the agreed delivery quantity.

4.14 In addition, we shall have the right to supply products with deviations customary in the trade in terms of quality, dimensions, weight, colour and equipment. Such goods shall be deemed to comply with the contract.

4.15 Purchase orders which do not reach a total order value of at least EUR 35.00 (**minimum order value**) shall not, in the absence of other, express declaration by us, be accepted for delivery by us. The total order value shall be determined by the net invoice price specified at the time of ordering in our respectively valid price list or in the respective price agreement between ourselves and the customer. If a customer places several single purchase orders per shipping point for one delivery date, where each of which in itself does not reach the total order value and which are to be delivered to a single location, such purchase orders shall be combined when determining the total order value. Furthermore, when determining the total order value, only purchase orders which are sent from a single location shall be combined in a single purchase order.

5. Delivery / Place of performance / Delivery time / Default in delivery / Packaging

5.1 Binding delivery dates and periods must be agreed expressly as binding. We shall make every endeavour to meet delivery dates and periods that are not binding or approximate (*circa*, about etc.).

5.2 Periods for delivery and/or service shall begin with the customer's receipt of our order confirmation, in the absence thereof within 3 working days (at our office) after our receipt of the purchase order from the customer and acceptance of the same by us but not before all details about the execution of the order have been clarified between ourselves and the customer *and* all other requirements to be fulfilled by the customer are met, in particular advance payments or securities agreed and cooperation required are made resp. provided in full by the customer. This shall apply to delivery dates and service dates. If the customer has requested changes after placing the order, a new, reasonable delivery and/or service period shall begin when

we confirm the change. Reasonable means a delivery period which corresponds to the originally remaining delivery period plus the period of change negotiations and a scheduling period of 14 calendar days.

5.3 Deliveries and/or services may be made prior to expiry of the delivery/service time. The date of delivery for obligations to be performed at our place of business shall be deemed the date on which the products are reported ready for shipment, otherwise the date on which the products are sent. The date of delivery for obligations to be performed at the customer's place of business shall be deemed the date of handover at the agreed place of delivery.

5.4 If we default in delivery, the customer must first set us a reasonable extension of time for performance of at least 14 calendar days, unless this is unreasonable. If this elapses without result, claims for damages for breach of duty, for whatever reason, shall exist only as stipulated in Art. 11.

5.5 We shall not be in default as long as the customer is in default in fulfilling obligations towards us; this shall also include obligations under other contracts.

5.6 We shall not be obliged to deliver as long as the means of transport to be provided by the customer is not available, unless we have undertaken to provide the means of transport, or it has been agreed that the obligation is to be performed at the customer's place of business. However, we shall in such case have the right, where the shipping order or call-off order can be carried out, to carry out the delivery by our own means of transport or hired means of transport. In this case, the goods shall be transported at the customer's risk.

When unloading and retrieving goods or pallets, the customer shall assist our personnel and/or our vicarious agents if this is necessary and the customer can be expected to do so technically and logistically. In the case of obligations to be performed at the customer's place of business, the unloading of the goods shall be the responsibility of the customer and at the customer's expense.

5.7 If no collection date, which we have confirmed or have to confirm for it to be binding, is specified when the purchase order is placed or acceptance does not take place on the agreed collection date, we shall at our option ship the goods covered by the contract with a carrier commissioned by us or we shall store the goods covered by the contract at the customer's expense. We shall invoice the customer additionally for packaging, transport and insurance costs incurred (the latter if transport insurance was agreed) when the goods are shipped.

Unless otherwise agreed, we shall take back packaging only by reason of and within the scope of our legal obligation.

5.8 In the case of storage, for which we are not responsible, the customer shall pay a lump sum for storage of 0.5 % of the net remuneration each week for the stored goods. The right is reserved for the customer to prove that considerably lower costs (more than 10 % lower) have been incurred.

6. Force majeure / Delivery subject to supply of materials to ourselves

6.1 If we do not receive deliveries or services from our sub-contractors to provide a delivery or service which is due from us under the contract, despite due and proper stocking prior to conclusion of the contract with the customer in terms of quantity and quality under our delivery or service agreement with the customer i.e. in such a way that, upon fulfilment of the supplier obligation towards ourselves, we can fulfil the contract with the customer according to the nature of the goods, quantity of the goods and delivery time and/or service in relation to the goods/service owed by the sub-contractor (*congruent stocking*), they are incorrect or not in due time for reasons for which we are not responsible or events of force majeure occur of significant duration (i.e. of longer than 14 calendar days), we shall notify our customer immediately in writing or text form. In such case, we shall have the right to postpone the delivery/service for the duration of the obstruction or to rescind the contract in whole or in part for the part not yet fulfilled if we have met our foregoing duty to provide information and have not assumed a procurement risk within the meaning of Section 276 BGB or a guarantee of delivery. Events of force majeure are pandemics, epidemics, strikes (also internally initiated), lock-outs, official intervention, energy shortages and shortages of raw materials, transport bottlenecks or obstructions through no fault of our own, company obstructions through no fault of our own, e.g. due to fire, water and damage to machinery, and any other obstructions which, when considered objectively, were not culpably caused by

us. With the above-mentioned release from performance, our obligation to pay damages and/or penalties due to a delay in delivery/service shall also cease to apply.

