

## Terms and Conditions

### Terms of delivery

#### § 1 General

1. All our deliveries with entrepreneurs as customers are based on the following general terms of delivery. Entrepreneurs according to the terms and conditions are natural or legal persons or partnerships with legal capacity, who act in the exercise of a commercial or independent professional activity and with whom we enter into a business relationship. Divergent conditions of the customer which we do not expressly accept in writing are not binding for us, even if we do not expressly object to them. Our terms and conditions of delivery shall also apply even if we carry out the delivery to the customer without reservation in the knowledge that the customer's terms and conditions conflict with or deviate from our terms and conditions of delivery. Our terms of delivery also apply to future business with the customer.
2. The assignment of the customer's rights under the contract is not permitted.
3. Our offers are subject to change without notice. Collateral agreements, reservations, amendments or supplements to contracts must be in writing to be effective. Special agreements are only valid for the respective individual case, not for earlier or later transactions.
4. The customer is bound to an order placed with us for a period of two weeks after receipt by us. Such an order shall only be accepted by us by written declaration, by notification of our readiness to deliver or by carrying out the delivery; its receipt is not required for the declaration of acceptance to be effective (§ 151 German Civil Code).
5. Our prices are to be understood as exclusive of the respective, valid value added tax ex Ölbrenn-Dürren plus freight, assembly and packaging. If no fixed prices have been contractually agreed, the prices valid on the day of delivery will be charged. Agreed prices are valid for four months from conclusion of the contract. If longer delivery periods are agreed, the supplier's prices valid on the day of delivery will be charged.
6. We reserve all property rights or copyrights of exploitation of cost estimates, drawings, samples and other documents without restriction; these may not be made accessible to

third parties. Drawings and other documents belonging to offers must be returned to us immediately on request if the order is not placed with us. Any rights of retention of the customer are excluded.

7. Confirmed prices are only valid for acceptance of the quantities for which they are confirmed. We are entitled to adjust prices at our reasonable discretion in the event of deviations from the quantity ordered.

## **§ 2 Delivery**

1. Delivery dates or delivery periods, which can be agreed upon binding or non-binding, must be recorded in writing in order to be effective. We reserve the right to correct and timely delivery to ourselves.
2. Four weeks after exceeding a non-binding delivery date or a non-binding delivery period, the customer may request us in writing to deliver within a reasonable period of time. With this reminder we are in default. If, after we have already fallen into arrears, the customer sets us a reasonable period of grace for performance, he shall be entitled to withdraw from the contract after the fruitless expiry of this period of grace; The customer shall only be entitled to claims for damages due to non-fulfilment in the amount of the foreseeable damage if the delay was due to intent or gross negligence.
3. If the customer is in default of acceptance or violates other obligations to cooperate, we shall be entitled, after the expiry of a reasonable grace period, to demand compensation for the damage incurred by us, including any additional expenses. In this case, the risk of accidental loss or accidental deterioration of the object of sale shall also pass to the customer at the point in time at which the customer defaults on acceptance.
4. The beginning of the delivery time stated by us requires the clarification of all technical questions. An agreed delivery period shall be extended – without prejudice to our rights arising from the customer's default – by the period by which the customer is in default with his obligations under the contract. The delivery times shall be extended by the duration of an impediment due to force majeure.

### §3 Framework contracts (and orders)

Framework agreements offer you and us security in terms of procurement, prices and delivery times. Such a contract is defined and identified by clearly designating the contract document in advance or with the first order (e.g. hard proof on the order), with the designation "framework contract" or "framework order".

#### 1. Prices

The prices agreed in the framework contract are binding for the agreed term. The supplier reserves the right to adjust the prices after a reasonable announcement in the event of a price deviation of single components of more than +/- 25 %.

#### 2. Obligation to purchase for raw materials, supplies and finished goods

A framework contract always creates an obligation on the part of the customer to purchase the items specified in the contract.

In order to guarantee the ability to deliver, we maintain an average safety stock of 3 months of finished goods (based on the annual call-off quantities specified in the framework contract or delivery contract). The customer's obligation to purchase relates to all contractually named articles and extends to a stock of 3 months. In addition, we maintain a stock of 3 months of raw material, supplies and semi-finished goods (based on the annual call-off quantities specified in the framework contract). In this case, the customer's obligation to purchase relates to all customer-specified components of the contractually named articles and extends to a stock of 3 months.

