General Terms of Sale and Delivery
Status: July 2018

1. Area of Application/ General Information

1.1 These General Conditions of Contract, Delivery and Performance (GCCDP) shall apply exclusively to companies in terms of section 14 of the German Civil Code (BGB), that is, natural persons or legal entities that purchase the goods or services for commercial or professional use.

1.2 For the business relationship with our Customers, including information and advice, only the following Conditions (GCCDP) shall apply.
Terms and Conditions of the Customer and/or person or entity placing the order – hereinafter referred to as the "Customer(s)" – shall only apply if and to the extent that we acknowledge these expressly in writing. It shall be noted that our silence with regard to such differing Terms and Conditions shall not be taken as our acknowledgement or consent. The same shall apply with respect to future contracts.
Our GCCDP shall also apply instead of any Conditions of Purchase valid for the Customer if, according to the latter, the acceptance of the order is stipulated as the unconditional recognition of the Conditions of Purchase or if we deliver after the Customer has advised that its General Conditions of Purchase apply, unless we have expressly waived the application of our GCCDP. The exclusion of the Customer's General Terms and Conditions shall also apply if the General Terms and Conditions do not contain any separate provisions concerning individual points of regulation. By accepting our order confirmation, the Customer expressly acknowledges that it waives its legal objection deriving from the Conditions of Purchase.

1.3 If claims for damages are mentioned in the following, this likewise refers to claims for compensation for expense in terms of section 284 BGB.

2. Information/Advice/Features of Products and Services/Acts of Cooperation by the Customer

2.1 Information and explanations concerning our products and services are provided by us or our intermediaries based exclusively on our experience to date. They do not represent any features or guarantees whatsoever with regard to our products. The values given in this case are to be viewed as average values of our products.
Unless expressly agreed otherwise, we shall not be responsible for our products and/or services being suitable for the purpose intended by the Customer.
Information in brochures, instructions and similar publications solely represents general statements and product descriptions. No promises with regard to features or guarantees can be derived from this information unless specific features are expressly listed in the brochures as being assured.

2.2 We shall only assume a consultancy obligation expressly on the strength of a separate, written consultancy contract.

2.3 A guarantee shall only be regarded as accepted by us if we have designated a feature and/or contractual performance as "legally guaranteed".

2.4 If the Customer does not issue us with information concerning the concrete application of the goods ordered for the purpose intended by the Customer, we shall not be liable for inaccuracies or errors in our information which result from this.

3. Specimen Copies/Documents and Data Surrendered/Samples/ Quotations

3.1 The features of samples or specimen copies shall only become part of the contract if this is expressly agreed in writing. The Customer shall not be entitled to turn to account or pass on samples.
If we make a sale based on a commercial sample, deviations from this in the goods delivered shall be admissible and shall not justify complaints or claims against us if these deviations are customary to the trade and the goods delivered comply with any agreed specifications, unless otherwise agreed.

3.2 We shall reserve all property rights and copyrights to samples, images, drawings, data, quotations and other documents with regard to our products and services which have been disclosed or transferred to the Customer. The Customer shall undertake not to make the samples, data or documents mentioned in the previous sentence accessible to third parties unless we grant our express written consent. These are to be returned to us on request if we are not issued a request on this basis.

4. Conclusion of the Contract/Scope of Delivery and Performance/ Procurement Risk and Guarantee

4.1 Our offers shall be non-binding unless they are expressly marked as binding or contain expressly binding promises or the obligation is expressly agreed in another way. They are invitations to place orders.
The Customer shall be bound to its order as an application for a contract 15 working days after we have received the order, provided that the Customer does not also routinely have to reckon with later acceptance by us (section 147 BGB). This shall also apply to any follow-up orders placed by the Customer.

4.2 A contract shall not be concluded until we confirm the Customer's order in writing or in text form (i.e. including by fax or email) with an order confirmation. This shall also apply to day-to-day business. The order confirmation shall only apply on condition that Customer arrears that are still outstanding are settled and that a credit check that we make with regard to the Customer reveals no unfavourable information.
In the case of delivery or performance within the Customer deadline pertaining to the offer, our order confirmation can be replaced by our delivery, whereby the dispatch of the delivery shall be decisive.
Changes to the Customer's order shall require our express acceptance. Changes shall no longer be possible if the goods ordered have already been manufactured.

