



General Terms and Conditions of Contracts, Delivery and Services of HUESKER Synthetic GmbH in business transactions with companies - status January 2016

1. Scope

1.1 These General Terms and Conditions of Contracts, Delivery and Services (GTCs) shall apply exclusively to companies within the meaning of Section 14 of the German Civil Code (BGB) i.e. natural persons or legal entities that purchase the goods or service for commercial or professional purposes.

1.2 The terms and conditions set forth below (GTCs), including the HUESKER Compliance Guideline (HUESKER CG), which can be found at www.huesker.de/compliance.html, shall apply exclusively to our business relations with our customers, also with respect to information and advice. Where our General Terms and Conditions and the HUESKER CG are implemented in a transaction with a customer, they shall also apply to all further business relations between the customer and ourselves unless otherwise expressly agreed in writing.

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

Our General Terms and Conditions shall apply in place of any general terms and conditions of the customer, also where such terms and conditions stipulate that acceptance of an order is deemed to be the unconditional acknowledgement of its terms and conditions, or we deliver, after the customer has indicated the validity of its general terms and conditions, unless we have expressly waived the validity of our General Terms and Conditions. The exclusion of the customer's general terms and conditions shall also apply if our general terms and conditions do not include a separate regulation for individual stipulations. By accepting our order confirmation, the customer expressly acknowledges that it waives its legal objection derived from the terms and conditions.

1.3 If general contracts or other contracts have been concluded with our customers, these shall take precedence. They shall be supplemented by these General Terms and Conditions unless more specific regulations are agreed.

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

2.1 Information and explanations regarding our products and services shall be provided solely on the basis of our experience to date. Values specified in this context shall be deemed average values of our products.

Unless otherwise expressly agreed, we shall not be responsible for our products and/or services being suitable for the research and/or development objective of the customer or a third party supplied by the customer.

2.2. Any information about our products and services, especially information in our quotations and brochures and on the internet and the illustrations, drawings, measurement, property or performance characteristics contained therein and other data, especially technical data or information on ingredients, shall be deemed approximate average values. This shall apply accordingly to statements made by our employees unless otherwise agreed. Data of our products without tolerances too, as included on our website or in our catalogues and/or brochures, are subject to production-related deviations and changes customary in the trade and/or industry, especially due to further developments in production technology and related materials.

2.3 If we provide instructions for use, these shall be drawn up with the care customary in the industry but do not release our customer from the obligation to inspect the products carefully regarding their suitability for the purpose intended by the customer. The customer shall be obliged in any case, unless otherwise agreed, to check whether our products and/or services can be used for the purpose intended by the customer. This shall also apply to indications regarding import and/or approval regulations.

2.4 We only assume an obligation to provide advice exclusively on the basis of a separate, written consultancy agreement.

2.5 Reference to standards, similar regulations and technical information, descriptions and illustrations of the delivery item in quotations and brochures resp. on the internet and in our advertising as well as to analyses provided or description of physical properties shall only represent a property of our products when we have expressly declared the quality to be a "*property of the product*". These are otherwise non-binding, general specifications of performance. This shall also apply to statements made by our employees unless otherwise agreed.

2.6 We shall only be deemed to have given a guarantee if we have designated a property and/or the outcome of performance as "*guaranteed by law*" in writing.

2.7 We shall assume no liability that our products or services can be used and/or registered and/or marketed for the customer's intended purpose other than liability prescribed by law unless we have agreed otherwise in writing with the customer. This shall not affect the stipulation in paragraph 11.

2.8 The customer shall be obliged to provide us with all information and data required to provide the service in due time and in full.

2.9 Before providing its own information and data, the customer shall make copies so that reconstruction is possible in the event of damage or loss.

2.10 If the customer fails to comply with its obligations stated in para. 2.8 and 2.9, we shall have the right to charge the customer separately for expenses and costs we incur as a result.

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

3.1 Properties of specimens or samples shall only become an integral part of the contract if this was expressly agreed in writing. The customer is *not* authorised to use and pass on samples. Where goods are sold by us based on a sample, deviations herefrom in the goods supplied shall be admissible and shall not give cause for complaints if they do not have a sustained impact on the normally intended use of the delivered goods and the delivered goods comply with any specifications agreed, unless otherwise agreed.

