

General Conditions for the Supply and Installation of Machines
Based on the recommendations of the German Engineering Federation (VDMA e.V.) State 2022 Version 1/2024

Applicable to business transactions with:

1. persons concluding this contract as part of their commercial or self-employed activities (business enterprises)
2. legal persons under public law or special funds under public law.

I. GENERAL

1. All supplies and services are subject to these General Conditions and any other separate agreements which may be concluded. Should the Purchaser's terms of purchase conflict with our General Conditions, acceptance of the order by us shall not mean that such terms of purchase constitute part of the contract. Unless otherwise agreed, a contract shall be formed upon written confirmation of order by the Supplier.
2. All drawings and technical documents relating to the works submitted by one party to the other prior or subsequent to the formation of the contract shall remain the property of the submitting party.

Drawings, technical documents or other technical information received by one party shall not, without the consent of the other party, be used for any other purpose than that for which they were provided. Such drawings, technical documents or other technical information may only be used otherwise, copied, reproduced, transmitted or communicated to a third party with the consent of the submitting party.

II. SCOPE OF DELIVERY

1. The scope of delivery shall be determined by the Supplier's written confirmation of order; where the Supplier issues an offer subject to a time limit, and where said offer is accepted within the specified time limit, the scope of delivery shall be determined by said offer if the order confirmation has not been received in time. Subsidiary agreements and modifications shall only be valid if confirmed in writing by the Supplier.
2. Should modifications be agreed subsequent to confirmation of the order by the Supplier, the Supplier shall be entitled to invoice the resulting additional costs to the Purchaser even if this is not explicitly emphasised at the time such modification is agreed.

III. PREPARATORY WORK AND WORKING CONDITIONS

1. The Supplier shall provide in good time the requisite drawings for the installation of the delivery item, together with all information required for providing access for the delivery item and any necessary equipment to the point where the delivery item is to be erected, and for making all necessary connections to the works.
2. The Purchaser shall provide in good time all installations and shall ensure that the conditions necessary for the installation of the delivery item and the correct operation of the works are fulfilled. This shall not apply to preparatory work which according to the contract shall be performed by the Supplier.
3. The preparatory work shall be carried out by the Purchaser in accordance with the drawings and information provided by the Supplier under Clause III.1. The work shall be completed in good time. Should the Purchaser be responsible for transporting the delivery item to the site, the Purchaser shall ensure that the delivery item is at the site in good time.
4. The Purchaser shall ensure that:
 - a) the Supplier's personnel are able to start work in accordance with the agreed time schedule and to work during normal working hours. Provided that the Purchaser has been given notice in writing in reasonable time, work may be performed outside normal working hours to the extent deemed necessary by the Supplier.
 - b) he has informed the Supplier in writing of all relevant safety regulations in force at the site in good time before installation work commences. The installation shall not be carried out in unhealthy or dangerous surroundings. All the necessary safety and precautionary measures shall have been taken before installation work commences and shall be maintained during installation work.
 - c) the Supplier's personnel are able to obtain suitable and convenient board and lodging in the neighbourhood of the site and have access to internationally acceptable hygiene facilities and medical services.
 - d) he has made available to the Supplier free of charge at the proper time on the site all necessary cranes, lifting equipment and equipment for transport on the site, auxiliary tools, machinery, materials and supplies (including fuel, oils, grease and other materials, gas, water, electricity, steam, compressed air, heating, lighting, etc.), as well as the measuring and testing instruments of the Purchaser available on the site.
 - e) free Internet access is available for the Supplier's personnel during installation.
 - f) he has made available to the Supplier free of charge necessary storage facilities, providing protection against theft and deterioration of the delivery item, the tools and equipment required for installation, and the personal effects of the Supplier's personnel.

- g) the access routes to the site are suitable for the required transport of the delivery item, parts and the Supplier's equipment.