4.3 The Customer is to advise us of any special requirements with regard to our products in writing in sufficient time before the conclusion of the contract. However, information of this kind does not extend our contractual obligations or liability.
Unless expressly agreed otherwise, we shall solely be obligated to deliver the products ordered as goods that are marketable and licensable in the Federal Republic of Germany.

4.4 We shall solely be obligated to provide from our own stock of goods (obligation in kind from stock).

4.5 It shall not be solely our obligation to assume a procurement risk or guarantee of procurement to deliver a thing defined only by class.

4.6 We shall only assume a procurement risk in terms of section 276 BGB by virtue of a separate, written agreement using the phrase "we assume the procurement risk...".

4.7 If the acceptance or dispatch of the products should be delayed due to a reason for which the Customer is responsible, once a 14-day period of grace set by us has expired, we shall be entitled at our discretion to require immediate compensation payment or to withdraw from the contract or to refuse the performance and demand compensation for damages instead of the full performance. The setting of a deadline must be issued in writing or text form. Here, we shall not have to refer to the rights from this clause again.
If compensation for damages should be requested as directed above, the compensation for damages to be paid shall be 20% of the net delivery price for purchase agreements or 20% of the agreed net payment for service level agreements. Both parties shall reserve the right to prove that the amount of damage is different or that no damage was caused. No reversal of the burden of proof shall be associated with the provisions mentioned above.
If additional costs should accrue because of the Customer's delay in acceptance, for instance due to the necessary storage of the goods, these are to be refunded by the Customer.

4.8 In the case of a delayed delivery order or delivery schedule on the part of the Customer, agreed production deadlines and delivery times shall become invalid. Due to the necessary long-term planning of production capacities, delivery times which were originally agreed can no longer be subject to a binding agreement in the case of delays in delivery or supply caused by the Customer. In this case, it shall be necessary to arrange a new delivery date.

4.9 We shall be entitled to excess or short deliveries of up to 5% of the agreed delivery quantity.
We shall further be entitled to deliver products with deviations in quality, dimensions, weight, colour and equipment that are customary in the trade. Goods of this kind shall be deemed in accordance with the contract.

5. Delivery/Place of Performance/Time of Delivery/Delayed Delivery/Packing

5.1 Binding delivery dates and times must be expressly agreed in writing. In the case of non-binding or approximate delivery dates and times (approx., about, etc.), we shall endeavour to do our utmost to comply with them.

5.2 Times of delivery and/or performance shall begin on the Customer's receipt of our order confirmation, but not before all the details with regard to carrying out the order have been clarified and all other conditions to be met by the Customer have been fulfilled, particularly including the payment of agreed deposits or securities and the performance of necessary cooperation by the Customer. The same shall apply to dates of delivery and performance. If the Customer has requested changes after placing the order, a new suitable period of delivery and/or performance shall commence once we have confirmed the change.

5.3 If we should fall behind with delivery, the Customer must first set us an appropriate period of grace of at least 14 days to provide the service – provided that this is not unreasonable. The occurrence of a delay is excluded unless all conditions are met for the time of delivery to commence in accordance with item 5.2, and particularly unless the Customer has fulfilled all the obligations for cooperation which affect it.

5.4 If no pick-up date is given with the order which we would have to confirm for it to be binding, or if acceptance does not occur on the agreed pick-up date, we shall dispatch the goods that are the subject of the contract at our discretion with a carrier we have commissioned or shall store the goods that are the subject of the contract at the Customer's expense. On dispatch, we shall additionally invoice the Customer for the costs of packing, storage, freight and insurance that are incurred (the latter shall apply if cargo insurance was agreed).
In the case of storage, the Customer is to pay a fixed storage rate of 1% of the net payment per week for the goods stored. Both parties shall reserve the right to prove that the outlay was lower or higher. The Customer shall also reserve the right to prove that there was no outlay at all.

