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General Sales and Supply Conditions (U.S.A. & Canada)

Last updated: 29th of November 2017

1. Definitions

In these General Sales and Supply Conditions, the following terms shall have the meanings as hereinafter set out:

–„Conditions“ means these General Sales and Supply Conditions.

–„Customer“ means each person, firm, or corporation or legal assignee or successor of such a person, firm, company or corporate body.

–„Goods“ means those items which are specified in our written confirmation of order or offer.

–„Reserved Goods“ means those items sold and delivered in which title has not yet passed to the Customer.

–„Contract“ means the agreement between the Customer and us for sale and supply of the Goods to the Customer.

2. Scope of Validity

2.1 The Conditions hereinafter set out apply in the latest version in force to all of our offers, sales and deliveries. In addition, a copy of the Conditions is freely retrievable via Internet for download and printing at: http://www.sas-tec.de/en/agb/ at any time.

2.2 These Conditions shall exclusively apply to all our transactions. They shall also apply to all future transactions with the Customer. Any deviating conditions imposed by the Customer are in no way binding for us. Such conditions are hereby expressly rejected. Any variations from these Conditions shall only apply when and if – and insofar only for the affected case – these have been confirmed in writing by us as an amendment to our Conditions or by an individual agreement, negotiated in the individual case. This confirmation requirement applies in any case – for instance, also in cases in which we, aware of the purchasing conditions imposed by the Customer, make the supply to said Customer without reservation.

2.3 These Conditions shall only apply vis-à-vis merchants (in accordance with § 14 of the German Civil Code, “Bürgerliches Gesetzbuch”), governmental entities, or special governmental estates within the meaning of § 310 (1) German Civil Code, “Bürgerliches Gesetzbuch”.

3. Offers

3.1 Technical specifications are always considered approximate values – unless they are expressly shown as binding. The same applies to all other data and information indicated in any other documents, particularly in drawings, illustrations, descriptions and catalogues which merely serve as a general description of the Goods which we can supply. No one may rely on the binding nature of these specifications concerning the Goods or assume that a warranty or confirmation should be accepted. Especially these are no agreements on the legal and factual nature of the Goods.

3.2 Oral collateral agreements, agreements as to the fitness of the Goods for a specific purpose and alterations made after conclusion of the Contract shall only be valid and binding upon us after our written confirmation of these agreements or alterations. In every case, also the omission of the written form requirement requires the written form.

4. Orders and Scope of Supply

4.1 If orders placed by the Customer are to be qualified as an offer according to § 145 German Civil Code, “Bürgerliches Gesetzbuch”, we have the right to accept the said offer within 4 weeks.

4.2 The type and content of an order placed by the Customer and the scope of our deliveries shall always be governed by our written order confirmation. Oral agreements are invalid unless expressly confirmed in writing by us. In every case, also the omission of the written form requirement requires the written form.

4.3 If no written order confirmation according to clause 3.2 of these Conditions has been issued but we have provided an offer remaining open for a limited period which has been accepted in good time by the Customer, then the scope of supply shall be determined by our offer.

5. Prices, Price Changes

5.1 Subject to any specific agreement in writing all prices are ex works Markgröningen, County of Ludwigsburg, Germany or any other domestic or abroad branch office indicated in the written order confirmation - in EURO exclusive of value-added tax at the rate prevailing from time to time. Additional costs, such as (particularly) those applicable to packaging, transport, insurance, customs charges etc. will be charged separately. All fees, taxes, duties or other charges and payments that are levied in connection with the supply (in Germany or abroad) shall be borne by the Customer.

5.2 If, in the period elapsing between the conclusion of the Contract and the date of delivery, a decisive factor for the price (such as changes in the wages, energy costs and/or costs for raw materials) increases or decreases in the amount of 5 % or more, we shall be entitled to adjust the prices accordingly. Upon request, we will proof such increase or reduction in costs to the Customer. This shall not apply, if the period is shorter than one month or in cases, the agreed period is exceeded because of our reasonable fault.

6. Payment Conditions

6.1 The Customer must make advance payment on the price in the full amount, in cash and without any deduction – immediately after the receipt of the written order confirmation. A discount-based deduction is only granted upon express written agreement.

