

1. Scope of application, form

- 1.1. Our following General Terms and Conditions of Supply shall apply to all offers, supplies and services of our company to purchasers (hereinafter referred to as the "Purchaser"). We do not recognise any conflicting or deviating conditions of the Purchaser, even if we do not expressly object to these. Our terms and conditions of business shall also apply if we carry out the delivery to the Purchaser without reservation in the knowledge that the Purchaser's terms and conditions are contrary to or deviate from our terms and conditions. Agreements must be in written form. This also applies to any waiver of the written form requirement itself.
- 1.2. Our contractual partners shall be referred to as the "Purchaser", irrespective of their designation in the legal sense resulting from the respective contract. Our company shall hereinafter be referred to as the "Contractor".
- 1.3. These General Terms and Conditions of Supply shall only apply if the Purchaser is an entrepreneur pursuant to § 14 BGB (German Civil Code), a legal entity under public law or a special fund under public law.
- 1.4. The General Terms and Conditions of Supply shall also apply to all pending and future transactions with the Purchaser insofar as these are legal transactions of a related nature.
- 1.5. The General Terms and Conditions of Supply shall apply in particular to contracts for the sale and/or delivery of movable articles ("goods"), irrespective of whether we manufacture the goods ourselves or purchase these from suppliers (§§ 433, 650 BGB (German Civil Code)). Unless otherwise agreed, the General Terms and Conditions of Supply in the version valid at the time of the Purchaser's order or in any case in the version last notified to the Purchaser in text form shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case.
- 1.6. Individual agreements made with the Purchaser in individual cases (e. g. framework supply agreements and quality assurance agreements) and information in our order confirmation shall in any case take precedence over these General Terms and Conditions of Supply.
- 1.7. Legally relevant declarations and notifications by the Purchaser with regard to the contract (e. g. setting of deadlines, notification of defects, withdrawal or mitigation) shall be made in writing, i.e. in written. Written form within the meaning of these General Terms and Conditions of Supply includes written and text form (e. g. letter, e-mail, fax). Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the person making the declaration, shall remain unaffected.
- 1.8. References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these General Terms and Conditions of Supply.

2. Conclusion of contract, amendment and cancellation

- 2.1. Our offers are subject to change without notice and non-binding, unless expressly agreed otherwise. This shall also apply if we have provided the Purchaser with catalogues, technical documentation (e. g. drawings, plans, calculations, references to DIN standards), other product descriptions or documents, also in electronic form, for which we reserve ownership rights and copyrights. These may not be made accessible to third parties and must be returned to the Contractor in full at the Contractor's request and any copies made must be destroyed if they are no longer required by the Contractor in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. The Purchaser undertakes to make information and documents designated as confidential by the Contractor accessible to third parties only with the Contractor's consent.
- 2.2. The awarding of contracts or placing of purchase orders by the Purchaser shall be deemed to be a binding offer of contract. In the event of subsequent changes to the awarding of the contract or placement of the purchase order, the Purchaser shall be obliged to pay € 110.00 to the Contractor. In the event of cancellation of the order or of an order item, the Purchaser shall be obliged to pay to the Contractor 5 % of the order value or at least € 200.00 plus processing costs and reimbursement of costs for order-related special materials. The proof of Contractor's expenses in excess of the lump sums as aforementioned in 2.2., clause 1 and clause 2, shall remain unaffected; the aforementioned lump sums shall be offset against any further monetary claims of the Contractor. The Purchaser shall be permitted to prove that the Contractor has not incurred any expenses or only significantly lower expenses than the aforementioned lump sums (Par. 2.2., clause 1 and clause 2).
- 2.3. Information provided by the Contractor on the subject of the supply or service (e. g. weights, dimensions, utility values, load-bearing capacity, tolerances and technical data) as well as our representations of the same (e. g. drawings and illustrations) are only approximately authoritative, unless expressly agreed otherwise or the usability for the contractually intended purpose presupposes precise conformance. These are not guaranteed characteristics but are descriptions or identifications of the supply or service. Deviations that are customary in the trade and deviations that occur due to legal regulations or represent technical improvements are permissible insofar as these do not impair the usability for the contractually intended purpose.
- 2.4. Our employees or sales representatives are not authorised to give verbal assurances that go beyond the contents of the written contract.