#### 3. Terms of delivery

Unless otherwise agreed, we must be notified of binding quantities in framework and delivery contracts on call, six weeks before the delivery date at the latest. Additional costs caused by a delayed call or subsequent changes to the call in terms of time or quantity by our partner are at his expense; unless he is not responsible for the delay or subsequent change; our calculation is decisive.

#### 4. Technical changes

Technical changes require renewed approval by the supplier and need therefore a reevaluation. In any case, a technical change leads to a unique number and a new framework agreement must be concluded for this. The obligations to purchase mentioned under point 3 apply.

#### § 4 Liability for material defects

1. For defects of goods delivered by us, we first provide warranty at our discretion by repair or replacement. If this supplementary performance fails, the customer may, in principle, demand a reduction of the remuneration (abatement) or withdraw from the contract at his discretion. However, in the event of only a minor breach of contract, in particular in the case of only minor defects, the customer shall not be entitled to withdraw from the contract.
2. The liability for defects does not refer to natural wear and tear, to damage that occurs after the transfer of risk as a result of incorrect or negligent handling, excessive strain, unsuitable operating materials or operating rooms and those that occur due to chemical, electrochemical or electrical influences, unless these are prerequisites for use according to the contract. The same shall apply to modifications and repair work improperly carried out on the delivered items by the customer or third parties. Insignificant, production-related or natural deviations in colour, form, appearance or consistency are excluded from liability for material defects.
3. If the customer chooses to withdraw from the contract after a failed supplementary performance due to a legal or material defect, he is not entitled to any additional claims for damages due to the defect. If the customer chooses compensation after a failed supplementary performance, the goods shall remain with the customer if this is reasonable. Compensation is then limited to the difference between the purchase price and the value of the defective item. This does not apply to whom the breach of contract is maliciously caused by us.
4. Entrepreneurs must notify us in writing of obvious defects within a period of two weeks from receipt of the goods, otherwise the assertion of the warranty claim is excluded. Timely dispatch suffices to meet the deadline. The customer bears the full burden of proof for all conditions of entitlement, in particular for the defect itself, for the time of discovery of the defect and for the timeliness of the notification of defects.
5. For entrepreneurs the warranty period is one year from delivery of the goods. This does not apply if the customer has not notified us of the defect in good time (Section 4 of this provision). In the case of used goods, the customer shall bear the burden of proof for the defectiveness of the item.

6. As a matter of principle, only the manufacturer's product description shall be deemed authoritative as the quality of the goods. Public statements, recommendations or advertising statements of the manufacturer do not represent any indication of the contractual quality of the goods.
7. The customer does not receive guarantees in the legal sense from us. Manufacturer warranties remain unaffected by this clause.

### **§ 5 Joint and several liability**

In the case of slightly negligent breaches of duty, our liability shall be limited to the foreseeable, contractually typical, direct average damage according to the type of goods. This also applies to slightly negligent breaches of duty by our representatives or vicarious agents. We shall not be liable to entrepreneurs for slightly negligent breach of insignificant contractual obligations. The aforementioned limitations of liability do not affect the customer's claims arising from product liability.

In all other respects, the limitations of liability shall not apply to physical injury or damage to health attributable to us.

### **§ 6 Payment**

1. Payments for deliveries are due according to the agreement made, without further agreement at the latest 30 days after the invoice date. Payment must be made in such a way that we can dispose of the amount on the due date. The customer shall bear the costs of the payment transactions. Bill of exchange and discount charges shall be borne by the customer. They are due and payable immediately. The deduction of a discount requires special written agreement. Payment must be made in such a way that we can dispose of the amount on the due date. The costs of payment transactions shall be borne by the customer.
2. If the customer defaults on payment of a claim arising from the business relationship, we shall be entitled to demand default interest at least at the statutory rate. If we are in a position to prove higher damages caused by the delay, we are entitled to claim these. However, the customer shall be entitled to prove to us that we have not incurred any damage or a significantly lower damage as a result of the default in payment. In all other

respects, we shall be entitled, in the event of the customer's default in payment, to demand payment of claims not yet due.