6. Force Majeure/Delivery by our Own Supplier

6.1 Should we not receive deliveries or services from our subsuppliers to perform the delivery or service we owe by contract for reasons for which we are not responsible despite correct and sufficient supplies before concluding the contract with the Customer in accordance with the quantity and quality pertaining to our delivery or performance agreement with the Customer (congruent supply), or should these deliveries or services from our subsuppliers not be correct or not arrive punctually, or should force majeure events occur that are of considerable duration (i.e. lasting longer than 14 calendar days), we shall inform our Customers in due time in writing or text form. In this case we shall be entitled to postpone the delivery for the duration of the disruption or to withdraw from the contract completely or partially due to the part that has not yet been completed, provided that we have met our above obligation to provide information and have not assumed the procurement risk or a guarantee of delivery. Force majeure includes strikes, lockout, interventions by the authorities, shortages or energy or raw materials, shipping bottlenecks or hindrances which are not our fault, business disruptions which are not our fault – e.g. due to fire, water or machine damage – and all other disruptions which, seen objectively, were not caused due to a fault on our part.

6.2 If a binding delivery date or time has been agreed and the agreed delivery date or the agreed delivery time has been exceeded due to events according to item 6.1, the Customer shall be entitled to withdraw from the contract due to the part that has not been completed after an appropriate period of grace has elapsed to no avail. Further claims of the Customer, particularly such pertaining to compensation for damages, shall be excluded in this case.

6.3 The above provision according to item 6.2 shall apply accordingly if it would be objectively unreasonable for the Customer to continue to hold firm to the contract for the reasons given in item 6.1, even when a fixed delivery date has not been agreed by contract.

7. Dispatch/Passing of Risk/Acceptance

7.1. Unless otherwise agreed in writing, the delivery shall be made ex works Incoterms 2010. In the case of obligations to be performed at our place of business and of obligations to be performed at our place of business where the goods are to be dispatched to the Customer, the goods are transported at the Customer's risk and expense.

7.2 In the case of an agreed dispatch, we shall reserve the right to choose the freight route and means of transport unless otherwise agreed. However, we shall endeavour to take into account the Customer's wishes with respect to the mode of dispatch and the shipping route, but the Customer shall have no claim in this regard. Like the costs of freight and insurance, additional costs caused by this shall be at the Customer's expense – even when free shipping has been agreed.
If the agreed time of dispatch is delayed at the Customer's request or due to the Customer's fault, we shall store the goods at the Customer's expense and risk. Item 5.4(2) shall apply accordingly in this respect. In this case, the dispatch advice shall be equivalent to dispatch.

7.3 In the case of an agreed obligation to be performed at the place of business of the debtor, the risk of accidental destruction or accidental deterioration shall pass to the Customer on delivery of the products to be delivered, and in the case of an agreed obligation to be performed at our place of business with a supplementary dispatch obligation, it shall pass to the forwarder, the carrier or the other companies assigned with carrying out the dispatch. However, as soon as the products leave our works or our warehouse or our branch or the manufacturer's works, the risk shall pass to the Customer unless it has been agreed that an obligation will be performed at the Customer's place of business. The above shall also apply if a partial delivery is made as agreed.

7.4 If the consignment is delayed because we exercise our right of retention as a result of the complete or partial default of payment by the Customer or for any other reason for which the Customer is responsible, the risk shall pass to the Customer no later than the date on which the Customer receives the dispatch advice and/or notification of readiness to perform.

8. Notice of Defects/ Breach of Obligation Due to Material Defects/ Warranty

8.1 The Customer is to give us notice of visible material defects immediately after receiving or delivering the goods and notice of hidden material defects immediately after discovery. This is to be done within the warranty limitation period according to item 8.2 at the latest. A notice of defects which is not made before the expiry of the period for making a claim shall exclude all claims of the Customer arising from the breach of obligation due to material defects. This shall not apply in the case of deliberate, grossly negligent or malicious conduct on our part, in the case of injury to life, limb or health, in the case of acceptance of a guarantee of absence of defects or in the case of a procurement risk according to section 276 BGB or of any other situations triggering liability that are compulsory by law. The statutory special provisions for final deliveries of goods to consumers (recourse of the supplier, §§ 478, 479 BGB) shall remain unaffected.
As a rule, in the case of visible defects 'immediately' shall indicate a period of 4 days after the goods have been received or delivered, and in the case of defects that become visible during an inspection carried out with customary diligence, it shall indicate a period of up to 9 days after delivery of the goods. In the case of hidden defects, a notice of defects issued within 2 days of the defect being discovered shall be regarded as an immediate notice of defects. It is sufficient for the notice of defects to be sent in due time. Here, the burden of proof shall lie with the Purchaser to verify that the notice of defects has been received.
Notice of defects regarding obvious transport damage and other damage which is already visible on delivery/receipt of the goods are to be issued to the shipping company immediately before this shipping company receives the goods or when it receives the goods. The defects are to be recorded in writing for the shipping company. If the Customer should fail to meet its obligation to give notice of defects and claim for transport damage, claims for compensation for damages asserted against us shall be excluded if we can no longer claim for damages against the shipping company due to failure to issue it with an immediate notice of defects.