3. Delivery, transfer of risk, acceptance, default of acceptance

- 3.1. We normally deliver "DAP" (INCOTERMS 2020) or "FCA" (INCOTERMS 2020). Unless otherwise stated in our order confirmation or otherwise agreed in individual cases, delivery is agreed "EXW" (INCOTERMS 2020).
- 3.2. Unless otherwise stated in our order confirmation or otherwise agreed in individual cases,

- the type of shipment and packaging shall be at the discretion of the Contractor and
 - the shipment shall only be insured by the Contractor against theft, breakage, transport, fire and water damage or other insurable risks at the express request of the Purchaser and at the Purchaser's expense.
- 3.3. The Contractor shall be entitled to make partial deliveries if
 - the partial delivery can be utilised by the Purchaser within the scope of the contractual intended use,
 - the delivery of the remaining ordered goods is ensured and
 - the Purchaser does not incur any substantial additional expenses or costs as a result (unless the Contractor has declared readiness to bear these costs).
 - 3.4. Unless otherwise stated in our order confirmation or otherwise agreed in individual cases, the risk shall pass to the Purchaser at the latest upon handover of the delivery item (whereby the start of the loading process shall be decisive) to the forwarding agent, carrier or other third party designated to carry out the shipment. This shall also apply if partial deliveries are made or the Contractor has assumed other services (e. g. shipping or installation). If the shipping or the handover is delayed due to a circumstance the cause of which lies with the Purchaser then the risk shall pass to the Purchaser from the day on which the delivery item is ready for dispatch and the Contractor has notified the Purchaser of this.
 - 3.5. Insofar as an acceptance has been expressly agreed, this shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall also apply to an agreed acceptance. Hand-over or acceptance shall be deemed to have taken place if the Purchaser is in default of acceptance.
 - 3.6. If the Purchaser is in default of acceptance, fails to cooperate or if our delivery is delayed for other reasons for which the Purchaser is responsible, we shall be entitled to demand compensation for the resulting damage including additional expenses (e. g. storage costs). In the event of storage by the Contractor, the storage costs shall amount to (0.25 %) of the invoice amount of the delivery items to be stored per expired week. The proof of greater damages and our legal claims (in particular compensation for additional expenses, reasonable compensation, cancellation) shall remain unaffected; however, the lump sum shall be credited against further monetary claims. The Purchaser shall be permitted to prove that the Contractor has incurred no damages whatever or only significantly lower damages than the aforementioned lump sum.

4. Delivery period and delay in delivery

- 4.1. Periods and dates for deliveries and services proposed by the Contractor shall always apply only approximately, unless a fixed period or a fixed date has been expressly promised or agreed. If shipment has been agreed, delivery periods and delivery dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned with the transport.
- 4.2. The Contractor may, without prejudice to its rights arising from default on the part of the Purchaser, demand from the Purchaser an extension of delivery and performance periods or a postponement of delivery and performance dates by the period of time during which the Purchaser fails to meet its contractual obligations towards the Contractor.
- 4.3. The delivery period shall be deemed to have been complied with if the delivery item has left the Contractor's works or notification of readiness for dispatch has been given by the time the delivery period expires. Insofar as acceptance is to take place, the acceptance date, or alternatively the notification of readiness for acceptance, shall be decisive except in the case of justified refusal of acceptance.
- 4.4. If we are unable to meet binding delivery periods for reasons for which we are not responsible (non-availability of performance), we shall inform the Purchaser of this without delay and simultaneously notify the Purchaser of the anticipated new delivery period. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the Purchaser. A case of non-availability of the service in this sense shall be deemed in particular to be the non-timely self-delivery by our supplier if we have concluded a congruent covering transaction, neither we nor our supplier are at fault or we are not obliged to procure in the individual case.
- 4.5. The occurrence of our delay in delivery shall be determined in accordance with the statutory provisions. In each case, however, a reminder by the Purchaser is required. Should we default on delivery, the Purchaser may demand lump-sum compensation for damages caused by the delay. The lump-sum damages shall amount to 0.5 % of the net price (delivery value) for each completed calendar week of the delay, but in total not more than 5 % of the delivery value of the delayed delivered goods. We reserve the right to prove that the Purchaser has incurred no damages whatever or only significantly lower damages than the aforementioned lump sum.
- 4.6. The rights of the Purchaser in accordance with Par. 9 of these General Terms and Conditions of Supply and our statutory rights, in particular in the event of an exclusion of the obligation to perform (e. g. due to impossibility or unreasonableness of the performance and/or subsequent fulfilment) shall remain unaffected.