3.2 We shall retain all title and copyrights to samples, illustrations, drawings, data, estimates of cost and other documents about our products and services disclosed or provided to the customer. The customer undertakes not to make the samples, data and/or documents specified in the foregoing sentence available to third parties unless we give our express written consent, and to return them to us on request unless an order based on them has been placed with us.

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

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

4.1 Our quotations are subject to change unless they are expressly designated as binding or expressly contain binding commitments or their binding nature was otherwise expressly agreed. They are requests for orders.

The customer shall be bound by its order as a contract application for 14 calendar days - in the case of electronic orders 4 working days - at our registered office after our receipt of the order unless the customer must expect to receive our acceptance on a regular basis at a later date (Section 147 BGB). This shall also apply to reorders of the customer.

4.2 A contract is created, also in day-to-day business, only when we confirm the customer's order in writing or text form (i.e. also by telefax or email) by order confirmation. An order confirmation shall only apply subject to the proviso that any outstanding payment arrears of the customer are settled and that any credit assessment of the customer undertaken by us does not disclose any negative information.

Where delivery is made or a service provided within the period by which the customer is bound by the quotation, our confirmation can be replaced by our delivery.



4.3 In the event of call orders or acceptance delays caused by the customer, we shall have the right to procure the material for the entire order and to manufacture the total quantity ordered immediately resp. to buy the total quantity ordered. After the order is placed, no change requests from the customer can, therefore, be considered unless this was expressly agreed in writing.

4.4 The customer must notify us in writing in due time prior to conclusion of the contract of any special requirements of our products. Such notification shall not, however, extend our contractual obligations and liability.

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

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

4.6 Assumption of a procurement risk or a procurement guarantee does not lie solely in our obligation to deliver an object which is only defined by its type.

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

4.8 If acceptance of the products or their shipment or the acceptance of our service is delayed for a reason for which the customer is responsible, we shall have the right, after setting an extension of time of 14 days which has expired, at our option to request immediate payment of the purchase price resp. remuneration, or to rescind the contract or refuse performance and request damages in lieu of full performance. The time limit must be given in writing or text form. In doing so, we do not have to refer again to our rights under this clause.

In the event of our claiming damages as stipulated above, the damages to be paid shall amount to 20 % of the net delivery price in the case of sales contracts, or 20 % of the agreed net remuneration in the case of service contracts. This shall not affect any right of either party to prove a different amount of damage or that no damage was incurred. There is no connection between the reversal of the burden of proof and the foregoing stipulations.

4.9 If shipment is delayed at the customer's request or for reasons for which the customer is responsible, we shall have the right to store the goods, beginning on expiry of the reasonable period set in the notice in writing or text form that the goods are ready for shipment, at the customer's risk of loss and deterioration of the goods, and to invoice the costs incurred for this at 0.5 % of the net invoice amount of the stored goods for each full week or part thereof. The stored goods shall only be insured at the customer's specific request. This shall not affect the assertion of any further rights. The customer shall have the right to prove that no costs or considerably lower costs were incurred.

Furthermore, we shall have the right, after the foregoing period according to para. 4.8 sentence 1 expires, to dispose of the contract goods otherwise, and to make a new delivery to the customer after a reasonable period.

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

If a purchase on call is agreed, we must receive the individual calls, unless otherwise agreed, at least 6 weeks prior to the requested delivery date, unless a shorter call or delivery period was agreed. Unless agreed to the contrary, the customer shall be obliged to take delivery of the purchased goods in full within one year of the order confirmation being issued. If the goods are not called in due time, we shall have the right to remind the customer of the calls and their planning and to set an extension of time for planning of 14 days. After expiry of the period without result, we shall have the right to rescind the contract or request damages in lieu of performance. In doing so, we do not have to refer again to our rights under this clause. Para. 4.8 (2) shall apply accordingly.