3. The customer shall only be entitled to offsetting rights if his counterclaims have been legally established, are undisputed or have been recognised by us. In addition, he is entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship. The customer also has no right of retention due to disputed counterclaims.
4. If the customer is in default of payment or does not honour a bill of exchange when it becomes due, we shall be entitled to take back the goods, enter the customer's premises if necessary and remove the goods. We can also prohibit the resale and removal of the delivered goods. Taking back the goods does not constitute a withdrawal from the contract.
5. If we subsequently become aware of circumstances which result in a significant deterioration of our assets and if this puts our payment claim at risk, we shall be entitled to make our claims payable in full and independently of the term of any bills of exchange we may have received.
6. In the cases of Nos. 4 and 5, we may revoke the collection authorisation (VI/4) and demand advance payment for outstanding deliveries.
7. The legal consequences cited in Nos. 4 to 6 can be averted by the customer by providing sufficient security in the amount of our payment claim at risk.
8. The statutory provisions on default of payment shall remain unaffected. In the event that the customer does not comply with his payment or acceptance obligation, we are entitled to demand damages for non-performance where the legal preconditions are met. In this case, we are entitled to claim 30 % of the agreed remuneration as compensation, whereby proof of the damage is not required. The customer is free to prove that no damage has been incurred or that the damage is lower than the flat rate.

### **§ 7 Retention of title**

1. All delivered goods remain our property (goods subject to retention of title) until all payment claims have been settled, in particular also the respective balance claims to which we are entitled from the business relationship with the customer against the customer. This

shall also apply to future and conditional claims, e.g. from acceptance bills of exchange, and also if payments are made on specially designated claims. If the object of sale is processed with other objects not belonging to us, we shall acquire co-ownership of the new object in proportion to the value of the object of sale to the other processed objects at the time of processing. The same applies to the object resulting from processing as to the object of sale delivered under reservation.

2. The customer may only sell the goods subject to retention of title in the ordinary course of business under his normal terms and conditions of business and as long as he is not in default, provided that the claims from the resale in accordance with Nos. 3 to 5 pass to us. He is not entitled to dispose of the reserved goods in any other way.
3. The customer's claims from the resale of the reserved goods are hereby assigned to us. They serve as security to the same extent as the reserved goods. If the reserved goods are sold by the customer together with other goods not sold by us, the claim from the resale is assigned to us in proportion to the invoice value of the other goods sold. When selling goods in which we have co-ownership shares in accordance with No. 2, a part corresponding to our co-ownership share is assigned to us.
4. The customer is entitled to collect claims from the resale, unless we revoke the collection authorisation in the cases set out in section V/6. At our request, he is obliged to inform his customers immediately of the assignment to us – unless we do this ourselves – and to provide us with the information and documents required for collection. The customer is in no case entitled to further assignment of the claims. This shall also apply to factoring transactions which the customer is not permitted to conduct even on the basis of our collection authorisation.
5. The customer must inform us immediately of any seizure or other impairments by third parties.
6. If the value of the existing securities exceeds the secured claims by more than 20% in total, we are obliged to release securities of our choice at the customer's request.

## **§ 8 Shipping, transfer of risk, packaging, partial delivery**

1. We determine the dispatch route and means as well as the forwarding agent and carrier.

2. Goods reported ready for dispatch in accordance with the contract must be called off immediately, otherwise we are entitled, after issuing a reminder, to dispatch them at the customer's expense and risk at our discretion or to store them at our discretion and invoice them immediately.
3. If, through no fault of our own, transport on the intended route or to the intended place in the intended time becomes impossible, we shall be entitled to deliver on another route or to another place; the additional costs incurred shall be borne by the customer. The customer shall be given the opportunity to comment beforehand.
4. The risk, including the risk of seizure of the goods, shall pass to the customer in all transactions, including carriage paid and free house deliveries, when the goods are handed over to a forwarding agent or carrier, but at the latest when they leave the warehouse or the supplying plant. We only provide insurance at the customer's instruction and expense.
5. We are entitled to make partial deliveries to a reasonable extent, with the result that we can demand partial payment for the delivered goods. In these cases, the customer is obliged to pay the remuneration due for the partial delivery in accordance with the terms of payment (V). Over- and under-deliveries of the contracted quantity, as is customary in the industry, are permissible.