6.2 The Customer shall be in default of payment after having received our reminder. Such reminder is not required in case there is an agreed due date for payment determined according to the calendar or the parties have agreed on payment within a certain period of time after an event specified in the Contract has occurred. In any case the Customer is in default of payment 30 days after the receipt of the invoice at the latest or if the date of the receipt of the invoice cannot be determined, 30 days after receipt of the Goods.

6.3 Payments not received and credited on the due date, and overdue payments, as stated herein or in the terms of the Contract, shall be subject to interest and charges at the bank rate for overdraft facilities calculated from the due date at a minimum rate of 9 percentage points per annum above the base rate of the German Central Bank prevailing on the due date. The parties to the Contract shall be free to prove a higher or lower factual damage. This shall be without prejudice to our claims for any further damages incurred as a result of default of the Customer.

6.4 Should the Customer fail to pay any sum due and payable after the setting of a reasonable written deadline, we are entitled to repudiate the Contract or to claim damages for breach of Contract. The amount of liquidated damages shall be higher if we prove a higher damage or lower should the Customer prove a lower damage.

6.5 Payment shall only be deemed to have been made on the date on which we are able to dispose of the amount. Bills/drafts and cheques will only be accepted with our previous consent in writing and shall only be considered to be payment after unreserved crediting. Bank fees, discount charges, draft and other fees plus value added tax shall be charged to the Customer.

6.6 No guarantee for the timely presentation of the bill/draft or cheque and for making a protest is provided herein. If a cheque is not honored in time or not at all, or if a draft/bill is not discounted or honored in time, all invoices and debts, including invoices which are not yet due or have been deferred, shall become due immediately, regardless of the term of any accepted or credited bill. All discount based deductions are excluded in case payment is effected by bills/drafts or cheques.

6.7 If the Customer is not a domestic resident, we can request that payment shall be made by an irrevocable confirmed letter of credit without charges for the account of the beneficiary which shall be opened through a German bank of our choice in our favour, allowing partial shipments, and one third (1/3) of which shall be immediately payable after the opening of the letter of credit upon first demand and the remaining two thirds (2/3) upon presentation of the documents.

6.8 If the Customer fails to abide by the terms of payment, in the event of a serious deterioration in his business standing after the Contract was concluded or should the Customer suspend payments, we shall be entitled to refuse performance, make further supplies dependent upon down payments or provisions of security, or withdraw from the Contract in accordance with § 321 German Civil Code, “Bürgerliches Gesetzbuch”.

7. Right to Withholding and/or Off-Setting Given Amounts

7.1 Rights of retention of payment based on alleged remedies of the Customer against us or any other rights of the Customer against us which do not arise under the specific Contract (i.e. claims under another contract between the Customer and us) are expressly excluded.

7.2 Any set-off with the Customer's claims as against our claims is not allowed except insofar as such claims of the Customer are undisputed or subject of a final and conclusive judgement of a competent court.

8. Supply

8.1 Delivery dates and delivery periods stated by us in binding offers are also binding.

8.2 As a rule, the delivery period begins to lapse upon the conclusion of the Contract – not, however, prior to the date at which all technical, commercial and other prerequisites for which the Customer is responsible such as documentation, permits, approvals, performance details for the designation and production of the Goods etc. have been fulfilled; and prior to the date of the receipt of full advance payment as provided for in clause 6.1 of these Conditions.

8.3 The delivery period shall be deemed complied with if – before its expiry – the Product has left the factory or if we notified the Customer that the Goods are ready for shipment.

8.4 The delivery date is subject to unforeseeable and extraordinary circumstances beyond our control which we in each case under the prevailing circumstances cannot prevent, regardless of whether these circumstances arise in our plant or those of our suppliers (force majeure). These include – among other things – events which constitute acts of God, as well as war, unrest, operational impediments, strike, lockout, unavailability of specialists, officially imposed sanctions and measures, delays in the shipment of material commodities/supplies and construction materials – or in the event of energy-supply problems as well as other unforeseen obstacles which lie outside our sphere of influence. Insofar as these circumstances lead to delays and the delivery or service provision are not rendered impossible, the delivery period shall be extended adequately. The aforementioned circumstances are also beyond our control when and if these occur during a pre-existing delay period. We will notify the Customer within three (3) business days after the beginning of the force majeure event. If the force majeure event persists for more than sixty (60) consecutive days, the parties of the Contract have the right to a withdrawal of the Contract without any claims against each other arising thereof.