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

The customer shall be responsible for providing us with any necessary information regarding the ordered goods within a reasonable period of time to allow the order to be executed according to the contract.

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

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

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

5. Delivery / Delivery time / Default in delivery / Packaging / Installation and assembly

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

5.2 Delivery and/or service periods shall begin with the customer's receipt of our order confirmation but not before all details about the execution of the order are clarified and all other requirements to be fulfilled by the customer are met, in particular advance payments or securities agreed and cooperation required are made or provided in full. This shall apply to delivery dates and service dates. If the customer requests changes after placing the order, a new, reasonable delivery and/or service period shall begin when we confirm the change.

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

The unloading of the goods shall be a matter for the customer where it has been agreed that the obligation is to be performed at the creditor's place of business and shall be borne by the customer.

5.4 The customer's interest in our performance shall lapse for lack of any other written agreement only if we fail to deliver material parts or deliver with delay.

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

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

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

When unloading and retrieving the goods, the customer shall assist our personnel and/or vicarious agents if this is necessary and the customer can be expected to do so technically and logistically.

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



If the goods are stored, the customer shall pay a lump sum for storage of 1 % of the net remuneration for the stored goods per week. Both parties shall have the right to prove that costs were lower or higher; the customer shall also have the right to prove that no costs were incurred at all.

5.9 If the customer incurs damage as a result of our default, the customer shall have the right, to the exclusion of any further claims, to request compensation for default. It shall amount, for each full week of default or part thereof, to 0.5 % of the net remuneration for the delivery of the goods and/or service which are delayed but in total at most to 5 % of the net remuneration for the complete delivery and/or complete service which, as a result of the default, is not provided by us in due time or according to the contract. Any further compensation from us for damages due to delay shall be excluded. This shall not apply in the case of an intentional, grossly negligent or fraudulent act by us, in the case of claims due to injury to life, limb or health, in the case of default where a fixed delivery date is agreed within the meaning of the law and the assumption of a performance guarantee or a procurement risk pursuant to Section 276 BGB and in the case of mandatory legal liability.

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

6. Force majeure / Delivery subject to availability

6.1 If we do not receive a delivery or service from our sub-contractors to allow us to provide our delivery or service which is due from us under the contract, despite due and proper stocking in terms of quantity and quality under our delivery or service agreement with the customer (*congruent stocking*), for reasons for which we are not responsible, or it is incorrect or not in due time, or events of force majeure occur of significant duration (i.e. of longer than 14 calendar days), we shall notify our customer in writing or text form in due time. In such case, we shall have the right to postpone the delivery for the duration of the obstruction, or to rescind the contract in whole or in part for that part of the contract not yet fulfilled if we have met our foregoing duty to provide information and have not assumed a procurement risk. Events of force majeure are strikes, lock-outs, official intervention, power shortages and shortages of raw materials, transport bottlenecks or obstructions through no fault of our own, company obstructions not due to us, e.g. due to fire, water and damage to machinery, and any other obstructions which, when considered objectively, were not caused by our negligence.

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

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

7. Shipment / Passing of risk / Taking of delivery

7.1 Unless otherwise agreed in writing, delivery shall be ex works Incoterms 2010. In the case of an obligation to be performed at the debtor's place of business and an obligation to be performed at the debtor's place of business where the debtor must dispatch the goods, the goods shall be transported at the customer's risk and expense.

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

If shipment is delayed with respect to the agreed date at the customer's request or through the customer's fault, we shall store the goods at the customer's expense and risk. Para. 5.8 (2) shall apply accordingly in this respect. In this case, notice that the goods are ready for shipment shall be deemed equivalent to shipment.

7.3 The risk of accidental loss or accidental deterioration shall pass to the customer, in the case of an obligation agreed to be performed at the debtor's place of business, upon the products to be delivered being handed over to the customer. In the case of an obligation

agreed to be performed at the debtor's place of business with the debtor having to dispatch the goods, the risk of accidental loss or accidental deterioration shall pass to the forwarding agent, carrier or firms otherwise entrusted with shipping the products upon the products being handed over but at the latest when the products leave our works, warehouse, branch or the manufacturer's works unless performance of the obligation at the creditor's place of business is agreed. The foregoing shall also apply if an agreed partial delivery is carried out.