IV. PURCHASER'S DEFAULT

1. Should the Purchaser anticipate that it will be unable to fulfil the obligations necessary for completion of the works, including complying with the conditions specified in Clauses III.2 and 3, the Purchaser shall notify the Supplier forthwith in writing (at least by e-mail) stating the reason for the same and, if possible, specifying the time by which it will be possible to comply with such obligations.
2. Without prejudice to the Supplier's rights under Clause IV.3, should the Purchaser fail to fulfil, correctly and in time, its obligations necessary for completion of the works, including but not limited to the conditions specified in Clauses III.2, 3 and 4, the following shall apply:
 - a) The Supplier shall, at its own discretion, be entitled to elect to perform or employ a third party to perform the Purchaser's obligations, or otherwise take such measures as under the circumstances are appropriate in order to avoid or alleviate the effects of the Purchaser's default.
 - b) The Supplier shall be entitled to suspend performance of the contract in whole or in part. The Supplier shall forthwith notify the Purchaser in writing of said suspension.
 - c) If the delivery item has not been delivered to the site, the Supplier shall arrange for storage of the delivery item at the Purchaser's risk. At the request of the Purchaser the Supplier shall also insure the delivery item.
 - d) Should performance of the contract be delayed owing to default on the part of the Purchaser, the Purchaser shall nevertheless pay to the Supplier the part of the contract price which, but for such delay, would have become due. The Purchaser shall reimburse the Supplier for any storage costs incurred in accordance with Clause VIII.5.
 - e) The Purchaser shall reimburse the Supplier for any costs reasonably incurred by the Supplier as a result of measures under a), b) or c) of this Clause.
3. Should completion of the works be prevented by the Purchaser's default as referred to in Clause V.2, and should such default not be due to any of the circumstances referred to in Clause XVI.1, the Supplier shall also be entitled to make a demand in writing to the Purchaser requiring the latter to remedy the default within a final reasonable period.

Should, for any reason for which the Supplier is not responsible, the Purchaser fail to remedy said default within such period, the Supplier shall be entitled to serve notice in writing terminating the contract.

The Supplier shall then be entitled to compensation for any losses suffered as a result of the Purchaser's default. The compensation shall not exceed the contract price.

V. LOCAL LAWS AND REGULATIONS

1. The Supplier shall ensure that the works are carried out and comply with all laws, regulations and rules which are applicable to the works. At the request of the Supplier, the Purchaser shall provide the relevant information on said laws, regulations and rules in writing. If necessary, the supplier will provide the work within the European Economic Area with the necessary CE marking, the declaration of conformity and the necessary user information. Safety and health requirements that go beyond the statutory requirements must be ordered separately.
2. The Supplier shall carry out any variation work caused by changes in laws, regulations and rules referred to in Clause V.1, or in their generally accepted interpretation, occurring between the dates of submission of the offer and acceptance. The Purchaser shall bear the extra costs and other consequences resulting from such changes, including variation work.
3. Should the parties be unable to agree on the extra costs and other consequences of changes in laws, regulations and rules, referred to in Clause V.1, the Supplier shall be compensated based on the time worked and the materials used for any variation work pending settlement of the dispute.

VI. VARIATIONS

1. Subject to the provisions of Clause VI.5, and prior to acceptance of the works, the Purchaser shall be entitled to require variations to the scope, design and construction of the works. The Supplier shall be entitled to suggest such variations in writing.
2. Requests for variations shall be submitted to the Supplier in writing and shall contain an exact description of the variation required.
3. As soon as possible after receipt of a request for a variation or after having submitted a proposal for a variation itself, the Supplier shall notify the Purchaser in writing about whether and how the variation can be carried out, stating the resulting alteration to the contract price, the time for completion and other terms of the contract.

The Supplier shall also give such notice to the Purchaser if variations are required as a result of changes in laws, regulations and rules referred to in Clause V.1.

4. Should completion of the works be delayed as a result of disagreement between the Supplier and Purchaser on the consequences of variations, the Purchaser shall pay any part of the contract price which would have become due had the works not been delayed.
5. Save as provided in Clause V.2, the Supplier shall not be obliged to carry out variations requested by the Purchaser until the parties have either agreed on how the variations will affect the contract price, the time for completion and other terms of the contract, or the dispute has been settled.

VII. TRANSFER OF RISK

1. The risk shall pass to the Purchaser upon dispatch of the delivery parts to the Purchaser at the latest, including in those cases in which partial deliveries are made or where the Supplier has assumed responsibility for other supplies and services such as travel to the site and installation or the costs of shipping.

Except where other trade terms are explicitly agreed, delivery of the delivery item shall be "Ex works" (EXW). Where trade terms are agreed, these shall be interpreted according to the INCOTERMS valid at the time the contract was formed.