6.2 If a delivery date or a delivery period is agreed with binding force and the agreed delivery date or the agreed delivery period is exceeded due to events according to para. 6.1., the customer shall have the right, after a reasonable extension of time of 14 calendar days has elapsed without result, to rescind the contract for the part not yet fulfilled. The customer shall have no further claims, especially claims for damages, in this case.

6.3 The above provision according to para. 6.2 shall apply accordingly if, for the reasons stated in para. 6.1, also without contractual agreement of a fixed delivery date, the customer cannot be objectively expected to adhere further to the contract.

7. Shipment / Passing of risk / Acceptance

7.1 Unless otherwise expressly agreed by us with the customer, delivery shall be made ex works Incoterms 2020. In the case of an obligation to be performed at our place of business and an obligation to be performed at our place of business where we must dispatch the goods, the goods shall be transported uninsured at the customer's risk and expense in the absence of other express agreement.

7.2 Unless otherwise agreed, we reserve the right to choose the route and means of transport where shipment is agreed. We shall, however, endeavour to take the customer's wishes into account with respect to the route and type of shipment without, however, the customer having a right to this. Any additional expenses as a result, also where delivery freight paid is agreed, shall, like the transport and insurance costs, be borne by the customer.

If shipment is delayed at the customer's request or through the customer's fault with respect to the agreed date, we shall store the goods at the customer's expense and risk. Para. 5.8 shall apply *mutatis mutandis* in this respect. In such case, notice that the goods are ready for shipment shall be equivalent to shipment.

7.3 The risk of accidental loss or accidental deterioration shall pass to the customer, in the case of an obligation agreed to be performed at our place of business, upon the products to be delivered being handed over to the customer, in the case of an obligation agreed to be performed at our place of business where we must ship the goods, upon the goods being handed over to the forwarding agent, carrier or firms otherwise entrusted with the shipment but at the latest when the goods leave our works, our warehouse, our branch or the manufacturer's works. The foregoing shall also apply if an agreed partial delivery is carried out. Where it has been agreed that the obligation is to be performed at the customer's place of business, the risk shall pass upon the goods being made available for unloading at the agreed place of delivery.

7.4 If a shipment is delayed because we assert our right of retention due to the customer's default in payment in whole or in part or due to another reason for which the customer is responsible, the risk shall pass to the customer at the latest as of the date on which the notice is sent to the customer stating that the delivery is ready for shipment and/or the service can be performed.

7.5 If a service has been agreed, the customer undertakes to accept this immediately after notification of readiness for acceptance. If the customer uses the service commercially for longer than 14 calendar days outside of an agreed functional test, it shall be deemed accepted. Refusal of acceptance for insignificant defects (= defects that do not affect the technical function of the product owed) shall be excluded.

8. Notice of defects / Breach of duty due to material defects (warranty)

8.1 The customer must give us notice in writing or text form of *recognisable* material defects in the delivered goods immediately but at the latest 12 calendar days after collection, in the case of delivery ex works or storage location, otherwise after delivery. Notice of hidden material defects must be given to us in writing or text form immediately after they are detected but at the latest within the period of limitation in respect of warranty pursuant to para. 8.6. Notice of hidden defects must be given to us in writing or text form immediately after they are recognised.

A notice of defects that fails to comply with requirements of time or form shall exclude any claim by the customer for breach of duty due to material defects. This shall not apply in the case of an intentional, grossly negligent or fraudulent act by us, in the

event of injury to life, limb or health or the assumption of a guarantee for the absence of defects or a procurement risk pursuant to Section 276 *BGB* within the meaning of para. 4.6 or other mandatory statutory basis for liability, especially in the case of a claim under the *Produkthaftungsgesetz* [German Product Liability Act] and in the event of right of recourse in the supply chain (Sections 478, 445a *BGB*).

8.2 Material defects recognisable on delivery must also be notified to the delivering transport operator and the customer must arrange the recording of the defects in written or text form by the transport operator on site and have the complaint certified in writing or text form by the transport operator. A notice of defects to the transport operator that fails to comply with requirements of time or certification by the transport operator that fails to comply with requirements of form shall also exclude any claim in this respect by the customer for breach of duty due to material defects. This shall not apply in the case of a fraudulent, intentional or grossly negligent act by us, in the event of injury to life, limb or health or the assumption of a guarantee for the absence of defects, the assumption of a procurement risk pursuant to Section 276 *BGB* within the meaning of para. 4.6 or in the case of liability according to a mandatory statutory basis for liability, especially in the event of a claim under the *Produkthaftungsgesetz* and in the event of the right of recourse in the supply chain (Sections 478, 445a *BGB*).