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

8. Notice of defects / Breach of duty due to material defects / Warranty

8.1 The customer must give us notice of recognisable material defects immediately but at the latest 12 days after collection, in the case of delivery ex works or storage location, otherwise after delivery. Notice of hidden material defects must be given to us immediately after they are detected but at the latest within the limitation period in respect of warranty according to para. 8.7. A notice of defects that fails to comply with requirements of time shall exclude any claim by the customer for breach of duty due to material defects. This shall not apply in the case of an intentional, grossly negligent or fraudulent act by us, in the event of injury to life, limb or health, or the assumption of a guarantee for the absence of defects or a procurement risk pursuant to Section 276 BGB or other compulsory statutory basis for liability, and in the event of right of recourse in the supply chain (Sections 478, 479 BGB).

8.2 The delivering transport operator must also be notified of any material defects recognisable on delivery, and the recording of defects in written or text form must be arranged by the transport operator. Failure to have the delivering transport operator arrange the recording of the notice of defects in due time shall exclude any claim by the customer for breach of duty due to material defects. This shall not apply in the case of an intentional, grossly negligent or fraudulent act by us, in the event of injury to life, limb or health, or the assumption of a procurement risk pursuant to Section 276 BGB, a guarantee for the absence of defects, or compulsory statutory basis for liability, and in the event of right of recourse in the supply chain (Sections 478, 479 BGB).

If defects in number and weight were already recognisable upon delivery by virtue of the foregoing obligations to inspect, the customer must make a complaint about these defects to the delivering transport operator upon receipt of the products, and have this complaint certified. Failure to give notice of defects in due time to the transport operator shall also exclude any claim in this respect by the customer for breach of duty due to material defects. This shall not apply in the case of an intentional, grossly negligent act by us, in the event of injury to life, limb or health, or the assumption of a guarantee for the absence of defects, the assumption of a procurement risk pursuant to Section 276 BGB or in the case of a compulsory statutory basis for liability, and in the event of right of recourse in the supply chain (Section 478 BGB).

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

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

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

8.5 We shall remedy any defects for which the customer itself is responsible, and eliminate any unjustified complaints on behalf of



and at the expense of the customer, if the customer is a merchant within the meaning of the Handelsgesetzbuch [German Commercial Code].

8.6 Unless breach of duty by way of exception relates to the performance of work by us, the contract may not be rescinded if our breach of duty is not material.

8.7 We shall provide a warranty for material defects, unless otherwise expressly agreed in writing or text form, for a period of 12 months, calculated from the date the risk passes (see para. 7.3), in the case of refusal to accept or take delivery by the customer as of the date of the notice that the goods are ready to be taken over. This shall not apply to damage claims resulting from a guarantee, from the assumption of a procurement risk within the meaning of Section 276 BGB, claims for injury to life, limb or health, a fraudulent, intentional, grossly negligent act, or if, in the cases of Section 478 BGB (recourse in the supply chain), Section 438 (1) No. 2 (buildings and objects for buildings), and Section 634 a (1) No. 2 BGB (building defects), or otherwise a longer limitation period is mandatory by law. This shall not affect Section 305b BGB (precedence of an individual agreement in verbal or written form). There is no connection between the reversal of the burden of proof and the foregoing stipulation.

8.8 If the customer or a third party rectifies the products delivered by us incorrectly, we shall not be liable for the resulting consequences. This shall also apply to any changes of the delivery item undertaken without our prior consent.

8.9 Further claims by the customer for or in connection with defects or consequential damage caused by a defect, for whatever reason, shall exist only subject to the provisions of para. 8.10 and 11.

8.10 Damage claims of the customer against ourselves due to a material defect of goods delivered by us shall be excluded. This shall not apply in the case of an intentional, grossly negligent or fraudulent act by us, in the event of injury to life, limb or health, or the assumption of a guarantee for absence of defects, the assumption of a procurement risk pursuant to Section 276 BGB or in the case of a compulsory statutory basis for liability.