On request of the Purchaser the delivery shall be insured – at the cost of the Purchaser - by the Supplier against theft, breakage, transport, fire and water damage and other insurable risks.

Any risk of loss or damage to the works not covered by the first paragraph of this Clause shall pass to the Purchaser on acceptance of the works.

Any loss or damage to the delivery item and works after the risk has passed to the Purchaser shall be at the risk of the Purchaser.

2. Should dispatch or acceptance be delayed or does not take place for reasons for which the Supplier is not responsible, the risk shall pass to the Purchaser on the day on which readiness for dispatch has been notified; however, the Supplier shall obtain requisite insurance cover at the request and cost of the Purchaser.
3. Partial deliveries shall be allowed where these are reasonable for the Purchaser.

VIII. DELIVERY PERIOD, DELIVERY DELAYS

1. The delivery period shall commence upon dispatch of the confirmation of order, but not prior to receipt of an agreed advance payment and/or the provision of an agreed security (e.g. letter of credit). Delivery periods can only be adhered to by the Supplier if all commercial and technical issues have been clarified by the contracting parties and the Purchaser has complied with all the obligations incumbent on the Purchaser, such as providing the requisite official certification or permits. Should this not be the case, the delivery period shall be extended for a reasonable period of time. This shall not apply in cases in which delay is the responsibility of the Supplier.
2. Compliance with the delivery period is subject to receipt by the Supplier of correct and timely supplies. Impending delays shall be notified by the Supplier as soon as possible.
3. The delivery date shall be deemed to be kept if the delivery item has left the Supplier's works or been reported as ready for dispatch by this date.
4. The Supplier shall be entitled to an extension of the delivery period if delay occurs:
 - a) owing to any of the circumstances referred to in Clause XVI.1, or
 - b) owing to variation work under Clause V.2, or
 - c) as a result of variations under Clauses VI.1 - 5, or
 - d) as a result of non-performance on the part of the Purchaser in accordance with Clauses IV.2, XII.5, XVI.2 or
 - e) an act or omission on the part of the Purchaser.

The extension shall be reasonable having regard to all the circumstances. This shall also apply should such circumstances affect subcontractors.

The circumstances referred to above shall not be deemed to be the responsibility of the Supplier should they occur during an existing delay. In important cases the Supplier shall notify the Purchaser of the onset and termination of such hindrances as soon as possible.

5. In the event that dispatch is delayed at the request of the Purchaser, the Purchaser shall be charged the costs of storage, or should storage be made at the Supplier's works a minimum of 0.5% of the invoice amount, for every month commencing one month subsequent to the date on which notification of readiness for dispatch has been notified.

The Supplier shall however be entitled, after stipulation and the abortive expiry of a reasonable period, to dispose otherwise of the delivery item and to make delivery to the Purchaser within a reasonably prolonged period of time provided that the Supplier has drawn the attention of the Purchaser to such consequences at the time said period was stipulated.

6. The Purchaser shall be entitled to terminate the contract without notice should performance become irreversibly impeded and impossible in its entirety for the Supplier prior to the transfer of risk. The Purchaser shall also be entitled to terminate the contract should delivery of part of an order become impossible and should the Purchaser have a legitimate interest in refusing the partial delivery.

Should this not be the case, the Purchaser shall pay the contract price applicable to such partial delivery. The same shall apply in the event of inability to perform on the part of the Supplier. Clauses XI.3, 4 and 5 apply accordingly in all other respects.

Should such impossibility or inability to perform occur during an instance of default on acceptance or should the Purchaser bear sole or main responsibility for the same, the Purchaser shall be bound to provide consideration.

7. Compliance with the delivery period shall be contingent on fulfilment of the Purchaser's contractual obligations.

IX. ACCEPTANCE TESTS

1. Unless otherwise agreed, acceptance tests shall be performed upon completion of the installation work to determine whether the works comply with the contractual terms for acceptance.

The Supplier shall notify the Purchaser in writing that the works are ready for acceptance. Said notice shall specify a date for acceptance tests which provides the Purchaser with sufficient time to prepare for and be represented at the same.

The Purchaser shall bear all costs of acceptance tests. The Supplier shall, however, bear all costs relating to its personnel and other representatives.