5. Force majeure

- 5.1. Without prejudice to Par. 4.4, the delivery periods shall be reasonably extended if non-compliance with the delivery periods is due to:
 - a) force majeure (such as natural disasters, riots, official measures, plagues including epidemics and pandemics (insofar as a risk level of at least "moderate" is determined by the Robert Koch Institute, Nordufer 10, DE 13353 Berlin,) as well as in the event of transport disruption, strikes, lockouts or other unforeseeable extraordinary circumstances for which we are not responsible and which make it significantly more difficult or impossible for us to fulfil our contractual obligations such as
 - b) cyber attacks, virus attacks and other attacks by third parties on the Contractor's IT system, insofar as these occurred despite compliance with the usual diligence with protective measures,

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- c) obstacles due to German, US American and other applicable national, EU or international regulations of foreign trade law or due to other circumstances for which the Contractor is not responsible.
- 5.2. Should events occur in accordance with Par. 5.1, we shall inform the Purchaser thereof without delay and simultaneously notify the Purchaser of the expected new delivery period. If the service is also not available within the new delivery period, we shall be entitled to withdraw from the contract in whole or in part; we shall immediately refund any consideration already paid by the Purchaser.
- 5.3. If a delivery date or a delivery period has been bindingly agreed and if the agreed delivery date or the agreed delivery period is exceeded due to events in accordance with Par. 5.1, the Purchaser shall be entitled to withdraw from the contract due to the part not yet fulfilled after the fruitless expiry of a reasonable grace period. Further claims of the Purchaser, in particular claims for damages, are excluded in this case.
- 5.4. The foregoing provision in accordance with Par. 5.3. shall correspondingly apply if, for the reasons stated in Par. 5.1. even without a contractual agreement on a fixed delivery date, it is objectively unreasonable for the Contractor to continue to adhere to the contract.
- 6. Prices, terms of payment, invoices**
- 6.1. Unless otherwise agreed in individual cases, our current prices at the time of conclusion of the contract shall apply. Additional or special services will be charged separately. The prices apply to the scope of services and deliveries listed in the order confirmations.
- 6.2. As a rule, our prices are "DAP" (INCOTERMS 2020) or "FCA" (INCOTERMS 2020). Unless otherwise stated in our order confirmation or otherwise agreed in individual cases, our prices are "EXW" (Incoterms 2020) excluding packaging; this will be invoiced separately.
- 6.3. The statutory value added tax is not included in our prices; it will be shown separately in the invoice at the statutory rate on the day of invoicing.
- 6.4. The deduction of a discount requires a separate written agreement.
- 6.5. Unless otherwise stated in the order confirmation or otherwise agreed in individual cases, the net purchase price (without deduction) shall be due for payment within 30 days of the invoice date. However, we shall be entitled at any time, even within the framework of an ongoing business relationship, to make a delivery in whole or in part against advance payment only. We shall declare a corresponding reservation at the latest with the order confirmation.
- 6.6. Upon expiry of the aforementioned payment deadline, the Purchaser shall be in default. During the period of default, interest is to be paid at the applicable statutory default interest rate. We reserve the right to assert further damages caused by delay. With respect to merchants, our claim to the commercial due date interest (see also § 353 HGB (German Commercial Code)) shall remain unaffected.
- 6.7. The Purchaser shall only be entitled to offset rights or rights of retention to the extent that a claim has been legally established or is undisputed. In the event of defects in the delivery, the opposing rights of the Purchaser shall remain unaffected.
- 6.8. The Contractor shall be entitled to perform or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, it becomes aware of circumstances which are likely to substantially reduce the Purchaser's creditworthiness and as a result of which the payment of the Contractor's outstanding claims arising from the respective contractual relationship (including from other individual orders to which the same framework agreement applies) is jeopardised.
- 6.9. The Contractor shall be entitled to demand from the Purchaser that in the event of cost increases which occur in particular due to changes in material and energy prices, agreement is reached on a new price taking into account the cost increases. Conversely, if cost reductions occur, the Purchaser may assert this against the Contractor and a new price shall likewise be agreed, taking into account the cost reductions.