8.5 If the Customer, following the conclusion of the Contract, requests any modifications or supplements to the order which render compliance with the given deadline impossible, the delivery date is postponed according to the requested modifications and supplements – by a period appropriate to the production of such modifications and supplements.

8.6 We have on further deliveries a right to withholdings until the payment in full of any previous deliveries. If, following the conclusion of the Contract, it becomes apparent that our claim to the purchase price is placed in jeopardy due to incapacity on the part of the Customer (i.e. by the motion to initiate insolvency proceedings), we are entitled – according to applicable legal regulations – to refuse delivery or only perform such delivery following the payment or posting of collateral. If the Customer does not either pay or post collateral within a deadline imposed by us, we are entitled to withdraw from the Contract (§ 321 German Civil Code, "Bürgerliches Gesetzbuch"). For contracts on the production of items of individual custom manufacture we can declare our withdrawal immediately; the legal regulations governing the dispensability of the imposition of a deadline remain unaffected.

8.7 In any case, the observance of delivery periods and dates is subject to correct and punctual deliveries from our sub-suppliers

8.8 Default for any delay or due performance shall always require that the Customer has previously issued to us a reminder.

9. Delay

9.1 If, due to slight ordinary negligence, we do not deliver the Goods within the delivery period, the Customer – insofar as it credibly states that it has suffered damages as a result – can demand compensation for each fully elapsed week of delays of (each) 0.5 %, in total – however, at most 5 % of the price for that part of the deliveries which could not be properly utilised due to the delay. The Customer has the possibility to give evidence of a higher damages amount which has arisen from the delay; we can give evidence of lesser damages. This liability limitation is not applicable if the delay in delivery has arisen from a grossly negligent or willful act on the part of one of our legal representatives or vicarious agents.

9.2 We shall not be liable for any losses or damages of the Customer due to delay in delivery which exceed the limitations set forth in clause 9.1 of these Conditions –, even after the elapse of any subsequent deadline imposed on us by the Customer. This does not apply insofar as liability is mandatory in the cases outlined in clause 16.2 of these Conditions. The Customer can only withdraw from the Contract in the context of the applicable legal provisions insofar as we are liable for the delay in delivery. A reversal of the burden of proof to the Customer's disadvantage is not associated with the aforesaid rules.

9.3 The Customer shall on request declare within an appropriate deadline whether the Customer will withdraw from the Contract due to the delay in delivery or insists upon such delivery.

9.4 If shipping or delivery at the Customer's request are delayed by more than a month after the notification of readiness to ship, following the elapse of one month after such notification of the readiness to supply/deliver the Goods, the storage costs - in the amount of min. 0.5 % of the invoice amount per month, at most however a total of 5 % - can be billed to the Customer. This also applies if storage occurs in another manufacturer's plants. The evidence of higher or lower storage costs remains at the contractual parties' discretion. However, we are entitled to (following the imposition of an appropriate deadline for acceptance of the Goods, and its fruitless elapse) to dispose of the Goods elsewhere and supply the Customer at an accordingly extended deadline at the then-valid prices or to store the Goods elsewhere and bill those costs to the Customer.

10. Impossibility, Contractual Adjustment

10.1 Insofar as the delivery is impossible, the Customer is authorised to demand damages compensation – unless we have not negligently or wilfully caused the impossibility. However, the damages-compensation claim on the part of the Customer is limited to 10 % of the value of that part of the delivery which – due to impossibility – cannot be put to appropriate use. This limitation does not apply insofar as mandatory liability applies in cases such as those indicated in clause 16 of these Conditions; this is also not associated with a reversal of the burden of proof to the disadvantage of the Customer. The customer is free to proof higher damages and we are free to proof lower damages. The right held by the Customer to withdraw from the Contract remains unaffected.

10.2 Insofar as unforeseeable events in the context of clause 8.4 of these Conditions change the commercial significance or the content of the Supply to a material extent or significantly affect our operations, the Contract is adjusted accordingly in observance of the principles of good faith. Insofar as this is not justifiable in terms of efficiency, we are entitled to the right of withdrawal from the Contract. If we seek to exercise this right to withdraw, we must immediately inform the Customer of this decision following our awareness of the extent of such circumstances – this also applies to cases in which an extension of the delivery period was jointly agreed with the Customer.