2. The Purchaser shall provide free of charge any power, lubricants, water, fuel, raw materials and other materials required for the acceptance tests and for final adjustments in preparing for these tests. The Purchaser shall also install free of charge any equipment and provide any labour or other assistance necessary for the performance of acceptance tests.
3. Should the Purchaser fail to fulfil its obligations under Clause IX.2 after having been notified in accordance with Clause IX.1 or should the Purchaser otherwise prevent the acceptance tests from being performed, the tests shall be regarded as having been satisfactorily completed on the date for acceptance tests stated in the Supplier's notice.
4. Acceptance tests shall be carried out during normal working hours. Unless the contract explicitly stipulates the technical requirements, the tests shall be carried out in accordance with general practice in the appropriate branch of industry concerned in the Purchaser's country.
5. The Supplier shall prepare a test report of the acceptance tests which shall be sent to the Purchaser. Should the Purchaser not be represented at the acceptance tests after having been notified in accordance with Clause IX.1, the test report shall be accepted as accurate.
6. Should the acceptance tests show that the works do not comply with the contract, the Supplier shall remedy the defects forthwith. New tests shall be carried out in accordance with Clauses IX.1 - 5 should this be requested in writing without undue delay by the Purchaser. This shall not apply in the case of immaterial defects.

X. ACCEPTANCE

1. The works shall be deemed to be accepted
 - a) if the acceptance tests have been completed successfully or are deemed to have been successful pursuant to Clause IX.3; or
 - b) if the Purchaser has been notified in writing by the Supplier that the works have been completed, provided that the works comply with contractual acceptance conditions and only in those cases in which the parties have agreed not to perform acceptance tests.

Acceptance shall not be prevented by minor defects which do not affect the efficiency of the works.

2. The Purchaser shall not be entitled to use the works or any part thereof prior to acceptance. Should the Purchaser do so without the Supplier's consent in writing, the Purchaser shall be deemed to have accepted the works. In such cases the Supplier shall be relieved of its duty to perform acceptance tests.
3. The period referred to in Clause XVII shall start to run as soon as the works have been accepted pursuant to Clauses X.1 or 2. Upon a request made by the Supplier in writing, the Purchaser shall issue a certificate stipulating the point in time at which the works have been accepted. Should the Purchaser nonetheless fail to issue such a certificate, this shall not affect acceptance pursuant to Clauses X.1 and 2.

XI. COMPLETION, SUPPLIER'S DELAY

1. The works shall be regarded as completed upon their acceptance pursuant to Clause X.1 or 2.
2. Clause VIII. 4 shall apply to extensions of the time for completion accordingly. The time for completion shall also be extended accordingly should delivery be delayed pursuant to Clauses VIII. 1, 2, 4, 7.
3. The Supplier shall be deemed to be in delay should the works not be completed pursuant to Clause XI.1 on the completion date stipulated by contract or according to Clause X.1.2. Delay on the part of the Supplier shall entitle the Purchaser to liquidated damages from the date on which the works should have been completed.

The liquidated damages shall be payable at a rate of 0.5 per cent of the contract price for each completed week of delay. The liquidated damages shall not exceed 5 per cent of the contract price.

Should only part of the works be delayed, the liquidated damages shall be calculated on that part of the contract price which is attributable to such part of the works as cannot in consequence of the delay be used as intended by the parties.

The liquidated damages become due upon request made by the Purchaser in writing, not however prior to completion of acceptance or termination of the contract pursuant to Clause XI.4.

- Should the Supplier's delay be so lengthy that the Purchaser is entitled to the maximum liquidated damages under Clause XI.3 and should the works still not be completed, the Purchaser shall be entitled to make a demand in writing for completion within a final reasonable period which shall not be less than four weeks.

Should the Supplier not complete the works within such final period and should this not be due to circumstances for which the Purchaser is responsible, the Purchaser shall be entitled to serve notice in writing to the Supplier to terminate the contract in respect of such part of the works which, due to the Supplier's delay, cannot be used as intended by the parties.

Should the Purchaser terminate the contract, the Purchaser shall be entitled to compensation for losses suffered as a result of the Supplier's delay. Total compensation, including liquidated damages as payable under Clause XI.3, shall not exceed 10 per cent of that part of the contract price which is attributable to the part of the works in respect of which the contract is terminated.

