

**1. Scope of Validity:** Our delivery of goods and services are subject to these Conditions of Sale only. Terms that vary (a) from these Conditions of Sale, including any general conditions of purchaser, or (b) those specified by law, shall only be considered binding if they have been confirmed by us in writing. Our delivery of goods, performance of services or acceptance of payments does not constitute recognition on our part of terms that vary from these Conditions of Sale.

**2. Offers, Contracts:** Our offers are made subject to confirmation. A contract is only formed when we give written order confirmation or when orders are fulfilled by us.

**3. Written Clause:**

**3.1** Amendment, supplement and/or amicable termination of a contract or these Conditions of Sale, including this requirement of written form, must be made in writing and agreed by both parties.

**3.2** Any statement or notification (including notice of termination) issued by purchaser after execution of the contract must be made in writing.

**4. Prices:** Unless otherwise agreed, our prices are quoted ex works and do not include the cost of packing. Value added tax shall be payable additionally at the statutory rate in effect on the invoice date.

**5. Payment, Set-off:**

**5.1** Unless agreed otherwise, payment to us by purchaser has to be effected 5 days after the delivery of goods or the performance of services.

**5.2** Set-off by purchaser is permitted only with claims that are undisputed or have been upheld by final decision of a court of competent jurisdiction.

**6. Place of Performance, Shipment:**

**6.1** The place of delivery of goods or performance of services shall be our place of supply or storage.

**6.2** If shipment has been agreed to be included, we shall ship the goods at purchaser's risk. Furthermore, we shall specify the manner of shipment, shipment route and carrier.

**7. Partial Delivery and Performance:** Partial delivery and performance shall be possible in a reasonable extent.

**8. Delivery Schedules, Delay:**

**8.1** If we fail to comply with the agreed schedules of delivery or performance or other contractual obligations in time, purchaser shall establish an additional delivery period of reasonable length. Such additional delivery period shall be at least three (3) weeks.

**8.2** If delivery or performance does not occur by the end of the additional delivery period and if purchaser for this reason intends to exercise its option to rescind the contract or claim damages instead of delivery, purchaser shall notify us thereof expressly by requesting delivery and establishing a further reasonable period for delivery or performance. Purchaser shall, upon our request, notify us within a reasonable time period, whether purchaser - because of the delay in delivery/performance - rescinds the contract and/or claims damages instead of delivery, or insists on delivery/performance.

**9. Transport Insurance:** We are authorized to cover appropriate transport insurance on behalf and at the expense of the purchaser in an amount at least equal to the invoiced value of the goods.

**10. Retention of Title:**

**10.1** The goods sold shall remain our property until all our claims against purchaser arising from our business relationship with purchaser have been satisfied.

**10.2** If the goods have been processed or finished by purchaser, our retention of title shall extend to the new finished products. If the goods have been processed, combined or mixed by purchaser with goods of others, we acquire joint title pro rata to that part of the new products representing the invoiced value of our goods in relation to the total value of the other goods which have been processed, combined or mixed.

**10.3** In the event our goods are combined or mixed with finished goods of purchaser or of any third party, purchaser hereby assigns to us its rights with regard to such finished goods. If purchaser combines or mixes our goods with finished goods of a third party for a payment, purchaser hereby assigns to us its right to payment from such third party.

**10.4** Purchaser may, in the ordinary course of its business, resell any goods which are subject to our retention of title. If, upon such resale, purchaser does not receive the full purchase price in advance or upon delivery of such goods, it shall agree with its customer a retention of title in accordance with these conditions. Purchaser hereby assigns to us all its claims arising from such resale and its rights arising from the said agreement for retention of title. When requested by us, purchaser shall advise its customer of such assignment of rights and provide us with the information and documents necessary to enforce our rights. Notwithstanding the foregoing, purchaser shall only be entitled to collect payments from claims arising from such resale if purchaser has properly satisfied its liabilities to us.

**10.5** In the event that the security interests granted to us exceed the value of our claims, we shall, when requested, release the security interests as we deem appropriate. In the exercise of our retention of title, a rescission of contract can only be made with our prior express written consent.

**11. Force Majeure:** Conditions of force majeure shall release us from our delivery and performance obligations. The same release shall apply in cases of shortage of energy or raw materials supplies or in cases of industrial disputes, governmental decrees, breakdowns of transport or of our operations or if our suppliers, due to force majeure events or to the foregoing reasons, fail to deliver at all or fail to deliver in a proper or timely manner.

**12. Product Information:** Unless otherwise agreed, the contractual characteristics of our goods shall exclusively be based on our product specifications in their current version. Any information about properties, durability and other data shall represent guarantees only if they are expressly agreed and indicated by us as such in writing. Written and verbal information about our goods, equipment, plant and processes is based on research and our experience in the field of applied engineering. We provide this information, which is accurate to the best of our knowledge, and reserve the right to make modifications and upgrades to it, but assume no liability in respect of it other than as agreed in the terms of an individual contract. The aforesaid shall not release purchaser of its obligation to verify the suitability of our goods and processes for the use intended by pur-

chaser. This shall also apply to the protection of third parties' intellectual property rights as well as applications and processes.