### **§ 9 Place of jurisdiction – place of performance**

If the customer is a registered trader, the place of jurisdiction shall be Ölbronn-Dürrn; however, we shall also be entitled to sue the customer at the court of his place of residence. Unless otherwise stated in the order confirmation, the place of performance shall be Ölbronn-Dürrn. If the customer moves his residence or usual place of abode outside the area of application of the Federal Republic of Germany after conclusion of the contract, the place of jurisdiction shall be Ölbronn-Dürrn. This shall also apply if the customer's place of residence or usual abode is unknown at the time the action is brought.

The law of the Federal Republic of Germany shall apply. The application of international sales law (UN sales law) is excluded.



## Terms of purchase and processing

### § 1 General – Scope of application

- (1) Our terms and conditions of purchase shall apply exclusively; we do not recognise any terms and conditions of the supplier that conflict with or deviate from our terms and conditions of purchase unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Purchase shall also apply if we accept the Supplier's delivery without reservation in the knowledge that the supplier's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase.

In particular, we object to a retention of title in terms and conditions of business which are to be used against us.

- (2) Our terms and conditions of purchase shall only apply to companies in accordance with § 310 para. 4 German Civil Code.

### § 2 Offer – offer documents

- (1) The provider is bound to his offer to us for a period of at least 8 weeks. This period is calculated from the date of receipt of the offer by us. Supplements and amendments to our contracts must be made in writing to be effective. If the supplier does not wish to accept an order on our part which is placed without a prior offer from the supplier, this must be declared to us within a period of one week, otherwise our order shall be deemed to have been accepted.
- (2) We reserve the property rights and copyrights to illustrations, drawings, calculations and other documents; they may not be made accessible to third parties without our express written consent. They are to be used exclusively for production on the basis of our order; they are to be returned to us unsolicited after completion of the order. They are to be kept secret from third parties, in this respect the provision of § 6 paragraph applies additionally.
  - (3).
- (3) The assignment of rights arising from the contract concluded by us with the supplier is not permitted.

### § 3 Preise – Zahlungsbedingungen

- (1) All prices agreed with us are fixed prices for the term of the relevant agreement. The agreed prices include all freight, transport, packaging and insurance costs. The transport insurance shall be borne by the supplier up to our point of acceptance. The costs for the disposal of packaging shall be charged to the supplier at cost price.
- (2) The statutory value added tax is included in the price.
- (3) We can only process invoices if these – in accordance with the specifications in our order – state the order number shown there; the supplier is responsible for all consequences arising from non-compliance with this obligation, unless he can prove that he is not responsible for them.
- (4) Unless other terms of payment are stipulated in a separate agreement, it shall be deemed to be agreed that invoices of the supplier shall become due for payment at the earliest 30 days after receipt of the invoice by us (date of receipt stamp). If payment is made within two weeks of receipt of invoice, we are entitled to deduct a 3% discount for early payment. We are decade payers. If the goods have not been delivered or have not been delivered in accordance with the contract at the time of receipt of the invoice, the aforementioned period shall not commence until the goods have been received and/or the contractual condition has been established.
- (5) Payments on our part are always subject to the reservation of invoice verification. Payments shall be made at our discretion either by sending crossed cheques or by transfer to an account specified in business letters from the supplier.  
The postmark of the outgoing post is decisive for the payment in due time. The risk of accidental loss of means of payment shall be borne by the recipient.
- (6) Insofar as we are entitled to our own claims arising from the business relationship with the supplier, we shall have a right of retention in respect of these claims and the possibility of offsetting.

### § 4 Delivery times

- (1) In the case of deliveries, excess or short quantities as well as partial deliveries shall only be accepted as being in accordance with the contract if agreed in writing. Unless otherwise agreed, all deliveries are to be made free domicile to the address given by us. The supplier

is obliged to state our order number exactly on all shipping documents and delivery notes; if he fails to do so, we are not responsible for delays in processing.

- (2) For all deliveries, the risk shall not pass to us until the goods are handed over to us.
- (3) If the supplier recognises delivery disruptions occurring at his premises, he shall be obliged to notify us immediately by fax upon recognition; any agreed deadlines, in particular fixed deadlines, shall remain unaffected. If he omits or delays this immediate notification, he must compensate us for all damages resulting from the omitted or delayed notification, without prejudice to all further claims.
- (4) If fixed dates within the meaning of 361 German Civil Code, 376 German Commercial Code have been agreed, we shall be entitled, if the deadline is exceeded, at our discretion to withdraw from the delivery contract in question or, while maintaining our claim to performance, to demand payment of a contractual penalty amounting to 5% of the respective value of the goods not delivered by the fixed date for each week of delay up to an upper limit of 20%. The assertion of further damage caused by delay is not excluded.