8.3 When processing, treating, combining or mixing with other items begins, the products delivered by us shall be deemed approved by the customer according to the contract. This shall apply if the products are shipped on from their original destination unless this corresponds to the normal use of the delivered goods.

Before any of the above activities begin or the products delivered by us are otherwise used, the customer shall be obliged to clarify, through inspections that are appropriate in terms of method and scope, whether the delivered products are suitable for the purposes the customer intends.

8.4 *The customer must give notice in writing or text form immediately of other breach of duty by us, setting a reasonable time limit for remedy, before asserting further rights, otherwise this shall cause the customer to forfeit the rights resulting therefrom.* This shall not apply in the case of an intentional, grossly negligent or fraudulent act by us, in the event of injury to life, limb or health or the assumption of a guarantee or a procurement risk pursuant to Section 276 *BGB* within the meaning of para. 4.6 or in the case of a mandatory statutory basis for liability.

8.5 We shall remedy defects notified, for which the customer itself is responsible, and eliminate unjustified complaints at the expense of the customer, if the customer is a registered trader within the meaning of the *Handelsgesetzbuch* [German Commercial Code], without a separate order having to be placed by the customer.

8.6 The period of limitation for claims arising from breach of duty due to defective performance in the form of material defects (warranty claims) is 12 months, unless otherwise expressly agreed, calculated from the date the risk passes (see para. 7.3), in the case of the customer's refusal of receipt or acceptance as of the date of the notice that the goods are ready to be taken over by the customer. This shall not apply to claims for damages resulting from a guarantee, from the assumption of a procurement risk pursuant to Section 276 *BGB* within the meaning of para. 4.6, claims for injury to life, limb or health, a fraudulent, intentional or grossly negligent act by us or if in the cases of Sections 478, 445a *BGB* (recourse in the supply chain), Section 438 (1) No 2 (construction of buildings and delivery of objects for buildings) and Section 634a (1) No 2 *BGB* (building defects) or if otherwise a longer period of limitation is mandatory by law. There is no connection between the reversal of the burden of proof and the foregoing stipulation.

8.7 If the customer or a third party rectifies the products supplied by us incorrectly and the defect is caused by this, we shall not be liable for the resulting consequences. This shall also apply to any changes in the delivery item undertaken without our prior consent.

8.8 Further claims by the customer for or in connection with defects or consequential damages caused by a defect, for whatever reason, shall exist only subject to the provisions of para. 11.

8.9 Our warranty (i.e. claims for breach of duty due to defective performance in the case of material defects) and liability arising

therefrom shall be excluded if defects and damages connected therewith cannot be proved to be due to defective material, defective design or to defective execution or defective manufacturing materials or, if to be provided, defective instructions on use and/or installation instructions. Warranty and liability arising therefrom for breach of duty due to defective performance in particular shall be excluded with respect to the consequences of incorrect use of the delivery item, inappropriate storage conditions of the same and the consequences of mechanical, chemical, electromagnetic or electrolytic influences on the delivery item that do not correspond with influences provided for, which are inherent in the contract. The above shall not apply in the case of a fraudulent, grossly negligent or intentional act by us or injury to life, limb or health, the assumption of a guarantee, a procurement risk pursuant to Section 276 *BGB* within the meaning of para. 4.6 and/or liability according to a mandatory statutory basis for liability.

Any warranty and liability on our part shall be excluded if the customer does not comply with the technical product regulations or instructions for use for the delivery item specified by us according to the contract concluded or our technical product regulations or instructions for use for the delivery item specified in this respect if the defect or damage is based on this.

8.10 Claims by the customer for expenses required for the purpose of supplementary performance, in particular transport, travel, labour and material costs, shall be excluded if the expenses increase because the delivery item has been subsequently transferred to a location other than the customer's delivery branch, unless the transfer corresponds to its intended use. Section 439 (3) *BGB* (seller bears the installation and dismantling costs for defective products) remains unaffected.

8.11 Claims based on defects shall not exist in the case of only an insignificant (i.e. hardly visible/perceptible) deviation from the agreed or customary quality or usability.

8.12 We give no warranty according to Section 478, 445a *BGB* (recourse in the supply chain - recourse against suppliers) if the customer has treated or processed or otherwise changed the products supplied by us under the contract, unless this corresponds to the intended use of the products agreed under the contract.