- The remedies available to the Purchaser in the event of delay on the part of the Supplier shall be limited to liquidated damages under Clause XI.3 and termination of the contract with limited compensation under Clause XI.4. All other claims against the Supplier based on such delay shall be excluded, except where the Supplier has been guilty of gross negligence, wilful intent or culpable breach of material contract obligations.

XII. PRICE AND PAYMENT

- Unless agreed otherwise, prices shall be ex works, including loading and packaging in the works, but excluding unloading. Value-added tax at the applicable statutory rate shall be added to the prices.
- Unless otherwise agreed, payment shall be made to the account of the Supplier - 30 per cent as advance payment following receipt of the confirmation of order, 30 per cent as soon as the notification is provided to the Purchaser that the main parts are ready for dispatch, 30 per cent upon delivery of the delivery item or the major part of the delivery item to the site and the remaining part of the contract price upon acceptance.
- The Purchaser shall only be entitled to retain payments or to offset payments with counterclaims to the extent that such counterclaims are undisputed or have been legally determined.
- Should baselines dates for payments be culpably exceeded, the Supplier shall be entitled to charge interest on arrears without first issuing a reminder; more extensive damages for delay may also be claimed.
- In the event of late payment, the Supplier shall be entitled – after notifying the Purchaser in writing – to suspend performance of the contract pending receipt of payment.
- If the Purchaser is three months in arrears with his due payments or the provision of an agreed security (letter of credit), the Supplier shall be entitled to withdraw from the contract by written notice. In addition to interest and recovery costs, the Supplier may demand compensation for the damage incurred. Such compensation may not exceed the agreed purchase price.

XIII. RETENTION OF TITLE

- Title to all delivered goods shall only pass to the Purchaser following settlement of all claims by the Purchaser – including future claims - arising from the business relationship.
- The Supplier shall be entitled to insure the delivery item, at the cost of the Purchaser, against theft, breakage, fire, water damage and other damages unless the Purchaser has demonstrably taken out insurance cover itself and has assigned its claims arising from said insurance cover to the Supplier in advance.
- The Purchaser may not pledge the delivery item or assign same by way of security. The Purchaser shall notify the Supplier forthwith in the event of attachments and seizure or other third-party dispositions. Unless given the explicit consent of the Supplier, the Purchaser shall not – prior to receipt of all payments pursuant to Clause XIII.1 - impair the Supplier's retention of title in any way and shall not, in particular, resell, process, mix or join in any other way the delivery item with other objects.

Should the delivery item nonetheless be treated or processed by the Purchaser, the provisions regarding the retained goods shall likewise apply to the new object resulting from such treatment or processing. Should the goods be processed, blended or joined with other objects, the Supplier shall acquire co-retained title to the new object created as a result in the ratio of the value of the delivery item to the other processed or joined items at the time of such processing or joining. In undertaking any processing work the Purchaser shall be active on behalf of the Supplier without acquiring any claims against the Supplier as a result of such processing.

- Should the Purchaser act in breach of contract, particularly in the event of default in payment, the Supplier shall be entitled to retake possession after issuing a warning and the Purchaser shall be obliged to surrender.

The assertion of the retention to title and the attachment of the delivery item by the Supplier shall not constitute withdrawal from the contract.

- The institution of insolvency proceedings shall entitle the Supplier to terminate the contract and to demand immediate surrender of the delivery item.

XIV. WARRANTY CLAIMS

The Supplier provides the following warrants for material defects and defects in title, excluding further claims – subject to Section XV. – as follows.

Material defects

Insofar as the parties have agreed on a quality of the purchased item, objective requirements for the purchased item shall not apply in this respect.