- 7. Retention of title**
- 7.1. The delivered items (goods subject to retention of title), for which the purchase price claim is due immediately or for which a payment period of up to and including 30 days after delivery, delivery with installation / assembly or receipt of invoice has been agreed for the due date of the purchase price claim, shall remain the property of the Contractor until payment has been made in full.
- 7.2. In all other cases, the delivered items (goods subject to retention of title) shall remain the property of the Contractor until all outstanding claims against the Purchaser arising from the business relationship have been fulfilled. If the value of all security interests to which the Contractor is entitled exceeds the amount of all secured claims by more than 20%, the Contractor shall release a corresponding part of the security interests at the Purchaser's request; the Contractor shall be entitled to choose between different security interests when releasing these security interests.
- 7.3. During the existence of the retention of title, the Purchaser is prohibited from pledging or transferring ownership by way of security and further sale is only permitted to resellers in the ordinary course of business and only on condition that the reseller receives payment from its customer or makes the reservation that ownership is not transferred to the customer until the Purchaser has fulfilled its payment obligations.
- 7.4. If the Purchaser resells goods subject to retention of title, it thereby assigns its future claims against its customer from the resale with all ancillary rights (including any outstanding balance claims) to the Contractor by way of security without the need for any further special declarations. If the goods subject to retention of title are resold together with other items without an individual price having been agreed for the goods subject to retention, the Purchaser shall assign to the Contractor that part of the total price claim which corresponds to the price of the goods subject to retention as invoiced by the Contractor.
- 7.5. a) The Purchaser is permitted to process the goods subject to retention or to mix or combine these with other objects. The processing is carried out for the Contractor. The Purchaser shall store the resulting new item for the Contractor with the due care of a diligent businessman. The new item shall be deemed to be goods subject to retention of title.
b) The Contractor and the Purchaser already agree that in the event of combining or mixing with other items not belonging to the Contractor, the Contractor shall in any case be entitled to co-ownership of the new item in the amount of the share resulting from the ratio of the value of the combined or mixed goods subject to retention to the value of the other goods at the time of combining or mixing. To this extent the new item shall be deemed to be goods subject to retention of title.
- c) The provision on the assignment of claims under Par. 7.4. shall also apply to the new item. However, the assignment shall only apply up to the amount corresponding to the value of the processed, combined or mixed goods subject to retention as invoiced by the Contractor.
- d) If the Purchaser combines the goods subject to retention of title with real estate or movable property then it shall also assign, without the need for further special declarations, its claim to which it is entitled as remuneration for the combining, together with all ancillary rights, to the Contractor by way of security in the amount of the ratio of the value of the combined goods subject to retention of title to the other combined goods at the time of the combination.
- 7.6. Until revoked, the Purchaser is authorised to collect assigned claims from the resale. In the event of good cause, in particular default on payment, cessation of payments, opening of insolvency proceedings, protest of a bill of exchange or justified indications of over-indebtedness or impending insolvency of the Purchaser, the Contractor shall be entitled to revoke the Purchaser's collection authorisation. Furthermore, the Contractor may, after prior warning and observance of a reasonable period of time, disclose the security assignment, realise the assigned claims and demand the disclosure of the security assignment by the Purchaser to the customer.
- 7.7. In the event of seizures, confiscations or other dispositions or interventions by third parties, the Purchaser shall inform the Contractor without delay. If a justified interest is substantiated, the Purchaser shall immediately provide the Contractor with the information required to assert its rights against the customer and hand over the necessary documents.