9. Prices / Payment terms / Objection of uncertainty

9.1 All prices are in principle quoted net in euros, ex works resp. ex warehouse, excluding packaging for shipment by sea or air, freight, postage and, if a transport insurance was agreed, insurance costs, exclusive of value added tax (if incurred by law) which shall be borne by the customer at the legally valid rate when payment is due, exclusive of any country-specific charges in the case of delivery to countries other than the Federal Republic of Germany, and exclusive of customs duties and other fees and public charges for the delivery/service. Unless otherwise agreed with the customer, the valid prices follow from our general price list respectively valid when the contract is concluded between ourselves and the customer.

Cash discount shall be admissible only after the customer's express agreement with us and only in terms of content within the framework of the cash discount agreement.

9.2 Payment methods other than cash payment or bank transfer or payment in euros shall require separate, express agreement between ourselves and the customer. This shall apply in particular to the issue of cheques and bills of exchange.

9.3 If direct taxes or charges are incurred by the customer or ourselves on the service provided by us (withholding tax), the customer shall indemnify us against such taxes and charges. The purchase price shall be payable 14 calendar days after receipt of the invoice but not before handover of the delivery items, in the case of refusal to take delivery, 7 calendar days after receipt of the notice that the goods are ready to be collected.

9.4 If the customer pays in a currency other than euros, payment shall only be satisfied when the foreign currency payment corresponds to the agreed euro amount on the date of receipt of payment.

9.5 Services that are not an integral part of the agreed scope of delivery shall be performed, unless otherwise agreed, on the basis of our respectively valid general price lists for such services at the time of our commissioning. If special requests of the customer are taken into account in respect of type of delivery, delivery route or packaging, the concomitant costs shall be borne by the customer.

9.6 We shall have the right accordingly to increase the remuneration unilaterally where material production costs and/or material costs and/or product procurement costs, wage and ancillary wage costs, social security contributions as well as energy costs and costs due to environmental charges and/or currency regulations and/or changes in customs duties and/or freight rates and/or public charges increase if these have a direct or indirect impact on the manufacturing costs of the goods or procurement costs or costs of our contractually agreed services and if more than 2 months elapse between conclusion of the contract and delivery. An increase as mentioned above shall be excluded if the increase in costs for individual or all of the above-mentioned factors is set off by a reduction in costs for other of the above-mentioned factors with respect to the overall cost burden for the delivery (*balancing*). If the above-mentioned cost factors are reduced, without the reduction in costs being set off against the increase in other of the above-mentioned cost factors, the reduction in costs shall be passed on to the customer through a price reduction.

If the new price based on our right to adjust prices as stated above is 20% or higher than the original price, the customer shall have the right to rescind contracts not yet executed in full for the part not yet fulfilled. The customer can, however, assert this right only immediately after notification of the increased price.

9.7 If, according to the contract, we bear the freight charges by way of exception, the customer shall bear the additional costs arising from increases in freight rates after the contract was concluded.

9.8 Payment periods agreed shall run with effect from the date of delivery.

9.9 Once in default, default interest of 9 percentage points above the respective base interest rate (Section 247 BGB) shall be charged when the claim for payment falls due. We reserve the right to assert damage in excess of this.

9.10 Where a bank transfer is agreed, the date payment is received by us or credited to our account resp. the account of the place of payment specified by us shall be deemed the payment date.

9.11 *The customer's default in payment shall cause all claims for payment under the business relationship with the customer to become due immediately. Regardless of any agreements to defer payments, agreements on the term of bills of exchange and payment by instalment, all the customer's liabilities due to us shall in this case become due for payment immediately.*

9.12 If payment terms are not met or circumstances known or recognisable that, in our proper commercial judgment, give rise to justified doubts as to the customer's creditworthiness, *also including such facts that already existed when the contract was concluded but which were unknown to us or did not have to be known to us*, we shall have the right, notwithstanding further legal rights in such cases, to cease further work on current orders or stop the supply, and to request advance payments or the provision of adequate, customary securities, e.g. in the form of a bank guarantee issued by a German credit institution participating in the Deposit Protection Fund in accordance with German law and with German jurisdiction, for deliveries still outstanding, and, after expiry of a reasonable extension of time to provide such securities without result, to rescind the contract with respect to the part not yet fulfilled, irrespective of other legal rights. The customer shall be obliged to reimburse us for all damages incurred by the non-execution of the contract.

9.13 The customer shall have a right of retention or right of set-off only with respect to those counter-claims that are not disputed or have been recognised by declaratory judgment. This shall apply *mutatis mutandis* if the counter-claim for set-off is in the synallagma (i.e. in the relationship of reciprocity between two performances in the contract concluded with us) with our claim and is based on the violation of a primary obligation by us or our vicarious agents arising from the contractual relationship with us.

9.14 The customer can only exercise a right of retention if its counter-claim relates to the same contractual relationship.

9.15 Incoming payments shall first be used to repay costs, then interest and finally the principal claims according to age.