## **§ 5 Inspection for defects – Liability for defects**

- (1) We shall be obliged to inspect the goods within a reasonable period of time for any deviations in quality and quantity; the complaint shall be deemed to be in good time if it is received by the supplier within a period of 5 working days, calculated from receipt of the goods or, in the case of hidden defects, from discovery.
- (2) We shall be entitled to the statutory claims for defects in full; in any case, we shall be entitled to demand that the supplier remedy the defect or deliver a new item at our discretion. We expressly reserve the right to claim damages, in particular damages in lieu of performance. Liability limitations of the supplier in terms of reason or amount are excluded.
- (3) We shall be entitled to remedy the defects ourselves at the supplier's expense if there is imminent danger or if there is special urgency.
- (4) The technical specifications belonging to the individual articles are part of the relevant supply contract and also apply to supplements or repeat orders. In case of delivery according to sample, the goods must comply with the specifications, properties and standards of the sample.

- (5) The period of limitation for claims for defects is 36 months, calculated from the transfer of risk.

## **§ 6 Performance by third parties, protection of confidence**

- (1) At our request, the supplier shall also be obliged to provide evidence of the qualifications of his sub-suppliers and to obtain our approval of the respective sub-supplier. We shall only make use of this possibility for objective reasons, in particular to ensure early delivery in accordance with the contract.
- (2) Otherwise, the supplier must perform his services himself and requires our prior consent for the use of subcontractors. Changes to the delivery item, its packaging, composition, technology etc. compared to the standard on which the contract was based at the time of conclusion of the contract are only permitted with our prior consent.
- (3) Drawings, designs, samples, descriptions and records provided by us or produced on our behalf are our property and are to be treated and stored in accordance with our instructions. They are to be returned or surrendered to us immediately after completion of the order; any rights of retention on the part of the supplier are excluded. The supplier is not entitled to use these documents for his own purposes or the purposes of third parties. They may neither be made accessible to third parties nor used for them, even after completion of the orders.

Products manufactured according to these documents or with our tools or with tools copied according to these may not be used by the supplier in his own company without our consent, nor may they be offered for sale or delivered to third parties. For each violation of this prohibition, a contractual penalty of EUR 10,000.00 shall be forfeited; the assertion of further damages shall not be excluded.

## **§ 7 Produkthaftung – Freistellung – Haftpflichtversicherungsschutz**

- (1) Insofar as the supplier is responsible for product damage, he shall be obliged to indemnify us against claims for damages by third parties on first demand, insofar as the cause lies within his area of control and organisation and he is liable himself in the external relationship.

- (2) Within the scope of his liability for cases of damage within the meaning of para. (1), the supplier shall also be obliged to reimburse any expenses in accordance with §§ 683, 670 German Civil Code as well as in accordance with §§ 830, 840, 426 German Civil Code, which arise from or in connection with a recall action carried out by us. We will inform the supplier v as far as possible and reasonable – about the content and scope of the recall measures to be carried out and give him the opportunity to comment. Other legal claims remain unaffected.
- (3) The supplier undertakes to maintain a product liability insurance with an insured sum of EUR 10 million per personal injury/property damage – lump sum; if we are entitled to further claims for damages, these shall remain unaffected.

## **§ 8 Property rights**

- (1) The supplier guarantees that no rights of third parties within the Federal Republic of Germany are violated in connection with his delivery.
- (2) If claims are made against us by a third party for this reason, the supplier shall be obliged to indemnify us against these claims at our first written request; we shall not be entitled to make any agreements with the third party – without the supplier's consent – in particular to conclude a settlement.
- (3) The supplier's obligation to indemnify us refers to all expenses necessarily incurred by us as a result of or in connection with claims by a third party.
- (4) The period of limitation is ten years, calculated from the conclusion of the contract.