8.2 For material defects – unless expressly agreed otherwise in writing or text form – we shall provide a warranty for a period of 12 months calculated from the date of the passing of risk (see item 7.3), and in the case of the refusal to accept/take delivery by the Customer, from the time of the notice of completion for goods receiving. This shall not apply to claims for damages resulting from a guarantee, the assumption of a procurement risk in terms of section 276 BGB, claims as a result of injury to life, limb or health or malicious, deliberate or grossly negligent conduct on our part, or if a longer limitation period has been exigently laid down in cases that come under sections 478 and 479 BGB (recourse to the supply chain), section 438(1) No. 2 BGB (construction of buildings and delivery of things for buildings) and section 634a(1) No. 2 BGB (construction defects) or by any other law. Section 305b BGB (the priority of individually agreed terms in verbal, text or written form) shall remain unaffected. No reversal of the burden of proof shall be associated with the provision mentioned above.

8.3 Our warranty (claims arising from a breach of obligation due to bad performance concerning material defects) and the liability resulting from this shall be excluded if defects and damage related to these are not verifiably based on flawed material, flawed construction, inadequate performance, flawed manufacturing materials or if the required instructions for use are inadequate. The warranty and the liability resulting from it due to a breach of obligation due to bad performance shall particularly be excluded with regard to the consequences of incorrect use and unsuitable storage conditions and the consequences of chemical, electromagnetic, mechanical or electrolytic factors which do not correspond to those in our product description or product specifications which were otherwise agreed or to the average standard factors prescribed by us or the manufacturer in the respective product-specific data sheet. The above shall not apply in the case of malicious, grossly negligent or deliberate conduct on our part, or injury to life, limb or health, acceptance of

a guarantee, a procurement risk according to section 276 BGB or a liability according to a situation triggering liability that is compulsory by law.

8.4 We shall issue no warranty according to sections 478 and 479 BGB (recourse to the supply chain – recourse of suppliers) if the Customer has treated or processed or otherwise altered the products delivered by us which are the subject of the contract, unless this corresponds to the intended use of the products as agreed by contract.

8.5 Breaches of obligation in the form of material defects must always be acknowledged in written form.

9. Prices/Payment Terms/Defence of Insecurity

9.1 All prices shall be ex works or warehouse and in net EUR as a matter of principle, excluding transport packaging by air or sea, freight, postage and, if cargo insurance has been agreed, insurance costs, plus VAT to be paid by the Customer (if accruing by law) to the amount prescribed by law in each case, plus any country-specific excise tax for deliveries to countries outside the Federal Republic of Germany, and plus customs duties and other charges and public dues for the delivery/service.
In the case of payment in currencies other than EUR, the purchaser is to ensure that when applying the exchange rate to be taken as a basis at the time the seller receives the credit, the amount transferred corresponds to the invoiced amount in EUR.

9.2 Methods of payment other than cash payment or bank transfer shall require a separate agreement between us and the Customer; this shall particularly apply to the negotiation of cheques and bills of exchange.

9.3 If a transfer has been agreed, the day of payment shall be regarded as the date on which we receive the money or on which our account or the account of the paying agency we have specified is credited with the payment amount.