Any determination to the contrary by the customer when making payment shall be disregarded.

9.16 Timeliness of payment, by whatever means it is made, shall be determined solely by the date on which it is credited to our account. The value date shall be decisive for cheque payments. Payments by the customer must be made in our favour, all postage and charges paid.

10. Retention of title

10.1 We retain title to all goods we deliver (hereinafter referred to as a whole as **"goods subject to retention of title"**) until all our claims under the business relationship with the customer, including claims arising in the future from contracts concluded at a later date, are paid. This shall also apply to any balance in our favour when any or all claims are incorporated by us in a current account and the balance has been established.

10.2 The customer must insure the goods subject to retention of title adequately, in particular against fire, natural hazards and theft. Claims against the insurance arising from an event of damage relating to goods subject to retention of title are herewith already assigned to us in the value of the goods subject to retention of title.

10.3 The customer shall have the right to resell the delivered products in the normal course of business. The customer is not permitted to make other disposals, especially pledging or granting of equitable lien. If the goods subject to retention of title are not paid for immediately by a third-party buyer when resold, the customer shall be obliged to resell under retention of title only. The right to resell the goods subject to retention of title shall cease to apply immediately if the customer suspends its payment or defaults in payment to us.

10.4 The customer herewith already assigns to us all claims including securities and ancillary rights that accrue to the customer against the end user or third parties from or in connection with the resale of goods subject to retention of title. The customer may not reach an agreement with its buyers that excludes or prejudices our rights in any way or nullifies the assignment of the claim in advance. If the goods subject to retention of title are sold with other items, the claim against the third-party buyer amounting to the delivery price agreed between ourselves and the customer shall be deemed assigned unless the amounts applicable to the individual goods can be determined from the invoice.

10.5 The customer shall continue to have the right to collect claims assigned to us until revoked by us, this revocation being admissible at any time. At our request, the customer shall be obliged to give us the information and documents in full which are required to collect assigned claims and, unless we do so ourselves, notify its buyers immediately of the assignment to us.

10.6 If the customer incorporates claims from the resale of goods subject to retention of title in a current account relationship with its buyers, the customer shall already now assign to us any recognised closing balance resulting in its favour in the amount which corresponds to the total amount of the claim from the resale of our goods subject to retention of title, such claim being transferred to the current account relationship.

10.7 The customer must notify us immediately if the customer has already assigned claims to third parties arising from the resale of products delivered or to be delivered by us, especially due to real or unreal factoring, or has made other agreements which can prejudice our current or future security interests according to para. 10. In the case of unreal factoring, we shall have the right to rescind the contract and request products already delivered to be surrendered. This shall also apply to real factoring if, according to the contract with the factor, the customer cannot freely dispose of the purchase price of the claim.

10.8 In the event of conduct in breach of the contract through the customer's fault, especially in the case of default in payment, we shall have the right, after rescinding the contract, to take back all goods subject to retention of title. The customer shall be obliged in this case to surrender the goods subject to retention of title immediately. We may at any time during normal business hours enter the customer's business premises to determine the stock of the goods delivered by us. Taking back goods subject to retention of title shall constitute a rescission of the contract only if we expressly declare this in writing or this is provided for by mandatory statutory provisions. The customer must notify us immediately in writing or text form of any third-party seizure of goods subject to retention of title or claim assigned to us.

10.9 If the value of the securities existing for us according to the foregoing provisions exceeds the secured claims as a whole by

more than 10%, we shall be obliged, at the customer's request, to release securities at our option in this respect.

10.10 Treatment and processing of the goods subject to retention of title shall be carried out for us as manufacturers but without obligation on our part. If the goods subject to retention of title are processed or connected with other items that do not belong to us, we shall acquire co-ownership in the new item in the ratio of the net invoice amount for our goods to the net invoice amounts for the other processed or connected items. If our goods are connected with other movable items into a uniform item that is deemed the principal item, the customer shall already now assign co-ownership thereof to us in the same ratio. The customer shall preserve ownership or co-ownership free of charge on our behalf. Rights of co-ownership accordingly arising shall be deemed goods subject to retention of title. The customer shall be obliged at any time at our request to provide us with the information required to pursue our ownership or co-ownership rights.

10.11 If, in the case of our deliveries to the customer or the agreed transfer point abroad, specific additional measures and/or declarations beyond the agreement of the retention of title are required from the customer in the importing country for the effectiveness of our above-mentioned retention of title or our other rights indicated therein, the customer shall notify us of this in writing or text form immediately after conclusion of the contract and shall take such measures and/or make declarations immediately at its expense. We shall cooperate on this to the required extent. If the law of the importing country does not allow retention of title but allows us to reserve other rights to the delivery item, we can exercise all such rights at our reasonably exercised discretion (Section 315 *BGB*). If such equivalent securing of our claims against the customer is not thereby achieved, the customer shall be obliged at its expense to provide us immediately with a payment guarantee issued by a German credit institution participating in the Credit Protection Fund to the exclusion of failure to pursue remedies and deposit according to German law and with German place of jurisdiction. Section 315 III *BGB* (application for judicial review and adjustment) remains unaffected.