## **§ 9 Retention of title – provision of materials – tools – confidentiality**

- (1) Insofar as we provide parts to the supplier, we reserve the right of ownership of these parts. Processing or transformation by the supplier is carried out for us. If our reserved goods are processed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of our item (purchase price plus VAT) to the other processed items at the time of processing.
- (2) If the item provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the item subject to retention of title (purchase price plus VAT) to the other mixed items at the time of mixing.

If the mixing takes place in such a way that the supplier's item is to be regarded as the main item, it is agreed that the supplier shall transfer proportional co-ownership to us; the supplier shall keep the sole ownership or co-ownership for us.

- (3) Tools which are charged to us (also proportionately) shall be manufactured for us in accordance with § 950 German Civil Code and shall become our property upon manufacture. The supplier is obliged to use our tools exclusively for the production of the goods ordered by us. The supplier is obliged to insure the tools belonging to us at their replacement value at his own expense against fire, water and theft. At the same time, the supplier hereby assigns to us all claims for compensation under this insurance; we hereby accept the assignment. The supplier is obliged to carry out any necessary maintenance and inspection work on our tools as well as all maintenance and repair work at his own expense and in good time.

He must notify us immediately of any incidents; if he culpably fails to do so, claims for damages shall remain unaffected. Tools which are charged to us (also proportionately) are manufactured for us in accordance with § 950 German Civil Code and become our property upon manufacture.

- (4) Insofar as the security interests assured to use pursuant to para. (1 ) and/or paragraph (2) exceeds the purchase price of all our unpaid reserved goods by more than 10 %, we are obliged to release the security interests of our choice at the request of the supplier.

## **§ 10 Processing / Subcontracting**

- (1) The following general terms and conditions shall apply additionally to all processing contracts commissioned by us. Conflicting general terms and conditions of the processor, which have not been expressly accepted in writing, are not binding for us, even if they are not expressly contradicted.
- (2) The processing of the parts is carried out in accordance with our delivery specifications, in which the exact quality criteria are listed. These delivery specifications are part of the contract. The processor is responsible for ensuring that the quality criteria are always met. If the processor is not in a position to comply with the quality criteria, he must notify the customer immediately after receipt of the parts to be processed.

- (3) The processor is obliged to check the delivered material to see whether it meets the prerequisites for the fulfilment of the contractually agreed quality criteria. If this is not the case, the customer will be informed immediately in writing by the processor. If the processor does not immediately inform us to the contrary, the material shall be deemed to be in conformity with the contract.
- (4) The delivery times stated in the orders are binding for the processor unless they are immediately contradicted in writing. If the delivery of the material by the customer is delayed in the case of several partial quantities delivered on the basis of one order, a contractually agreed processing period shall be extended accordingly. This has no influence on the binding nature of the processing time taken.
- (5) If the work performed by the Contractor does not meet the quality criteria agreed in accordance with Section 2 and if the Contractor does not rectify the parts that do not meet the quality criteria within one week, the Customer shall be entitled to commission a third party to rectify the defect and to demand the costs customary in the industry for this from the Contractor in advance. The assertion of further damages remains unaffected.
- (6) In the event of justified concerns on the part of the customer regarding compliance with the contractually agreed quality criteria, the processor shall be obliged to provide the customer with an expert opinion on compliance with the quality criteria at his own expense. If he does not comply with this obligation, he shall reimburse the costs incurred by the purchaser in obtaining the expert opinion.
- (7) Claims for material defects due to non-compliance with the quality criteria shall become time-barred 36 months after delivery of the processed parts to the purchaser's customer.
- (8) The assertion of rights of retention on the basis of claims or the offsetting of such claims against those of the processor is excluded, unless these are undisputed or legally established. An assignment of the claims arising from this contract is only permitted with the express permission of the purchaser.

## **§ 11 Choice of law, place of jurisdiction**

- (1) German law shall apply to our business relationship with the supplier; the application of UN purchase law is excluded.

- (2) If the supplier is a merchant, our place of business shall be the place of jurisdiction; however, we shall also be entitled to sue the supplier at his place of residence.
- (3) Unless otherwise stated in the order, our registered office shall be the place of performance.

## **Terms of repair**

### **§ 1 Conclusion of contract**

The equipment sent by the Client to the Contractor with a repair order will be checked by the Contractor for its technical function and reparability and the defects to be notified by the Client will be repaired by the Contractor as an individual service, taking into account Section 5 (repairs that cannot be carried out). If there is an uncontradicted written order confirmation, this is decisive for the content of the contract and the scope of the repair. Subsidiary agreements and contract amendments require the written confirmation of the Contractor.