9.4 In the case of an agreed obligation to be performed at our place of business, the purchase price shall be due for payment when the notice of the provision of the goods has been received, in the case of an agreed obligation to be performed at our place of business with a supplementary dispatch obligation, it shall be due on delivery to the carrier, and in the case of an obligation to be performed at the Customer's place of business it shall be due on delivery of the goods.
The Customer shall only be entitled to a cash discount if the cash discount has been agreed by contract in each case. In this case, the cash discount shall only be permitted if the payment of the purchase price has entered our account within 10 calendar days of the payment becoming due. Cash discounts shall also be excluded in cases where they have been agreed by contract if the Customer is in arrears with the payment of other accounts receivable.

9.5 We shall be entitled to increase the payment accordingly and unilaterally in the case of an increase in costs of manufacturing materials and/or purchasing material and/or products, in labour costs and ancillary labour costs, social security payments, as well as energy costs and costs incurred as a result of environmental specifications, and/or currency fluctuations and/or changes in customs duties, and/or freight rates and/or public dues if these directly or indirectly influence the costs of goods manufacture or procurement or costs of the services we have agreed by contract and if more than 4 months have elapsed since the conclusion of the contract and the delivery. An increase in the sense mentioned above shall be excluded if the cost increase with regard to all of the above factors or to specific factors mentioned above is cancelled out by a cost reduction in other factors as mentioned above with regard to our total cost burden for the delivery.
If there is a reduction in the above cost factors without the cost reduction being offset by the increase in other cost factors as mentioned above, the Customer shall be entitled to require a suitable price adjustment in terms of the above clause.
If the new price lies 20% or more above the original price because of our right to a price adjustment mentioned above, the Customer shall be entitled to withdraw from contracts which have not yet been fully completed. However, it can only exercise this right immediately after the increase in price has been communicated.

9.6. As soon as default occurs, default interest of 9 percentage points above the base rate of the European Central Bank that is applicable when the demand for payment is due shall be charged. The assertion of damages in excess of this shall remain reserved. If the purchaser is in payment default, WFBM shall be entitled to exercise a right of retention with respect to further deliveries from both the same contractual relationship and a different contractual relationship.

9.7 A right of retention or right of offsetting on the part of the Customer shall only exist with respect to such counterclaims as are not contested or have been finally established.

9.8 The Customer can only exercise a right of retention if its counterclaim is based on the same contractual relationship.

9.9 Meeting the purchase price demand due to us by paying by bill of exchange shall be excluded on principle.

9.10 Incoming payments shall first be used to settle the costs, then the interest and finally the principal accounts receivable according to age.

10. Reservation of Ownership, Attachments

10.1 We shall reserve ownership of all goods we deliver (hereinafter referred to collectively as "goods subject to retention") until all of our receivables arising from the business connection with the Customer have been paid, including the future claims arising from contracts concluded later. The same shall apply to a credit balance in our favour if some or all receivables are included in an account outstanding (current account) and the payments have been offset.

10.2 The Customer is to insure the goods subject to retention sufficiently, particularly against damage due to fire or theft. Titles to insurance benefits arising from a claim concerning the goods subject to retention shall thereby already be transferred to us to the amount of the value of the goods subject to retention. We hereby already accept the transfer now.

10.3 The Customer shall be entitled to resell the products delivered in the regular course of business. The Customer shall not be permitted other dispositions, particularly pledging or the granting of equitable lien. If the goods subject to retention are not paid by the third party purchaser immediately upon resale, the Customer shall be obliged to resell only under reservation of ownership. The entitlement to the resale of the goods subject to retention shall lapse automatically if the Customer stops payment or falls into default of payment towards us.

10.4 The Customer shall hereby already assign to us all claims accruing to it against the final customer or against third parties in connection with the resale of goods subject to retention, including securities and ancillary rights. It shall not be allowed to make any agreements with its customers that exclude or compromise our rights in any way or nullify the assignment of future claims. If goods subject to retention are sold with other items, the claim against the third party purchaser shall be deemed assigned to the amount of the delivery price agreed by us and the Customer, provided that the amounts allotted to the individual goods cannot be established from the invoice.

10.5 The Customer shall remain entitled to collect the claim assigned to us until this is revoked by us, which is admissible at any time. However, we shall only revoke the collection authorisation in the case of justified interest. Such justified interest would apply if the Customer did not duly meet its payment obligations or fell into default of payment, for example. Upon our request, it shall be obligated to give us all information and documents necessary for collection of assigned claims in full, and – if we do not do so ourselves – to notify its customers of the assignment to us immediately.