8.11 Our warranty (claims for breach of duty due to defective performance in the case of material defects) and liability arising herefrom shall be excluded if defects and damages connected therewith cannot be proven to be due to defective material, defective design, defective execution, or defective manufacturing materials, or, if to be provided, defective instructions on use. Warranty and liability arising herefrom shall be excluded due to breach of duty for defective performance in particular with respect to the consequences of incorrect use, inappropriate storage conditions, and the consequences of chemical, electromagnetic, mechanical or electrolytic influences that do not correspond with average standard influences provided for in our product description or a different agreed product specification. The foregoing shall not apply in the case of a fraudulent, grossly negligent or intentional act by us, or injury to life, limb or health, the assumption of a guarantee, a procurement risk pursuant to Section 276 BGB and/or liability due to a compulsory statutory basis for liability.

Any warranty and liability shall be excluded if the customer fails to comply with the technical regulations or instructions for use stipulated or provided by us in this respect in conformity with the concluded contract.

This shall also apply if changes are made or occur to the ground or building structure on which our goods were attached and processed, which at the same time change the requirements, to which the attached or processed goods were subject according to the contract up to that point in time, or the delivered, attached and processed goods are handled incorrectly, in particular exposed to substances, the effect of which the customer failed to specify expressly to us in writing when placing the order.

8.12 Claims by the customer for expenses required for subsequent performance, in particular transport, travel, labour and material costs, shall be excluded if the expenses increase because the delivery item has been transferred subsequently to a location other than the customer's branch for delivery unless in doing so this complies with its intended use.

8.13 Claims based on defects shall not exist in the case of only a minor deviation from the agreed or customary quality or usability.

8.14 We give no warranty according to Sections 478, 479 BGB (recourse in the supply chain - recourse against suppliers) if the customer has treated or processed or otherwise changed the products we supply under the contract unless this corresponds to the intended use of the products.

8.15 In the case of defects in components of other manufacturers which we cannot eliminate for reasons of licensing law or actual reasons, we shall assign our warranty claims against the manufacturers and suppliers to the customer for the purpose of asserting such rights. The customer shall not be obliged to assert such rights in court.

The warranty claims shall exist against us in the case of such defects according to the other conditions specified in and according to these General Terms and Conditions only if the assertion of the above-mentioned claims against the manufacturer and supplier was unsuccessful out of court or there is no prospect of success, e.g. due to insolvency, and the customer assigns the claims assigned to it back to us.

8.16 Recognition of breach of duty in the form of material defects shall only be valid when given in writing.

9. Prices / Payment terms / Objection of uncertainty

9.1 All prices are on principle quoted net in EUROS, ex works resp. warehouse, and exclude packaging for shipment by sea or air, freight, postage and, if a transport insurance was agreed, insurance costs, value added tax (if incurred by law) at the legally valid rate which shall be borne by the customer, any country-specific charges in the case of delivery to countries other than the Federal Republic of Germany, and customs duties and other fees and public charges for the delivery/service.

If taxes or charges are incurred by the customer or ourselves on the service we provide (withholding tax), the customer shall indemnify us against such taxes and charges.

We shall have the right to issue partial invoices depending on the progress of order processing and/or request payments on account corresponding to the progress of processing if we perform works.

The purchase price in the case of an obligation agreed to be performed at the debtor's place of business shall be due for payment upon receipt of notification that the goods are available; in the case of an obligation agreed to be performed at the debtor's place of business with the debtor having to dispatch the goods, upon the goods being handed over to the carrier; and in the case of an obligation agreed to be performed at the creditor's place of business upon delivery of the goods.

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

9.2 Services that are not an integral part of the agreed scope of delivery shall be charged, unless otherwise agreed, on the basis of our respectively valid general price lists.