### **§ 2 Prices and payment**

When calculating the repair according to expenditure, the prices for used parts, materials and special services as well as the prices for work services, travel and transport costs are shown separately in each case. If the repair is carried out on the basis of a binding cost estimate, a reference to the cost estimate shall suffice; in this case, only the deviations in the scope of services shall be listed separately. Any objection to the invoice by the Contractor must be made in writing no later than four weeks after receipt of the invoice. Payment is to be made immediately and without deduction of discount when the invoice is sent. The withholding of payments or offsetting due to any counterclaims of the customer – which are disputed by the Contractor – is not permitted.

### **§ 3 Cost information, Cost estimate**

If expressly requested, the customer will be informed of the expected repair price by means of a repair offer upon conclusion of the contract, otherwise the customer may set cost limits. If the repair cannot be carried out at these costs, or if the Contractor deems it necessary to carry out additional work during the repair, the Client's consent must be obtained if the stated costs are



exceeded by more than 15 percent. If a cost estimate with binding price estimates is requested before the repair work is carried out, this must be requested expressly and in writing by the Client. Such a cost estimate is subject to a charge and only binding if it is submitted in writing and is described as binding. The services provided for the submission of the cost estimate will not be charged to the Client, insofar as they can be used in the execution of the repair.

#### **§ 4 Warranty**

The warranty inspection and the warranty fulfilment on the object of repair shall take place exclusively on the premises of the Contractor. For this purpose, the Client shall send the object of repair to the Contractor at its own expense. If a warranty case exists for the object of repair, the Contractor is obliged to repair it or to send an equivalent replacement to the Client at his expense. After acceptance of the repair, the Contractor is only liable for defects in the work carried out by him. The warranty period shall be one year from acceptance of the repair by the Client. In the case of a warranty claim, the Contractor has the right to rectify the defect repeatedly if the first attempt to rectify the defect fails. The customer, for his part, must notify the Contractor immediately in writing of any defects detected. His right to assert the defect shall no longer exist if he has not fulfilled his obligation to give notice of defects at the latest one week after discovery of the defect. The warranty period shall be extended by the duration of the downtime of the object of repair caused by the remedial work. The Contractor shall not be liable if the defect is insignificant for the interests of the Client or is due to a circumstance attributable to the Client. This applies in particular to the parts provided by the Client. Any modifications or work carried out improperly by the Client or third parties without the prior consent of the Contractor shall invalidate the Contractor's liability for the consequences thereof. If the Contractor allows a reasonable period of grace granted to him for the remedy of the defect to elapse through his fault, the Client has the right to reduce the price. The customer's right to reduce the price also exists in other cases of repeated failure to remedy the defect. Only if the repair is demonstrably of no interest to the Client despite the reduction, the Client may withdraw from the contract after giving appropriate notice in good time.

## § 5 Impracticable repair

The services provided for the submission of a cost estimate as well as the further expenditure incurred and to be documented in the technical inspection of the equipment (troubleshooting time equals working time) shall be invoiced to the Client if the repair cannot be carried out for reasons for which the Contractor is not responsible, in particular because

- the fault complained about did not occur during the inspection;
- a repair is no longer economically justifiable;
- spare parts cannot be procured;
- the Customer has culpably failed to meet the agreed deadline or obligations to cooperate despite the setting of a deadline;
- the contract has been terminated during its execution;

The object of repair need only be returned to its original condition at the express request of the customer, against reimbursement of the costs, unless the work carried out was not necessary.

Equipment that cannot be repaired will be returned to the Client at the Client's expense.

However, the Client may order the disposal of the non-repairable equipment by the Contractor against payment of the disposal costs.

## § 6 Transport and insurance

Unless otherwise agreed in writing, the outward and return transport of the repair item – including any packaging and loading – shall be carried out at the expense of the Customer. The Client is free to collect the object of repair from the Contractor after the repair has been carried out. The Client bears the transport risk. Upon written instruction of the Client, the outward and return transport will be insured against the insurable transport risks (e.g. theft, breakage, fire, etc.) at the Client's expense. During the repair period on the Contractor's premises, there is no insurance cover. The customer must ensure that the existing insurance cover for the repair item is maintained. Insurance cover for these risks can only be obtained at the express request of the Client. In the event of delays for which the customer is responsible (default), the Contractor may charge storage fees for storage on his premises. The object of repair may also be stored elsewhere at the discretion of the Contractor. The costs and risk of storage shall be borne by the customer.