10.6 If the Customer receives claims from the resale of goods subject to retention in an existing current account relationship with its customers, it shall thus already assign a recognised credit balance accruing in its favour to us now to the amount corresponding to the total amount of the accounts receivable from the resale of our goods subject to retention which is entered in the current account relationship.

10.7 If the Customer has already assigned claims from the resale of the products delivered or to be delivered by us to third parties, particularly due to arranged or unarranged factoring, or met other agreements due to which our current or future security interests according to item 10 could be compromised, it is to notify us of this immediately. In the case of an unarranged factoring, we shall be entitled to withdraw from the contract and to require the surrender of products already delivered. The same shall apply in the case of an arranged factoring if the Customer cannot freely dispose of the purchase price of the claim.

10.8 In the case of actions in breach of contract which are the fault of the Customer, particularly in the case of default of payment, we shall be entitled to take back all goods subject to retention after withdrawal from the contract. In this case, the Customer shall be automatically obliged to deliver such goods and shall bear the necessary transport costs for their return. Our taking back of the goods subject to retention shall constitute a withdrawal from the contract. We shall be entitled to turn to account the goods subject to retention if they have been taken back. The proceeds from the turning to account less costs proportionate to the turning to account shall be offset against those accounts receivable arising from the business relationship which are owed to us by the Customer. To establish the inventory of the goods we have delivered, we may enter the Customer's business premises at any time during normal business hours. The Customer is to notify us in writing immediately of all access of third parties to goods subject to retention or claims assigned to us.

10.9 If the value of the securities to which we are entitled according to

the above provisions exceeds the secured claims by more than 10% in total, we shall be obligated in this respect to release securities upon request of the Customer; the selection of the securities to be released shall be carried out by us.

10.10 Any treatment or processing of the goods subject to retention shall be carried out for us as the manufacturer, without however placing us under any obligation. If the goods subject to retention should be processed or inextricably joined to objects which we do not own, we shall acquire joint ownership of the new item in the ratio of the net invoice amount of our goods to the new invoice amounts of the other processed or joined objects. If our goods are joined with other movable objects to form a unified item which is to be regarded as the principal item, the Customer shall already transfer joint ownership to us now in the same proportion. The Customer shall hold the property or jointly held property for us free of charge. The joint ownership titles resulting hereafter shall be deemed goods subject to retention. Upon our request, the Customer shall be obligated at all times to issue us with the necessary information to be able to track our property or jointly held property.

10.11 In the case of attachments or other interventions by third parties, the Customer must inform us of this in writing immediately so that we may file an action under section 771 German Code of Civil Procedure (ZPO). If third parties are not able to reimburse us for the judicial and extrajudicial costs of an action under section 771 ZPO, the Customer shall be liable for the loss incurred to us.

11 Exclusion/Limitation of Liability

11.1 Subject to the following exceptions, we shall assume no liability, particularly for the Customer's claims to compensation for damages or reimbursement of expenses – irrespective of the legal basis – in the case of a breach of obligations arising from the contractual obligation.

11.2 The above exclusion of liability according to item 11.1 shall not apply if liability is compulsory by law, particularly:
- with regard to deliberate or grossly negligent breaches of obligation on our part and deliberate or grossly negligent breaches of obligation by legal representatives or vicarious agents;
- with regard to the breach of essential contractual obligations: "essential contractual obligations" are obligations that protect precisely those essential contractual legal positions of the Customer which the contract should grant to the Customer according to its content and purpose; furthermore, contractual obligations that are essential are those where it would not even be possible to carry out the contract properly if they were not met and where the Customer has consistently trusted and may consistently trust that they shall be complied with.
- in the case of injury to life, limb or health, including that caused by legal representatives or vicarious agents;
- in the case of delay, provided that a fixed time of delivery and/or performance was agreed;
- if we have provided the guarantee for the condition of our goods or the existence of a contractual performance or a procurement risk in terms of section 276 BGB;
- in the case of liability according to the German Product Liability Act or other situations triggering liability that is compulsory by law.