10.12 In the event of attachment or other intervention by third parties, the customer shall notify us immediately in writing or text form to enable us to bring an action pursuant to Section 771 ZPO [German Code of Civil Procedure]. If the third party is not in a position to reimburse us for the judicial and extra-judicial costs of an action pursuant to Section 771 ZPO, the customer shall be liable to us for the loss incurred by us.

11. Exclusion / Limitation of liability

11.1 Subject to the exceptions specified below, we shall not be liable in the case of breach of duty arising from the obligation, in particular not for claims by the customer for damages or reimbursement of expenses, for whatever legal reason.

11.2 The above exclusion of liability pursuant to para. 11.1 shall not apply:

- in the case of own intentional or grossly negligent breach of duty and intentional or grossly negligent breach of duty by legal representatives or vicarious agents;
- in the case of violation of material contractual obligations; *"material contractual obligations" are obligations, the fulfilment of which define the contract and on which the customer may rely;*
- in the event of injury to life, limb and health, also by legal representatives or vicarious agents;
- where we have assumed a guarantee for the quality of our goods or the existence of a contractual performance or a procurement risk pursuant to Section 276 *BGB* within the meaning of para. 4.6;
- in the case of liability under the *Produkthaftungsgesetz* [German Product Liability Act] or other mandatory statutory basis for liability.

11.3 If we or our vicarious agents are responsible only for slight negligence and none of the cases specified in bullet points 3-5 of para. 11.2 above exist, we shall be liable, in the case of violation of material contractual obligations as well, only for damage typical for the contract and for foreseeable damage.

11.4 Our liability is limited for each individual event of damage to a maximum liability coverage of EUR 300,000.00. This shall not apply if we are responsible for fraudulent intent, intent or gross negligence, for claims due to injury to life, limb or health or due to violation of a material contractual obligation and in the case of a claim based on an unlawful (tortious) act or an express, assumed guarantee or assumption of a procurement risk pursuant to Section 276 *BGB* within the meaning of para. 4.6 or in cases of

different higher liability coverage mandatory by law. Any further liability shall be excluded.

11.5 Exclusion resp. limitation of liability according to para. 11.1 to 11.4 above and para. 11.6 shall apply to the same extent in favour of our bodies, our executive and non-executive employees and other vicarious agents as well as our sub-contractors.

11.6 Claims by the customer for damages arising from this contractual relationship can only be asserted within a preclusion period of one year as of commencement of the statutory period of limitation. This shall not apply, if we are responsible for intent or gross negligence, in the case of claims due to injury to life, limb or health and in the case of a claim based on a tortious act or an express, assumed guarantee or the assumption of a procurement risk pursuant to Section 276 *BGB* within the meaning of para. 4.6 or where a longer period of limitation is mandatory by law.

11.7 There is no connection between the reversal of the burden of proof and the foregoing stipulations.

12. Returns

12.1 The return of delivered products is in principle excluded other than in warranty cases i.e. in the case of the delivery of defective products, taking account of the provisions of these General Terms and Conditions of Contracts and Delivery (Art. 8) or other mandatory legal reasons or a right of rescission or reversal, to which the customer is otherwise entitled. An exception shall apply only in such cases where the net invoice amount of the respectively delivered product is at least EUR 35.00 and it is not a case of products custom-made for the customer, electronic components, preset controllers or control devices or if otherwise expressly agreed and we have agreed to the return.

12.2 The condition for a return is the return, carriage paid, and the approval of the returned products after examination carried out by us.

13. Place of performance / Place of jurisdiction / Applicable law

13.1 Place of performance for all contractual obligations is our company's registered office except where an obligation to be performed at the customer's place of business is assumed or as otherwise agreed.

13.2 Any disputes shall be settled, if the customer is a trader within the meaning of the *Handelsgesetzbuch* [German Commercial Code], exclusively before a competent court of law at the location of our company's registered office. For the avoidance of doubt, this jurisdiction regulation in sentence 1 shall also apply to such circumstances between ourselves and the ordering party which can give rise to non-contractual claims within the meaning of Regulation (EC) No 864 / 2007. We shall also have the right, however, to bring an action against the customer at the customer's place of general jurisdiction.

13.3 The law of the Federal Republic of Germany shall apply exclusively to all legal relations between the customer and ourselves, to the exclusion of the UN Sales Convention (CISG). It is expressly stated that this choice of law is also deemed to be such choice within the meaning of Article 14 (1) (b) Regulation (EC) No 864 / 2007 and shall, therefore, also apply to non-contractual claims within the meaning of this Regulation.