## **§ 7 Repair period**

The information on repair periods and times is based on estimates and is therefore not binding. The agreement of a binding repair period, which must be designated as such in writing, can only be obtained by the Client once the scope of the work has been precisely determined. The binding repair deadline is met when the item to be repaired is ready for return transport or collection by the customer. In the case of additional and extension orders placed at a later date or if additional repair work is required, the agreed repair period shall be extended accordingly. If the repair is delayed due to measures taken in the context of industrial disputes, in particular strikes and lock-outs, as well as the occurrence of circumstances for which the Contractor is not responsible, the repair period shall be extended by a reasonable period, provided that such obstacles can be proven to have a considerable influence on the completion of the repair; this shall also apply if such circumstances occur after the Contractor is in default. If the Client demonstrably suffers damage as a result of the Contractor's delay, he shall be entitled to demand compensation for delay, to the exclusion of any further claims. For each full week of the delay, this shall amount to 5 per cent, but in total not more than 50 per cent, of the repair price for that part of the object to be repaired by the Contractor which cannot be used in time due to the delay. If the Client grants the Contractor in default a reasonable extension of time, which must include the threat of refusal of the service, and if this extension is not complied with, the Client is entitled to withdraw from the contract. No further claims exist, notwithstanding clause 10 of these provisions.

## **§ 8 Acceptance**

The Client is obliged to accept the repair work as soon as the object of repair is available to him again. If the work proves not to be in accordance with the contract, the Contractor is obliged to remedy the defect. This does not apply if the defect is insignificant for the interests of the Client or is based on a circumstance attributable to the Client. In the event of a non-essential defect, the Client may not refuse acceptance if the Contractor expressly acknowledges his obligation to remedy the defect. If acceptance is delayed through no fault of the Contractor, acceptance shall be deemed to have taken place after a period of two weeks from notification of completion of the repair. With the acceptance the liability of the Contractor for recognisable defects ceases, unless the Client has reserved the right to assert a specific defect.

**§ 9 Retention of title, extended lien**

The Contractor reserves the right of ownership of all accessories, spare and replacement parts used until receipt of all invoiced payments from the repair contract. Further security agreements may be concluded. The Contractor shall be entitled to a lien on the Client's object which has come into its possession on the basis of the contract on account of its claim under the repair contract. The lien can also be asserted for claims arising from work, deliveries and other services performed earlier.

**§ 10 Other liability of the contractor, exclusion of liability**

If parts of the object of repair are damaged through the fault of the Contractor, the Contractor shall, at his discretion, either repair or replace them at its own expense. The obligation to pay compensation is limited to the amount of the contractual repair price. In all other respects the following paragraph shall apply accordingly. The Client may not assert any claims for compensation – in particular no claims for damages, including those arising from non-contractual acts – or any other rights against the Contractor on account of any disadvantages associated with the repair beyond the claims granted to him in these provisions. In this regard, it is irrelevant on which legal ground he invokes. This exclusion of liability shall not apply in the event of gross negligence or intent on the part of the Contractor or his employees or vicarious agents, or in the event of breach of material contractual obligations. In the event of culpable breach of material contractual obligations, the Contractor shall be liable – except in cases of gross negligence or intent – only for reasonably foreseeable damage typical of the contract. Furthermore, the exclusion of liability shall not apply in cases where liability is assumed under the Product Liability Act for personal injury or property damage to privately used objects in the event of repair errors. It shall also not apply in the absence of properties which have been expressly warranted in writing if the warranty was specifically intended to protect the Client against damage which did not occur to the object itself.

**§ 11 Other provisions, place of jurisdiction**

Insofar as the purchaser is a businessman or legal entity under public law or a special fund under public law, the registered office of the Contractor shall be the place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. All obligations arising from the

contractual relationship shall be deemed to be performed at the Contractor's registered office. In any case, especially in the case of cross-border deliveries, the law of the Federal Republic of Germany shall apply.