- 7.8. In the event of breaches of duty by the Purchaser, in particular default on payment, the Contractor shall, following the unsuccessful expiry of a reasonable deadline set for the client to perform, be entitled to withdraw from the contract in addition to repossessing the goods; the statutory provisions on the dispensability of setting a deadline shall remain unaffected. The Purchaser is obliged to surrender the goods. The repossession or assertion of the retention of title or the seizure of the goods subject to retention by the Contractor shall not constitute a withdrawal from the contract unless the Contractor has expressly declared this.
- 8. Liability for defects, reimbursement of expenses**
- 8.1. Claims for defects on the part of the Purchaser presuppose that the Purchaser has properly fulfilled its obligations to inspect and give notice of defects in accordance with § 377 HGB (German Commercial Code). At the request of the Contractor, a rejected delivery item shall be returned to the Contractor carriage paid. In the event of a justified complaint, the Contractor shall reimburse the costs of the most favourable dispatch route; this shall not apply insofar as the costs increase because the delivery item is located at a place other than the place of intended use.
- 8.2. In the event of material defects in the delivered items, the Contractor shall first be obliged and entitled to rectify the defect or to make a replacement delivery at its discretion within a reasonable period of time. The Contractor's right to refuse retrospective fulfilment under the statutory preconditions shall remain unaffected. Furthermore, the Contractor shall be entitled to make the retrospective fulfilment owed dependent on the Purchaser paying the purchase price due. The Purchaser shall, however, be entitled to retain an appropriate part of the purchase price in relation to the defect. In the event of failure, i.e. impossibility, unreasonableness, refusal or unreasonable delay of the rectification or replacement delivery, the Purchaser may withdraw from the contract or reasonably reduce the purchase price. In the case of an insignificant defect, however, there is no right of withdrawal.
- 8.3. If a defect is due to the fault of the Contractor, the Purchaser may demand compensation for damages under the specific conditions as set out in Par. 9.
- 8.4. In the event of defects in components from other manufacturers which the Contractor cannot rectify for licensing or practical reasons, the Contractor shall, at its discretion, assert its warranty claims against the manufacturers and suppliers for the account of the Purchaser or assign them to the Purchaser. Warranty claims against the Contractor in the event of such defects shall only exist under the other preconditions and in accordance with these General Terms and Conditions of Supply if the legal enforcement of the aforementioned claims against the manufacturers and suppliers was or, e. g. due to insolvency, is futile. For the duration of the legal dispute, the statute of limitations of the relevant warranty claims of the Purchaser against the Contractor shall be suspended.
- 8.5. The warranty shall be cancelled if the Purchaser modifies the delivery item or has it modified by a third party without the Contractor's consent thus making it impossible or unreasonably difficult to remedy the defect. In any case, the Purchaser shall bear the additional costs of remedying the defect resulting from the change.
- 8.6. The expenses necessary for the purpose of inspection and retrospective fulfilment, in particular transport, travel, labour and material costs as well as, where applicable, dismantling and installation costs shall be borne or reimbursed by the Contractor in accordance with the statutory provisions if a defect is actually present. Failing which, the Contractor may demand reimbursement from the Purchaser of the costs incurred as a result of the unjustified request to remedy the defect (in particular inspection and transport costs), if the Purchaser knew or was negligent in not knowing that there was actually no defect.
- 8.7. The Purchaser's claim to recourse against the Contractor pursuant to § 445a BGB (German Civil Code (seller's recourse)) shall only exist to the extent that the Purchaser has not entered into any agreements with its customer that go beyond the statutory claims for defects. Claims from supplier recourse are excluded if the defective goods have been further processed by the Purchaser or another business person, e. g. by installation in another product. The special statutory provision pursuant to section 478 BGB (German Civil Code) shall remain unaffected.
- 8.8. The Purchaser's claims for damages or reimbursement of futile expenses shall only exist even in the event of defects in accordance with Par. 9. (Other liability) and are otherwise excluded.