9.3 We shall have the right accordingly to increase the remuneration unilaterally where material production costs and/or material costs and/or product procurement costs, wage and ancillary wage costs, social security contributions as well as energy costs and costs due to environmental charges, currency fluctuations and/or currency regulations and/or changes in customs duties and/or freight rates and/or public charges are increased, if they have a direct or indirect impact on the manufacturing costs or costs of our contractually agreed services, and if more than 4 months elapse between conclusion of the contract and delivery. Such an above-mentioned increase shall be excluded if the increase in costs for the above-mentioned factors is set off by a reduction in costs of other above-mentioned factors with respect to the overall cost burden for the delivery. If the above-mentioned cost factors are reduced without the reduction in costs being set off by the increase in other above-mentioned cost factors, the reduction in costs shall be passed on to the customer through a price reduction.

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

9.5 Payment terms agreed shall run with effect from the delivery date.



9.6 Once in default, default interest shall be charged of 8% above the respective base rate of the European Central Bank when the claim for payment falls due. We reserve the right to assert damages in excess of this.

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

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

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

9.10 The customer shall have a right of retention or right of set-off only with respect to those counter-claims that are not disputed or have not been recognised by declaratory judgment.

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

9.12 We shall only accept bills of exchange offered as an exception by express agreement and only on account of performance. We shall make discount charges from the due date of the invoice until the maturity date of the bill of exchange as well as charge costs for the bill of exchange. The customer shall bear interest and costs for the discounting or redemption of bills of exchange. With regard to bills of exchange and cheques, the date of their redemption shall be deemed the payment date. In the event of our company's bank refusing to discount a bill of exchange or in the event of reasonable doubt that a bill of exchange shall be discounted during the term of the bill of exchange, we shall have the right to request immediate payment in cash while the bill of exchange is taken back.

9.13 Incoming payments shall first be used to repay costs, then interest and finally the principal claims according to age. Any determination to the contrary by the customer when making payment shall be disregarded.

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

10. Retention of title / Right of lien

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

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

10.3 The customer is authorised to resell the delivered products in the normal course of business. The customer is not permitted to make other disposals, especially pledging or granting of equitable lien. If the goods subject to retention of title are not paid for

immediately by third-party purchasers when resold, the customer shall be obliged to resell under retention of title only. Authorisation to resell the goods subject to retention of title shall not apply a priori if the customer suspends its payment or defaults in payment to us.

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

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

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

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

10.8 In the event of conduct by the customer in breach of the contract through the customer's fault, especially in the case of default in payment, we shall have the right, without rescinding the contract, to take back all goods subject to retention of title. The customer shall be obliged in this case to surrender the goods automatically. We may at any time during normal business hours enter the customer's business premises to determine the stock of the goods delivered by us. Taking back the goods subject to retention of title shall only involve rescinding the contract if we expressly state this in writing or this is prescribed by compulsory statutory provisions. The customer must notify us immediately in writing of any third-party attachment of goods subject to retention of title or any claim assigned to us.

10.9 If the value of the securities existing for us according to the foregoing provisions exceeds the secured claims as a whole by more than 10 %, we shall be obliged, at the customer's request, to release securities at our option.

10.10 We treat and process the goods subject to retention of title as manufacturers but without obligation on our part. If the goods subject to retention of title are processed or connected inseparably with other items that do not belong to us, we shall acquire co-ownership in the new item in the ratio of the invoice value for our goods to the invoice values for the other processed or connected items. If our goods are connected with other movable items into a uniform item that is deemed the principal item, the customer shall herewith already assign co-ownership thereof to us in the same ratio. The customer shall maintain ownership or co-ownership free of charge on our behalf. Rights of co-ownership accordingly arising shall be deemed goods subject to retention of title. The customer shall be obliged at any time at our request to provide us with the information required to assert our ownership or co-ownership rights.

10.11 If, in the case of deliveries abroad, specific measures are required by us or by the customer in the importing country to ensure the effectiveness of the above-mentioned retention of title or the other rights indicated above, the customer shall notify us of this in writing or text form and shall take such measures immediately at its expense. We shall cooperate on this to the required extent. If the law of the importing country does not allow retention of title but allows us to reserve other rights to the delivery item, we can exercise all such



rights at our reasonably exercised discretion (Section 315 BGB). If we cannot secure the claims against the customer in an equivalent amount, the customer shall be obliged at its expense to provide us immediately with other appropriate securities for the goods supplied or other securities according to our reasonably exercised discretion (Section 315 BGB).