11.Risk and Acceptance of Delivery

11.1 The costs for the shipping and the associated transport insurance must be borne by the Customer, unless otherwise expressly agreed in writing. The selection of the shipping route and manner of shipment lies within our free discretion. Upon written request by the Customer, the shipment will be insured by us against damages caused by theft, breakage, transport, fire and water exposure, as well as against other insurable risks. The Customer also bears all costs arising from such insurance.

11.2 The risk of the incidental loss or deterioration of the Goods is transferred – no later than the shipment of the supplied parts to the Customer – to said Customer. This also applies when legal partial deliveries are made, or when we also have provided other services such as particularly assumed the responsibility for shipping costs or the supply process itself to any extent. We assume no liability for damage to/breakage or loss of the Goods during transport.

11.3 If the shipment is delayed due to circumstances within the control of the Customer, the risk of the incidental loss or deterioration of the Goods is transferred to the Customer as of the day we informed the Customer about the readiness to ship the Goods. In such cases, however, upon written request by the Customer, we are willing to take out the corresponding insurance policies demanded by such circumstances insofar as the Customer bears all costs associated with such additional insurance. Regardless of this circumstance, the Customer shall be obliged to reimburse to us all additional expenses which arise as a result of such delays.

11.4 The Goods are – even if they display immaterial defects – to be accepted by the Customer regardless of any warranty claims of the Customer.

12. Retention of Title

12.1 All deliveries and services shall remain our property until the receipt of payment in full of all existing claims from the Contract and a current business relation (secured claims), regardless of their legal grounds,. If we in the interest of the Customer have accepted contingent commitments such as drafts/cheques or bills of exchange, this means that all deliveries and services shall remain our property until we have been indemnified from all such obligations. The inclusion of any claims in a current account - as well as the drawing of a balance and the recognition thereof - does not affect our accordingly applicable Retention of Title.

12.2 The Customer should store the Reserved Goods separate form others; and this in a manner that such Goods can be easily identified as our property, as long as the ownership of the Reserved Goods has not yet been transferred to the Customer.

12.3 The Customer is entitled to handle and process the Reserved Goods in the context of its standard business operations. The handling and processing of the Reserved Goods will be performed by the Customer for us, without any obligation arising on our part. In the course of the processing, combination/bundling or mixing of the Reserved Goods with any other goods not supplied by us, we are entitled to a share of co-ownership of the new item in the percentage of the invoiced value of the Reserved Goods to the other processed goods at the time of their processing, combination/bundling or mixing. Insofar as the Customer by the power of the law procures the sole ownership of the new item, said Customer already now grants to us the co-ownership of the aforesaid percentage of the new item and is obliged to store this item for us, free of charge.

12.4 If the Customer sells the Reserved Goods or (in accordance with clause 12.3 of these Conditions) the co-owned Goods still subject to „Reserve“ status, either alone or along with any goods not belonging to us, the Customer even now assigns to us by way of security all claims emerging from the re-sale of such goods, in the amount of the gross invoice amount – with all ancillary rights. If the sold item is in our co-ownership, the assignment of such claims extends to the amount which corresponds to the value of our share of ownership. We hereby accept the aforementioned assignments.

12.5 We authorise the Customer (subject to revocation) to collect the claims, assigned to us as long as the Customer complies with its payment obligations to us, is not in default of payment, does not file for the initiation of insolvency proceedings and no other defect in its liquidity exists. However, if this is the case, the Customer shall disclose to us all debtors of the assigned claims, provide all information necessary to the collection process, hand over the corresponding documentation and notify the debtors of such assignment. In this case, we are also entitled to notify the corresponding debtors of the assignments and make use of our right to collection.

12.6 If the Customer does not comply with the terms of the Contract – particularly if the Customer is in default of payment or violates the obligation to treat with care all Reserved Goods and all items still under „Reserve“ status, we are entitled to the return of the Reserved Goods and to the withdrawal form the Contract following the issuance of a reminder and the imposition of an appropriate deadline, unless such a deadline is dispensable according to legal regulations. In this case, the Customer is obliged to such handover. Neither the assertion of the Retention of Title nor the execution of the right to retake possession of the Reserved Goods by us are considered in such cases a withdrawal from the Contract. The Customer even now declares its consent to permit any persons appointed by us to collect the Reserved Goods and to access its premises on which those Reserved Goods are located, for this purpose.