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9. Other liability

- 9.1. The liability of the Contractor for damages, irrespective of the legal grounds, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties during contractual negotiations and tortious acts as well as other consultations (see also hereinafter Par 9.6.) shall be limited in accordance with this Par. 9, insofar as there is fault in each case.
- 9.2. The Contractor shall not be liable in the event of simple negligence on the part of its organs, legal representatives, employees or other vicarious agents, insofar as this does not involve a breach of material contractual obligations. Material contractual obligations are the obligation to deliver and install the delivery item in due time, its freedom from defects of title as well as such material defects that impair the requirements placed on it under § 434 (German Civil Code) more than merely insignificantly, as well as advisory, protective and custodial obligations that are intended to enable the Purchaser to use the delivery item in accordance with the contract or are intended to protect the life and limb of the Purchaser's personnel or to protect the Purchaser's property from significant damage.
- 9.3. Insofar as the Contractor is liable for damages on the grounds in accordance with Par. 9.2, this liability shall be limited to damages which the Contractor foresaw as a possible consequence of a breach of contract at the time of conclusion of the contract or which it should have foreseen by exercising due care. Indirect damage and consequential damage resulting from defects in the delivery item are also only eligible for compensation insofar as such damage is typically to be expected when the delivery item is used for its intended purpose.
- 9.4. The aforementioned exclusions and limitations of liability shall apply to the same extent in favour of the organs, legal representatives, employees and other vicarious agents of the Contractor.
- 9.5. Insofar as the Contractor provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by him, this shall be done free of charge. For such information or advice, however, the liability provision under this Par. 9 shall apply.
- 9.6. The limitations of this Par. 9 shall not apply to the Contractor's liability for intentional and grossly negligent conduct, for guaranteed characteristics, for injury to life, limb or health or under the Product Liability Act.

10. Statute of limitations

- 10.1. Notwithstanding § 438 Section 1 No. 3 BGB (German Civil Code), the general limitation period for claims arising from material defects and defects of title shall be one year from delivery. Insofar as acceptance has been agreed, the limitation period shall commence upon acceptance.
- 10.2. If the goods are an item that has been used for a building in accordance with its customary application and has caused its defectiveness (building material and component), the limitation period is 5 years from delivery in accordance with the statutory regulation (§ 438 Section 1 No. 2 BGB (German Civil Code)). Other special statutory provisions on the statute of limitations shall remain unaffected (esp. § 438 Section 1 No. 1, Section 3, §§ 444, 445b BGB (German Civil Code)).
- 10.3. The above limitation periods of the law on sales also apply to contractual and non-contractual claims for damages (as well as with regard to advice in accordance with Par. 9.6.) of the Purchaser which are based on a defect of the goods or the advice or information, unless the application of the regular statutory limitation period (§§ 195, 199 BGB (German Civil Code)) would lead to a shorter limitation period in the individual case. Mandatory statutes of limitation remain unaffected.
- 10.4. Claims for reimbursement of expenses of the Purchaser pursuant to § 445a BGB (German Civil Code (recourse of the seller)) shall likewise become time-barred in accordance with Par. 10.1. (1 year from delivery or acceptance), provided that the last contract in the supply chain is not a purchase of consumer goods.
- 10.5. The statutory provisions on expiry, suspension and recommencement of time limits shall remain unaffected.

11. Industrial property rights

- 11.1. The Contractor avouches in accordance with this Par. 11 that the delivery item is free from industrial property rights or copyrights of third parties. Each contracting party shall notify the other contracting party in writing without delay if claims are asserted against it for the infringement of such rights.
- 11.2. In the event that the delivery item infringes an industrial property right or copyright of a third party, the Contractor shall, at its discretion and at its expense, modify or replace the delivery item in such a way that third party rights are no longer infringed but that the delivery item continues to fulfil the contractually agreed functions, or procure the right of use for the Purchaser by concluding a licence agreement with the third party. If the Contractor does not succeed in doing so within a reasonable period of time, the Purchaser shall be entitled to withdraw from the contract or to reduce the purchase price appropriately. Any claims for damages on the part of the Purchaser shall be subject to the limitations set out in Par. 9 of these General Terms and Conditions of Supply.
- 11.3. In the event of infringements of rights by products of other manufacturers supplied by the Contractor, the Contractor shall, at its discretion, assert its claims against the manufacturers and upstream suppliers for the account of the Purchaser or assign them to the Purchaser. In these cases, claims against the Contractor shall only exist in accordance with this Par. 11 if the legal enforcement of the aforementioned claims against the manufacturers and upstream suppliers was unsuccessful or is futile, e. g. due to insolvency.