11.3 If it is only a case of slight negligence on our part or on the part of our vicarious agents and none of the cases in item 11.2 above, dashes 4, 5 and 6, occurs, we shall only be liable for damage that is foreseeable and typical of the contract even if essential contractual obligations have been breached.

11.4 Our liability shall be restricted to a maximum amount of €15,000,000 for each individual claim. This shall not apply if it is a case of malice, intent or gross negligence on our part, concerning claims resulting from injury to life, limb or health, and in the case of a claim based on a tort action or based on a guarantee that has been expressly provided or based on the assumption of a procurement risk according to section 276 BGB or in cases of different liability amounts that are higher as prescribed by law. Any further liability shall be excluded.

11.5 If a loss should be incurred to the Customer as a result of our default, the Customer shall be entitled – excluding further claims – to demand compensation for the default for every week of the default, where part of a week shall count as a whole week, to the amount of 5% of the net payment for the goods delivery and/or entire performance in default, but no more than 5% of the net payment for the complete delivery and/or complete performance which is not delivered and/or provided by us in due time or in accordance with the contract. Any further compensation for loss or damage caused by our delay shall be excluded. This shall not apply in the case of deliberate, grossly negligent or malicious action on our part, in the case of claims resulting from injury to life, limb or health, in the case of default or in the case of an agreed fixed delivery date in the legal sense and the provision of a performance guarantee or the assumption of a procurement risk according to section 276 BGB and in the case of liability which is compulsory by law.

11.6 The exclusions or limitations of liability according to items 11.1 to 11.5 and 11.7 above shall apply to the same extent to the benefit of our organs, our executive and non-executive staff and other vicarious agents and our subcontractors.

11.7 Claims of the Customer to compensation for damages from this contractual relationship can only be asserted within a cut-off period of one year from the beginning of the statutory limitation period. This shall not apply if it is a case of intent or gross negligence on our part, concerning claims resulting from injury to life, limb or health, and in the case of a claim based on a tort action or based on a guarantee that has been expressly provided or based on the assumption of a procurement risk according to section 276 BGB or in the case that a longer limitation period is compulsory by law.

12. Place of Performance/Place of Jurisdiction/Applicable Law

12.1 The place of performance for all contractual obligations shall be the registered office of our company, except in the case of the assumption of an obligation to be performed at the Customer's place of business or unless otherwise agreed.

12.2 The exclusive place of jurisdiction for all disputes shall be the registered office of our company – provided that the Customer is a trader in terms of the German Commercial Code. For the purposes of clarification, the regulation of responsibility in sentences 1 and 2 shall also apply to those factual situations between us and the Customer that can lead to extra-contractual claims in terms of Regulation (EC) No. 864/2007. However, we shall also be entitled to sue the Customer at its place of general jurisdiction.

12.3 For all legal relationships between us and the Customer, the laws of the Federal Republic of Germany shall exclusively apply, with the particular exclusion of the CISG. It shall be expressly clarified that this choice of law is also to be understood as such in terms of Regulation (EC) No. 864/2007 Art. 14(1) b) and should therefore also apply in the case of extra-contractual claims in terms of this Regulation. If it is obligatory to apply foreign law in specific cases, our GCCDP are to be interpreted such that the economic purpose pursued by them is upheld as far as possible.

13. Taking Back/Export Control/Product Approval/ Import Provisions

13.1 Unless otherwise agreed by contract with the Customer, the delivered goods are intended to be placed on the market for the first time inside the Federal Republic of Germany or, for deliveries outside the Federal Republic of Germany, to be placed on the market in the country stipulated for the first delivery (country of first delivery).

13.2 The export of certain goods by the Customer from the country of first delivery may be subject to an authorisation requirement, e.g. due to their type or intended use or end use. In this case, as when we deliver to a country outside the Federal Republic of Germany at the Customer's request, the following shall apply:
The Customer itself shall be obligated to check whether the export of the goods is subject to an authorisation requirement or breaches national or international standards. It is to strictly observe the applicable export regulations and embargoes for these goods, particularly those of the Federal Republic of Germany, the European Union (EU) and of other states and third countries, if it exports the products delivered by us or has them imported by third parties.
In addition, the Customer shall be obliged to ensure that the required national product approvals or product registrations are obtained before it ships these products to a country of first delivery that is different from the one agreed with us, that the standards established by the national law of the country in question regarding the provision of user information in the language of the country are observed and that all import provisions are also complied with.