- Claims for defects of the Purchaser shall exist only if the Purchaser has complied with its inspection and notification duties pursuant to Section 377 of the German Commercial Code (Handelsgesetzbuch –HGB) in due time. The Purchaser shall perform a functional test within this period. Defects not recognizable during the inspection and functional test must be reported within one week of their discovery. Defects which should have been detected during an acceptance inspection shall not be notified subsequent to agreed acceptance.
 - All such parts are to be replaced or repaired at the discretion of the Supplier that are shown to have been defective prior to the transfer of risk. The discovery of such defects shall be notified to the Supplier in writing forthwith. Replaced parts shall become the property of the Supplier. Such parts shall be transferred to the Supplier on request forthwith.
 - Should the Supplier have requested that the defective part or the delivery item be returned to it, and should the Purchaser fail to comply with this duty, the defect shall be deemed as unproven. In such cases the Purchaser shall reimburse all the costs incurred by the contractor relating to the exchange of the part notified as defective (e.g. costs of spare parts and delivery costs).
 - After consultation with the Supplier, the Purchaser shall give the Supplier the necessary time and opportunity to carry out all repairs and replacement deliveries deemed necessary by the Supplier; should the Purchaser fail to provide such time and opportunity, the Supplier shall be released from liability for the consequences of the same. Only in urgent cases, and following immediate notification of the Supplier, in which operational safety may be jeopardized or in order to ward off disproportionately greater damages shall the Purchaser be entitled to rectify the defect itself or to arrange for such defects to be rectified by third parties and to demand reimbursement of the necessary expenditure from the Supplier.
 - Should the complaint prove to be legitimate, the Supplier shall bear those of the direct costs arising from reworking or replacement deliveries incurred for the replacement item including dispatch of the same. The Supplier shall also bear the dismantling and re-assembly costs as well as the costs for the provision of any fitters and auxiliary personnel who may be required, including travel expenses provided that this does not entail imposing an unreasonable burden on the Supplier.
- Should the works not be at the site, the Purchaser shall bear any resulting additional costs incurred by the contractor when remedying defects.
- In the framework of statutory provisions, the Purchaser shall be entitled to terminate the contract should the Supplier – taking account of statutory exemptions – allow a reasonable period of grace for reworking or replacement delivery on account of material defects to expire abortively. In the case of insubstantial defects, the Purchaser's right shall be limited to the right to demand a reduction in the contract price. The right to demand a reduction in the contract price is excluded in all other cases.

Further claims are governed by Clause XV.2 of these General Conditions.

- No warranty shall be assumed in the following cases in particular:

Unsuitable or improper use, faulty installation or commissioning by the Purchaser or third parties, natural wear and tear, faulty or negligent treatment, improper maintenance, unsuitable operating equipment, faulty construction work, unsuitable foundations, chemical, electrochemical or electrical influences – except where these are the responsibility of the Supplier.

- Should the Purchaser or a third party perform improper reworking, the Supplier shall accept no liability for the consequences of the same. The same shall apply should alterations be made to the delivery item without the prior approval of the Supplier.

Defects in title

- Should use of the delivery item result in the infringement of domestic intellectual property rights or copyrights, the Supplier shall – as a matter of principle and at its own cost – procure the right of the Purchaser to make further use of the delivery item or shall modify the delivery item in a manner acceptable to the Purchaser such that it no longer infringes the intellectual property rights.

Should this not be possible on reasonable business terms or within a reasonable period, the Purchaser shall be entitled to terminate the contract. Subject to the specified preconditions the Supplier shall also be entitled to terminate the contract.

The Supplier shall also hold the Purchaser harmless against undisputed or legally effective claims asserted by the owners of the relevant intellectual property rights.

- Subject to Section XV.2, the duties of the Supplier referred to in Clause XIV.8 shall be exhaustive with regard to the infringement of intellectual property rights or copyrights.

These shall only exist if

- the Purchaser notifies the Supplier forthwith of any claims regarding infringements of intellectual property rights or copyrights,

- the Purchaser provides the Supplier with appropriate support warding off such claims or enables the Supplier to perform the modification measures referred to in Clause XIV.8,
- all measures to ward off such claims, including out-of-court settlements, remain the preserve of the Supplier,
- the legal defect is not the result of instructions issued by the Purchaser, and
- the infringement has not been caused by the fact that the Purchaser has modified the delivery item independently or in a manner which does not comply with contractual provisions.

XV. LIABILITY

1. Should it not be possible for the Purchaser to use the delivery item as foreseen by contract through the fault of the Supplier as a result of omitted or faulty implementation of suggestions and consultations made before or after conclusion of the contract or as a result of the infringement of other subsidiary contractual duties, in particular instructions regarding the operation and maintenance of the delivery item, the provisions of Clauses XIV. and XV.2 shall apply accordingly, ruling out further claims by the Purchaser.
2. The Supplier shall only be liable for damages not incurred on the delivery item itself – regardless of the legal standing of the same – in the event of:
 - wilful intent
 - gross negligence of the proprietor / corporate bodies or executive employee,
 - non-accidental injury to life, limb or health,
 - in the event of the fraudulent concealment of defects or where the absence of such defects has been warranted,
 - in the event of defects in the delivery item where liability is borne under the German Product Liability Act (Produkthaftungsgesetz) for personal injury and damage to privately used property.