12. Take-back / export control / product approval / import regulations

- 12.1. In the absence of divergent contractual agreements with the Purchaser, the delivered goods are intended to be placed on the market for the first time within the Federal Republic of Germany or, in the case of delivery outside of the Federal Republic of Germany, to the agreed country of first delivery (first country of delivery).
- 12.2. The export by the Purchaser of certain goods from there may be subject to authorisation, e. g. due to their nature or their intended use or final destination. The Purchaser is itself obliged to check this and to strictly observe the relevant export regulations and embargoes for these goods, in particular those of the European Union (EU), Germany or other EU member states and also, where applicable, the USA or

Asian or Arabic countries and all third countries affected, insofar as it exports the products supplied by us or has them exported by third parties.

In addition, the Purchaser is obliged to ensure that, prior to shipment to a country other than the first country of delivery agreed with us, the necessary national product approvals or product registrations are obtained by the Purchaser and that the requirements for the provision of user information in the national language and also all import regulations enshrined in the national law of the country concerned are fulfilled.

- 12.3. The Purchaser shall in particular check and ensure and provide evidence to us upon request, that
- the products consigned are not intended for use in armaments, nuclear technology or weapons technology;
 - no companies and persons named on the US Denied Persons List (DPL) are supplied with US originating goods, US software and US technology;
 - no companies and persons named on the US Warning List, US Entity List or US Specially Designated Nationals List are supplied with US originating products without the relevant authorisation;
 - no companies and persons are supplied who are named in the list of Specially Designated Terrorists, Foreign Terrorist Organizations, 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 we deliver;
 - no recipients are supplied who are in breach of other export control regulations, in particular those of the EU or the ASEAN states;
 - all early warning notices issued by the competent German or national authorities of the respective country of origin of the supply are observed.

The above negative lists are the negative lists in their respective current version.

- 12.4. Access to and use of goods delivered by us may only take place if the above mentioned checks and safeguards have been carried out by the Purchaser; otherwise the Purchaser must refrain from the intended export and we are not obligated to perform.
- 12.5. In the event that the goods delivered by us are passed on to third parties, the Purchaser is obligated undertakes to obligate these third parties in the same manner as in Pars. 12.1.-12.4. and to inform them of the necessity of activating such legal provisions.
- 12.6. In the event of agreed delivery outside of the Federal Republic of Germany, the Purchaser shall ensure at its own expense that all national import regulations of the country of first delivery are fulfilled with regard to the goods to be delivered by us.
- 12.7. The Purchaser shall indemnify us against all damages and expenses resulting from the culpable breach of the aforementioned obligations in accordance with Pars. 12.1.-12.6.

13. Place of jurisdiction, applicable law

- 13.1. The law of the Federal Republic of Germany shall apply to these General Terms and Conditions of Supply and the contractual relationship between the Contractor and the Purchaser to the exclusion of international uniform law and in particular the UN Convention on Contracts for the International Sale of Goods.
- 13.2. Where the Purchaser is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive and also international place of jurisdiction for all disputes arising from the contractual relationship shall be the court having jurisdiction for the Contractor's place of business in DE 09390 Gornsdorf. The same shall apply where the Purchaser is an entrepreneur within the meaning of § 14 BGB (German Civil Code). However, in all cases we shall also be entitled to bring an action at the general place of jurisdiction of the Purchaser. Overriding statutory provisions, in particular on exclusive competencies, shall remain unaffected.
- 13.3. Customary trade terms shall be interpreted in accordance with the relevant applicable INCOTERMS of the International Chamber of Commerce (ICC) in Paris.