12.7 The Customer is only entitled and authorised to re-sell, install, combine and/or process the Reserved Goods in the course of standard and proper business dealings – and only with the restrictive specification that the claims assigned to us also in fact are transferred to us. For the rest, items in which we have co-ownership shall be regarded as Reserved Goods as mentioned in this present clause 12 of these Conditions. The Customer is not entitled to dispose of the Reserved Goods in any other manner, particularly must not pledge or give in security those Reserved Goods.

12.8 The Customer must notify us immediately of compulsory-enforcement measures or other access by third parties to the Reserved Goods – even if we only acquired a co-ownership share– or to the claims assigned to us; this obligation includes the provision of any documentation necessary for filing our objection. We are entitled to take legal action against the compulsory-enforcement or the access by third parties to the Reserved Goods. The Customer is obliged to support us to the best of his ability and the Customer is obliged to bear all costs arising out of our legal actions.

12.9 All Reserved Goods must be ensured by the Customer at its own expense, particularly against fire and theft. The Customer assigns to us all claims against the respective insurance company with regard to the Reserved Goods. We hereby accept such assignment.

12.10 The Customer who is a non-domestic resident shall take any action required by law or otherwise to make our Retention of Title – as designated in these Conditions – valid and effective in the country to which the delivery takes place.

12.11 If the realisable value of the in total granted collateral exceeds the amount of our claims by more than 20 %, we are obliged and willing to return and/or release such collateral to the Customer insofar as it exceeds the coverage limit. The choice of such securities to be released and/or returned is incumbent on us.

13. Notice of Defects

13.1 The defects claims made on the part of the Customer according to clause 14 of these Conditions require, insofar as said Customer is a merchant, that such Customer has fulfilled its legal inspection and notice duties (§§ 377, 381 German Commercial Code, “Handelsgesetzbuch”). Obvious defects (including wrong and short supply/delivery) or other objections to the Goods – including also the lack of warranted characteristics – must be asserted in writing, no later than within a period of 7 days after the receipt of the Goods. Any defects not recognisable in the course of the standard inspection upon receipt must be likewise asserted in writing, without delay and within 7 days of their discovery, but no later than 12 months after the receipt of the Goods. To ensure deadline compliance, the timely sending of such notice is sufficient. If any defects or other objections are not asserted within the aforesaid deadlines, the Customer shall be precluded from asserting the relevant defects.

13.2 In the event of any notices of defects, payments by the Customer may only be withheld in a scope which appropriately corresponds to the occurred material defects. The Customer can only withhold payments if a notice of defects is asserted for which the justification is indubitable. If the notice of defects occurred unjustifiably, we are entitled to demand of the Customer the compensation of expenses incurred by us.

14. Warranty

In the event of a prompt notice in accordance with the aforementioned clause 13 of these Conditions, we are liable for defects on Goods, for the lack of a condition possibly guaranteed by us, or for the useful life of the Goods, as well as for any excess, shortfall or wrong deliveries („Defects“) as follows:

14.1 All those parts or services must be (free of charge for the Customer) remedied, re-supplied or provided once again („subsequent fulfilment“), which – within a period governed by the statute of limitations – indicate a defect, insofar as the Customer provides evidence that the defect already existed at the time of the transfer of risk, unless it applies § 377 HGB (German Commercial Code, “Handelsgesetzbuch”)

14.2 The statute of limita tions for defects claims lapses in 12 months as of the delivery of the Goods to the Customer. For damages arising from injury to life, bodily integrity or health the legal rules shall apply.

14.3 We must first be granted an appropriate grace period to perform any subsequent fulfilment.

14.4 If our subsequent fulfilment fails, the Customer – notwithstanding any damages-compensation or expense-compensation claims in accordance with clause 16 of these Conditions – is entitled to withdraw from the Contract or reduce the purchasing price.

14.5 We are not obliged to perform subsequent fulfilment if such action is only possible at unreasonable cost. Such costs are regulary considered unreasonable if they exceed 50% of the purchase price for the Goods. In this case, the Customer can assert the legally codified legal recourse.