If the application of foreign law is mandatory in individual cases, our General Terms and Conditions shall be interpreted as meaning that the economic intent they pursue is preserved to the maximum possible extent.

14. Export control / Product approval

14.1 In the absence of contractual agreements to the contrary with the customer, the delivered goods are intended for placement on the market for the first time within the Federal Republic of Germany or, in the case of delivery outside the Federal Republic of Germany, to the country of first delivery (*first country of delivery*) agreed by the customer with us.

14.2 We advise the customer that European and German foreign trade law applies to the transfer/export of products (goods, software, technology) and to the provision of services with cross-border reference for the fulfilment of the contractual obligation and individual deliveries and technical services can be subject to restrictions and prohibitions under export control law. This applies in particular to so-called armaments and dual-use items. Furthermore, European and other global national embargo regulations exist against certain countries and persons,

companies and organisations which prohibit the supply, provision, transfer, export or sale of goods and the performance of services or can be subject to authorisation. For cross-border delivery resp. provision, administrative authorisations or other certificates may, therefore, have to be obtained by us. Further rights and obligations in this context are respectively governed by the following provisions. For certain transactions in connection with US goods or other US code, US (re-)export law can also apply due to extraterritorial effect and lead to prohibitions or authorisation requirements which we must comply with and implement in order not to be sanctioned on our part by US authorities.

14.3 The customer is itself obliged to verify the existence of and compliance with export and import control regulations for the delivery item and the export and import of the same and to comply strictly with the relevant export regulations and embargos for such goods, in particular of the European Union (EU), Germany resp. other EU Member States and, if applicable, the USA or Asian or Arab countries and all third countries concerned, if the customer exports the products supplied by us or has them exported by us.

14.4 The cross-border return of goods, samples, tools, software, material and also technology in the form of drawings, instructions, data etc. to the customer can also in individual cases be subject to provisions under foreign trade law and be dependent on administrative authorisation procedures. Before transfer of the products and their components and/or accessories supplied by us to the customer into a first country of delivery other than that agreed with us, the customer warrants that it shall obtain the necessary national product approvals or product registrations in due time and that the requirements embodied in the national law of the country concerned for providing user information in the national language as well as all import provisions and export control regulations have been fulfilled.

14.5 Compliance with the delivery obligation can require the approval resp. granting of export licences or transfer authorisations or other foreign trade certificates by the competent authorities.

If we are prevented from delivering in due time due to the duration of the necessary and proper execution of a customs or foreign trade application, authorisation or verification procedure through no fault of our own, the delivery time shall be appropriately extended by the duration of the delay caused by such administrative procedure. We cannot in general specify a fixed period for the above procedures on the part of the authorities. We shall notify the customer in individual cases immediately about such procedures as well as circumstances and measures. Claims for damages by the customer for delays through no fault of our own for this reason shall be excluded vis-à-vis ourselves unless we have assumed a guarantee liability contractually towards the customer.

14.6 The customer is obliged to provide us with full information truthfully in due time in writing or text form concerning the end use and an end user of the goods to be supplied or service to be provided differing from the end user named to us compared with the initial statements, if applicable, immediately after conclusion of the contract. Any delivery period or service period shall not start to run prior to this. This includes in particular issuing any necessary end-use certificates (so-called EUCs) and transmitting the originals to us in order to verify the end-use and intended purpose of the goods or services and to provide proof to the competent authorities for customs and export control purposes. If potential violations of export bans or embargo regulations result from the above-mentioned documents, we shall have the right to rescind the contract without compensation.

14.7 The customer must comply with any re-export requirements arising from authorisations granted to us by the competent authorities or courts. The customer shall accordingly bind its buyers contractually and provide us with proof of this upon request. We shall inform the customer of the scale and scope of such requirements imposed on us at the latest with the delivery.

14.8 If we or already our suppliers are not granted any necessary export licences resp. transfer authorisations or other necessary approvals by the competent authorities through no fault of our own or not in due time or other obstacles prevent the fulfilment of the contract resp. the delivery in whole or in part through no fault of our own due to customs, foreign trade and embargo regulations to be complied with by us as exporter resp. transferor or by our suppliers according to law applicable to them, we shall have the right to rescind the contract resp. withdraw from the individual supply or service obligation unless we have expressly assumed a no-fault guarantee liability for their provision. This

shall also apply if corresponding export control and embargo obstacles only arise through no fault of our own between conclusion of the contract and the delivery resp. performance of the service and in the assertion of warranty rights - e.g. through a change in the legal situation - and make the performance of the delivery resp. service temporarily or permanently impossible. This may be the case because export licences resp. transfer authorisations or other foreign trade authorisations or approvals granted to us or our suppliers are revoked by the competent authorities through no fault of our own or other legal obstacles due to customs, foreign trade and embargo regulations to be complied with prevent fulfilment of the contract resp. the delivery or service through no fault of our own. Claims for damages by the buyer for this reason shall be excluded, unless we have expressly assumed a no-fault guarantee liability for the provision of the above-mentioned authorisations resp. documents.