13.3 The Customer shall particularly check and ensure, and prove to us on request that
- the products delivered are not intended for use pertaining to armaments or weapons of for nuclear applications;
- no companies or persons named on the US Denied Persons List (DPL) are supplied with goods of US origin, US software or US technology;
- no companies or persons named on the US Warning List, US Entity List or US Specially Designated Nationals List are supplied with products of US origin without the relevant approval;
- no deliveries are made to any companies or persons named on the list of Specially Designated Terrorists, Foreign Terrorist Organizations, Specially Designated Global Terrorists or EU terrorist list or other relevant blacklists concerning export controls;
- no military consignees are supplied with the products delivered by us;

- no deliveries are made to consignees that are or have been involved in a breach of any other export control regulations, particularly those of the EU, the ASEAN states or other states and third countries;
- all early warning indicators by the competent German or national authorities of the country of origin of the respective delivery are observed.
- the delivery and use of the goods does not breach other national or international legal norms.

13.4 Access to the use of the goods we deliver may only be obtained if the above checks and guarantees have been carried out and issued by the Customer; otherwise the Customer is to refrain from carrying out the intended export and we shall not be obliged to perform.

13.5 If goods delivered by us are transferred to third parties, the Customer shall bind these third parties in the same way as designated in items 13.1 – 13.4 and shall instruct them as to the necessity of complying with such legal provisions.

13.6 In the case of an agreed delivery outside the Federal Republic of Germany at its expense, the Customer shall ensure that all national import provisions of the country of first delivery are met with respect to the goods to be delivered by us.

13.7 The Customer shall indemnify us from all damages and expenses resulting from the culpable breach of the above obligations according to items 13.1 – 13.6.

13.8 If we deliver to a country outside the Federal Republic of Germany or the European Union at the Customer's request, the Customer shall be obliged to provide us with all the necessary information for the handling of goods which is to be carried out correctly in accordance with the laws pertaining to customs and duties. The Customer is also to provide us with the essentials necessary for correct handling in accordance with export, import and customs laws, such as customs tariff numbers and so on. If this information is not provided by the Purchaser, the Purchaser shall reimburse us for the additional expense and costs incurred in this respect.

14. Incoterms/Written Form/Severability Clause

14.1 As far as trade terms in accordance with the International Commercial Terms (INCOTERMS) have been agreed, the INCOTERMS shall apply.

14.2 All agreements, collateral agreements, assurances and contractual amendments must be made in writing. The same applies to the waiver of the agreement to use the written form. The priority of individually agreed terms in written, text or verbal form (section 305b BGB) shall remain unaffected.

14.3 If a provision of this contract should be or become ineffective/void or unviable either in part or in its entirety by reason of the law of the General Terms and Conditions according to sections 305 to 310 BGB, the statutory regulations shall apply.
If a current or future provision of the contract should be or become ineffective/void or unviable either in part or in its entirety for reasons other than the regulations concerning the law of the General Terms and Conditions according to sections 305 to 310 BGB, this shall not affect the validity of the remaining provisions of this contract unless the implementation of the contract were to pose undue hardship to one party – even if the following regulations were taken into account. The same shall apply if a gap is discovered after the contract has been concluded which needs to be amended.
Contrary to any principle whereby a severability clause should essentially merely reverse the burden of proof, the effectiveness of the remaining contractual provisions should remain upheld under all circumstances and section 139 BGB should thus be waived in its entirety.
The parties shall replace the provision that is ineffective/void/unviable for reasons other than the regulations concerning the law of the General Terms and Conditions according to sections 305 to 310 BGB or shall substitute the gap which needs to be closed with an effective provision whose legal and economic content corresponds to the ineffective/void/unviable provision and the overall purpose of the contract. Section 139 BGB (partial nullity) shall be expressly excluded. If the nullity of a provision rests on a measure of performance or time defined in it (time period or deadline), the provision is to be agreed upon with a legally admissible measure which comes closest to the original measure.