11. Exclusion/Limitation of liability

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

11.2 The above exclusion of liability according to para. 11.1 shall not apply if statutory liability is mandatory, and:

- in the case of own intentional or grossly negligent breach of duty and intentional or grossly negligent breach of duty by legal representatives or vicarious agents;
- in the case of violation of material contractual obligations. *“Material contractual obligations” are obligations that protect the legal positions of the customer which have to be granted to the customer under the contract in terms of subject matter and purpose. Material contractual obligations are also contractual obligations, the fulfillment of which makes the due performance of the contract possible in the first place, and where the customer regularly relies on and may rely on compliance with such obligations;*
- in the event of injury to life, limb and health, also caused by legal representatives or vicarious agents;
- in the case of default of delivery and/or service by a fixed date was agreed;
- where we have assumed a guarantee for the quality of our goods or the existence of an outcome of performance, or a procurement risk within the meaning of Section 276 BGB;
- in the case of liability under the Produkthaftungsgesetz [German Product Liability Act] or other compulsory statutory liability.

11.3 If we or our vicarious agents are responsible only for slight negligence and none of the cases specified in para. 11.2 bullet points 3, 4, 5 and 6 above exist, we shall be liable in the case of violation of material contractual obligations too only for damage typical for the contract and for foreseeable damage.

11.4 Our liability is limited in amount for each individual case of damage to a maximum liability coverage of EUR 100,000.00. This shall not apply if we are responsible for fraudulent intent, intent or gross negligence, for claims due to injury to life, limb or health, and in the case of a claim arising from tort or an expressly assumed guarantee or the assumption of a procurement risk pursuant to Section 276 BGB or in cases of different higher liability coverage prescribed by law. Any further liability shall be excluded.

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

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

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

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

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

12.2 Any disputes shall be settled, if the customer is a merchant within the meaning of the Handelsgesetzbuch [German Commercial

Code], exclusively before a competent court of law at the location of our company's registered office. We shall also have the right, however, to bring an action against the customer at its place of general jurisdiction.

12.3 The law of the Federal Republic of Germany shall apply exclusively to all legal relations between the customer and ourselves, in particular to the exclusion of the UN Sales Convention (CSIG).

13. Property rights, licence

13.1 Unless otherwise agreed, we shall only be obliged to deliver exempt from third-party industrial property rights and copyrights to the first country of delivery agreed by contract.

If a third party raises justified claims on account of infringement of property rights by products delivered by us to the customer, we shall be liable to the customer within the time limit specified in 8.7. as follows:

- We shall first at our option either try to obtain a right of use at our expense for the deliveries in question or change the delivery item while complying with the properties agreed under the contract so that the property right is not infringed, or exchange the delivery item. If we cannot do so on reasonable conditions, the customer shall be entitled to its legal rights which are defined, however, on the basis of these General Terms and Conditions of Contracts and Delivery.
- The customer shall, in the event of infringement of property rights by our delivery items, only be entitled to rights if the customer gives us written notification immediately about the claims asserted by third parties, does not acknowledge any infringement, and all defensive measures and settlement negotiations are reserved for us.
- If the customer stops using the products for reasons of damage minimisation or other good cause, the customer shall be obliged to advise the third party that cessation of use is not deemed to be an acknowledgement of a property right infringement.
- If an appeal is filed by third parties against the customer for infringement of property rights resulting from the use of products delivered by us, the customer undertakes to notify us of this immediately and give us the opportunity to participate in any legal action. The customer must support us in every way in conducting such a legal action. The customer must not take any action which could impair our legal position.

13.2 The customer shall have no claims if it is responsible for infringement of a property right. The customer shall also have no claims if the infringement of the property right is due to the customer's special instructions, an application which we could not foresee or the fact that the products are changed by the customer or used with products not delivered by us, if the infringement of the property right is based on this.

13.3 If the customer duly fulfils its contractual obligations, it shall have the right to use the services as provided in the contract.