14.9 The customer shall in particular check and warrant and provide proof to us upon request that

- the products provided are not intended for use in armaments, nuclear facilities or weapon technology;
- no companies and persons specified on the US Denied Persons List (DPL) are supplied with original US goods, US software and US technology;
- no companies and persons specified on the US Warning List, US Entity List or US Specially Designated Nationals List are supplied with original US products without relevant authorisation;
- no companies and persons are supplied who are specified on the List of Specially Designated Terrorists, Foreign Terrorist Organisations, Specially Designated Global Terrorists or the EU Terrorist List or other relevant negative lists for export controls;
- no military recipients are supplied with the products delivered by us;
- no recipients are supplied that violate other export control regulations, especially of the EU or the ASEAN countries;
- all early-warning indications of the competent German or national authorities of the respective country of origin of the delivery are complied with.

14.10 The customer undertakes in turn to prove this obligation to its buyers for the goods supplied by us and to prove this to us on request.

14.11 Goods supplied by us may only be accessed, used and/or exported if the above-mentioned checks and assurances have been carried out resp. provided by the customer; otherwise the customer must refrain from carrying out the intended export and we shall not be obliged to perform.

14.12 Where goods supplied by us are passed on to third parties, the customer undertakes to oblige such third parties in the same way as the customer in para. 14.1-14.11, and to notify them of the need to comply with such legal provisions.

14.13 The customer shall also ensure at its expense, where delivery outside the Federal Republic of Germany is agreed, that the goods to be supplied by us comply with all national import regulations of the first country of delivery fully and in a timely manner without cost to us.

14.14 The customer shall indemnify us against all damages and proven customary and reasonable expenses resulting from culpable breach of the foregoing obligations pursuant to para. 14.1 - 14.13. Costs for own employees are excluded. Section 254 BGB (contributory negligence) remains unaffected.

15. Institution of insolvency proceedings / Incoterms / Written form / Reservation of right of amendment / Severability clause

15.1 A petition for institution of insolvency proceedings of the customer or the customer's suspension of payment not based on rights of retention or other rights despite warning notice shall entitle us, in the event of the customer at that time being in breach of duty with respect to ourselves, to rescind the contract at any time or to make fulfilment of the contract dependent on the prior fulfilment of the payment obligation. In the case of continuing obligations, we shall have the right, in lieu of rescission, of termination without notice. Section 314 BGB remains unaffected. If the delivery item was already delivered or our service already provided, the consideration shall be due immediately in the above-mentioned cases. We shall also have the right to reclaim the delivery item in the above-mentioned cases and to retain it until the purchase price is paid in full.

15.2 If trade terms are agreed according to the International Commercial Terms (INCOTERMS), the INCOTERMS 2020 shall apply.

15.3 All agreements, collateral agreements, assurances and contract amendments shall only be valid when given in writing or text form. This shall also apply to the waiver of the written form requirement. This shall not affect the precedence of an individual agreement in written, text or verbal form (Section 305b *BGB*).

15.4 If any provision of these General Terms and Conditions is or shall become invalid / void or unenforceable in whole or in part for reasons relating to the law of General Terms and Conditions according to Sections 305 to 310 *BGB*, statutory provisions shall apply.

If any current or future provision of the General Terms and Conditions is or shall become invalid / void or unenforceable in whole or in part for reasons other than the provisions relating to the law of General Terms and Conditions according to Sections 305 to 310 *BGB*, this shall not affect the validity of the remaining provisions of these General Terms and Conditions. This shall also apply if, after a contract has been concluded, it is found to have a gap that requires filling.

Contrary to any principle, according to which a severability clause in principle is to reverse the burden of proof only, the validity of the remaining provisions of the contract shall be maintained in all circumstances and, therefore, Section 139 *BGB* waived as a whole.

The parties shall replace an invalid / void / unenforceable provision or gap that requires filling for reasons other than the provisions relating to the law of General Terms and Conditions according to Sections 305 to 310 *BGB* by a valid provision that corresponds in its legal and economic content to the invalid / void / unenforceable provision and the purpose of the contract as a whole. If the invalidity of a provision is due to a measure of performance or time (time limit or date) stated therein, a measure which most closely corresponds to the original measure in a legally admissible way shall be agreed for that provision.

Note:

In accordance with the provisions of the *Datenschutzgesetz* [German Data Protection Act] and the EU GDPR, we draw attention to the fact that contracts are processed at our company on EDP equipment and that we also in this respect store data received as a result of the business relationship with the customer.

Krefeld, February 2024