**13. Complaints:** All purchaser complaints, particularly those regarding defect claims, must be submitted to us in writing without delay, but not later than ten (10) days from the delivery of goods or, in the case of latent defects, within ten (10) days from the date such defect(s) is discovered or should have been discovered through the exercise of reasonable investigation. If purchaser does not notify us of complaints or defects within such time period or in the agreed form, our goods and services referred to in the notice which has not been made timely and in the agreed form are deemed to be without defect. If purchaser, knowing of defects, accepts our deliveries or services, purchaser shall only be entitled to complain for such defects if purchaser has expressly reserved such rights in writing at the time of delivery.

**14. Rights of Purchaser in Case of Defects:**

**14.1** Purchaser shall have no right to remedies for a defect in our goods or services if only negligible impairment of the value or the usage of our goods and services exists. In the event of justified and rightfully raised defect claims of the delivered goods or services, we reserve the right, solely at our discretion, to either replace or repair the goods. For this, we shall always have reasonable time to replace or repair. If our repair or replacement fails to remedy the defects, purchaser shall be entitled to either adjust the purchase price or rescind the contract.

**14.2** Furthermore, purchaser may claim damages pursuant to statutory requirements and refund of its actual out-of-pocket expenses necessary for the purpose of repair or replacement. Refund shall be precluded should such expenses be increased because the goods were later transported to a place other than the agreed place of delivery, unless such transport corresponds to the intended use of the goods or has been agreed between the parties. For the avoidance of doubt, Section 15 shall apply to claims for damages and refund under this Section 14.2.

**14.3** Claims by purchaser for recourse against us as provided for by statutory law can only be made to the extent purchaser has not agreed with its customers to provisions exceeding the statutory rights in case of defects. Where such claims are for refund of expenses, Section 14.2 applies accordingly.

**14.4** As far as claims against purchaser have been successful pursuant to the regulations of consumer goods purchases, recovery claims of purchaser by way of recourse demands against us pursuant to the regulations governing consumer goods purchases shall remain unaffected.

**15. Liability:**

**15.1** We, our legal representatives, employees, and persons employed in performing our obligations shall only be liable for damages and claims for expenses of purchaser, irrespective of the legal basis therefor but particularly based on breach of obligations deriving from the contract and/or tort, (i) in case of intentional misconduct or gross negligence (grobe Fahrlässigkeit) on our part, the part of our legal representatives, employees or persons employed in performing our obligations, or (ii) if the breach of our contractual obligations violates the essence of the contract (essential obligations). In case of slight negligence (leichte Fahrlässigkeit) in breach of essential obligations, our liability for damages shall be limited to the foreseeable damage typical for a contract of this nature, and at most to €100,000 or twice the invoiced value of the goods or services in question if this value exceeds €100,000.

**15.2** The aforementioned exclusion or limitation of liability shall not apply in cases of damage to life, body or health or damage to private property under the Product Liability Act (ProdHaftG) or in other cases of mandatory liability.

**16. Time Limits:** Purchaser's right to claim for warranty, damages or expenses shall expire one year from the commencement of the time limit stipulated by law, except for defect claims in relation to goods that were used appropriately in construction and have caused the building to be defective. In such case, the time limit shall be four (4) years. The above time limits shall not apply if we have acted intentionally or in cases of damage to life, body or health or damage to private property under the Product Liability Act (ProdHaftG) or in other cases of mandatory liability.

**17. Compliance with Statutory Regulations, Rescission:**

**17.1** Unless otherwise agreed in writing with purchaser in individual cases, purchaser shall be responsible for compliance with statutory and regulatory requirements for the import, transport, storage, and use of the goods.

**17.2** Where a statutory or regulatory approval requirement applies to the export of our goods/services at the time of delivery/performance and such export approval is not granted upon request, we shall be entitled to rescind the contract.

**17.3** We are also entitled to rescind the contract in the event a product registration obligation applies and registration at the time of delivery/performance has not been applied for or granted.

**18. Declaration of Preferential Origin:** If the purchased goods are subject to customs preferences due to their preferential origin, all declarations regarding the preferential origin of the goods (supplier's declaration, invoice declaration) will be automatically generated and issued by us, valid without signature. We confirm that the declaration of preferential origin will be issued to the purchaser in accordance with our obligations set forth in Art. 5 par. 3 Council Regulation (EC) No. 1207/2001.

**19. Place of Jurisdiction:** If purchaser is a merchant, the place of jurisdiction shall be our commercial domicile. If we institute legal proceedings against purchaser, we shall also have the option to institute legal proceedings at purchaser's place of jurisdiction (allgemeiner Gerichtsstand).

**20. Applicable Law:** The contract and the legal relationship with purchaser shall be governed by the substantive laws of the Federal Republic of Germany.

**21. Trade Terms:** If any trade terms have been agreed pursuant to the International Commercial Terms (INCOTERMS), they shall be interpreted and apply according to INCOTERMS 2000.

**22. Severability:** Should any of these Conditions of Sale be deemed wholly or partly invalid, this shall have no effect on the validity of the remaining conditions.