All copyrights, patent rights or other industrial property rights shall remain with us unless otherwise expressly agreed in writing. Section 305b BGB (precedence of an individual agreement) shall not be affected in the case of individual agreements in verbal, written or text form).

If patentable inventions are made at our company within the scope of implementing the contract, we shall grant the customer a non-exclusive and non-transferable right to use them under preferential economic conditions. This shall not affect the customer's entitlement to receive all rights arising from the invention in the event of the achievement of the invention being a main contractual obligation on our part.

14. Export control / Product approval / Import regulations

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

14.2 The export of certain goods by the customer from there may be subject to authorisation e.g. because of their nature or intended purpose or final destination. The customer itself shall be obliged to



comply strictly with the relevant export regulations and embargos for these goods, especially of the European Union (EU), Germany resp. other EU Member States and, if applicable, the USA or Asian or Arab countries and all other third countries involved if the customer exports the products delivered by us or has them exported.

Furthermore, the customer shall be obliged to ensure that the required national product approvals or product registrations are obtained by the customer before transferring the products to a country which differs from the first country of delivery agreed with us and that the specifications set out in the national law of the country in question regarding the provision of user information in the national language are complied with as well as all import regulations.

14.3 The customer shall in particular check and ensure that

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

14.4 Goods delivered by us may only be accessed and used if the above-mentioned checks and assurances have been carried out by the customer; otherwise the customer must refrain from carrying out the intended export and we shall not be obliged to perform.

14.5 Where goods delivered by us are passed on to third parties, the customer undertakes to oblige such third parties in the same way as specified in para. 14.1-14.4, and to notify them of the need to comply with these legal provisions.

14.6 The customer shall at its own expense ensure, where delivery outside the Federal Republic of Germany is agreed, that the customer and the goods to be supplied by us comply with all national import regulations of the first country of delivery.

14.7 The customer shall indemnify us against all damages and expenses resulting from the negligent breach of the foregoing obligations according to para. 14.1-14.6.

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

15.1 A petition to institute insolvency proceedings against the customer or the customer's suspension of payment which, despite notice, is not due to rights of retention or other rights shall entitle us to rescind the contract at any time, if the customer violates a contractual obligation at this time, or to make delivery of the products due for delivery dependent on the prior fulfilment of the payment obligation. If the delivery item was already delivered or our service already provided, the consideration shall be due immediately in the above-mentioned cases. We shall also have the right to reclaim the delivery item in the above-mentioned cases and to retain it until the purchase price is paid in full.

We shall furthermore have the right to rescind the contract at any time if unlawful acts are proven to occur in a customer's business operations which are a material violation of the principles of corporate compliance and which are strongly impairing our company interests. This shall not apply if the customer, after our prior written request, proves within four weeks that the material violation of

compliance occurred in the customer's business operations through no fault of its own.

In the case of continuing obligations, we shall have the right, in lieu of rescission, to terminate the contract without notice. This shall not affect Section 314 BGB.

15.2 If trade terms are agreed according to the International Commercial Terms (INCOTERMS), the INCOTERMS 2010 shall apply.

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

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

If any current or future provision of the contract is or shall become invalid/void or unenforceable in whole or in part for reasons other than the provisions relating to the Law of General Terms and Conditions according to Sections 305 to 310 BGB, this shall not affect the validity of the remaining provisions of this contract unless the performance of the contract, also in consideration of the following provisions, would present an unreasonable hardship for one of the parties. This shall also apply if, after the contract is concluded, it is found to have a gap that requires filling.

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

The parties shall replace any invalid/void/unenforceable provision or gap that requires filling for reasons other than the provisions relating to the Law of General Terms and Conditions according to Sections 305 to 310 BGB by a valid provision that corresponds in its legal and economic content to the invalid/void/unenforceable provision and the purpose of the contract as a whole. Section 139 BGB (partial nullity) is expressly excluded. If the invalidity of any provision is due to a measure of performance or time (time limit or date) stated therein, a measure which most closely corresponds to the original measure in a legally admissible way must be agreed for this provision.

Note:

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

Gescher, January 2016