In the event of a culpable breach of contract, the Supplier shall also be liable for gross negligence on the part of non-executive employees and for slight negligence – in the latter case limited to reasonably foreseeable damages which are intrinsic to the contract.

Compensation for purely financial losses is limited by the general principles of good faith, for example in cases of disproportionality between the value of the order and the amount of the loss.

Further claims are excluded.

XVI. FORCE MAJEURE

1. Either party shall be entitled to suspend performance of its obligations under the contract to the extent that such performance is impeded or made unreasonably onerous by any of the following circumstances: industrial disputes and any other circumstance beyond the control of the parties such as for example fire, war, extensive military mobilization, insurrection, requisition, seizure, embargo, restrictions in the use of power etc. and defects or delays in deliveries by subcontractors caused by any such circumstance as referred to in this Clause.

Should any of the circumstances referred to in this Clause occur prior or subsequent to formation of the contract, such circumstances shall only entitle the parties to suspend performance if the effect of such circumstances on performance of the contract could not be foreseen at the time of the formation of the contract.
2. The party claiming to be affected by Force Majeure shall notify the other party in writing without delay on the intervention and on the cessation of such circumstance.

Should Force Majeure prevent the Purchaser from fulfilling its obligations, the Purchaser shall compensate the Supplier for expenses incurred in securing and protecting the works.
3. If a case of Force Majeure leads to unreasonably high expenses on the part of the Supplier in relation to the respective service, the Supplier can demand a share of the additional costs incurred from the Purchaser.
4. Regardless of anything which may otherwise follow from these General Conditions, either party shall be entitled to terminate the contract by notice in writing to the other party if performance of the contract is suspended under Clause XVI.1 for longer than six months.

XVII. LIMITATION PERIOD

All claims of the Purchaser – regardless of their legal standing – are subject to a limitation period of 12 months. This also applies to the limitation period for recourse claims in the supply chain pursuant to Section 445b (1) of the German Civil Code (BGB). The suspension of expiry under Section 445b (2) BGB remains unaffected; it ends no later than five years after the date on which the deliverer provided the item to the seller. These provisions on the limitation period for recourse claims and the suspension of expiry shall not apply if the last contract in this supply chain is a sale of consumer goods. Compensation claims under Clause XV.2 shall be subject to the statutory periods.

XVIII. SOFTWARE

1. Insofar as software is included in the scope of delivery, the Purchaser shall be granted a non-transferable and non-exclusive right, unlimited in time and space, to use the delivered software including its documentation. It is provided for use on the delivery item intended for this purpose. Use of the software on more than one system is prohibited.
2. The license conditions of third-party manufacturers shall apply to software from these manufacturers. This also applies to open-source licenses if a software component is subject to an open-source license. The Supplier shall make the terms and conditions of the third-party manufacturers available to the Purchaser upon request, unless the license already includes the obligation to provide the license terms and other mandatory information.
3. The Purchaser has no claim to the transfer and use of the source code of the software and the source code documentation. The Purchaser is not permitted to decompile, disassemble, or otherwise reverse engineer the software in order to obtain the source code; § 69e of the German Copyright Act remains unaffected by this. The Purchaser undertakes not to remove manufacturer's details - in particular copyright notices - or to change them without the prior express consent of the Supplier. Furthermore, the Purchaser is not entitled to reproduce the software.
4. All other rights to the software and the documentation, including the copies, shall remain with the Supplier or the software supplier. The granting of sublicenses and the transfer of rights of use is not permitted.
5. The Supplier shall not be responsible for training, support, maintenance or the provision of updates or upgrades. Such services may be contractually agreed separately.

XIX. APPLICABLE LAW, LEGAL VENUE

1. All legal relations between the Supplier and the Purchaser shall be subject to the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sales of Goods (CISG).
2. The exclusive legal venue shall be the court with jurisdiction for the head office of the Supplier. The Supplier shall, however, be entitled to bring an action at the Purchaser's head office.