14.6 If the notice of defects is proved to be unfounded, we are entitled to receive compensation from the Customer for such incurred expenses.

14.7 We shall not be liable for defects arising merely upon the detection of immaterial deviations from the agreed condition, in the event of merely immaterial impediments in use, in the event of natural wear or damages which -following the transfer of risk – occur as a result of improper or negligent treatment, excessive operational demands, inappropriate resources or due to extraordinary outside influences not required according to the Contract, as well as in the event of any non-reproducible software errors. If the Customer or any third parties have made any improper modifications or performed insufficient corrective-maintenance work, the Customer shall be precluded from asserting any relating defects and the resulting consequences.

14.8 If the supplied object has been subsequently moved to any place other than the Customer‘s branch office – and as a result, the expenses increase, especially those associated with transport, travel, labour and material costs for the remedy or supply of replacement goods, these increased expenses incurred by the Customer will not be compensated unless the move to another location conforms to the proper use of the supplied object.

14.9 Any regress claims made on the part of the Customer against us in accordance with § 478 German Civil Code, “Bürgerliches Gesetzbuch” (Regress of the Entrepreneur) apply only insofar as the Customer has made with its buyer no agreements which exceed the framework of legally codified defects claims. For the scope of the regress claims made on the part of the Customer against us (in accordance with § 478(2) German Civil Code, “Bürgerliches Gesetzbuch”), clause 14.8 of these Conditions also applies accordingly.

14.10 For damages-compensation or expense-compensation claims, clause 16 of these Conditions also applies accordingly. Any claims regulated to a greater extent or any other claims than those indicated in clause 14 of these Conditions made on the part of the Customer against us and our vicarious agents due to a material defect are excluded.

15. Industrial property rights and copyrights, defect of title

15.1 Unless otherwise agreed, we are obliged to make the delivery merely within the country in which the place of delivery is located as free of any industrial property rights (i.e. registered trademarks, patents, patent applications, utility models or industrial designs) and copyrights held by third parties (in the following: „industrial property rights“). Insofar as any third party - due to the violation of industrial property rights as a result of deliveries made by us in accordance with the Contract – raises a justified claim against the Customer, we are liable to the Customer within the deadline specified in clause 14.2 of these Conditions, according to the following clauses 15.2 - 15.10 of these Conditions.

15.2 We will at our own discretion and expense either procure a usage right for the affected deliveries, modify these items to avoid the violation of any industrial property right, or replace them entirely. If this is not reasonably feasible to us, the Customer is then – save for any claims for damages or expenses - entitled to withdraw from the Contract or reduce the purchasing price as provided for by law.

15.3 Clause 16 of these Conditions shall apply to all claims for damages or expenses based on the violation of industrial property rights.

15.4 We shall only be liable under this clause 15 of these Conditions provided that the Customer immediately informs us in writing of any claims made by third parties and the Customer does not acknowledge a violation, but reserves us the right to decide about all measures of defence and settlement negotiations. If the Customer does no longer use of the Goods in order to minimize any damages or because of other material grounds, the Customer is then obliged to notify the third party that this cessation of use shall in no way be construed as the acknowledgement of any violation of industrial property rights.

15.5 In the event that any claims are raised against the Customer due to the violation of industrial property rights of third parties, the Customer has only provided evidence of a defect in title when a final judgment of a competent court is imposed against the Customer.

15.6 Any claims on the part of the Customer are excluded in case the Customer is liable for the given violation of industrial-property rights.

15.7 Any claims made on the part of the Customer are furthermore excluded insofar as the violation of industrial-property rights is caused by specific instructions from the Customer, by Customer‘s (to us) unforeseeable use of the Goods or in case the Customer has changed the Goods or the Customer has used the Goods in conjunction with any products not supplied by us.

15.8 In the event of any violations of industrial-property rights, for the claims of the Customer mentioned in clause 15.2 of these Conditions, the provisions set forth in clauses 13.2, 14.4 and 14.9 of these Conditions shall apply accordingly.

15.9 In the event of the existence of any other defects in title, clause 14 of these Conditions shall apply accordingly.

15.10 Any further or other (than those addressed in this said clause 15 of these Conditions) claims made on the part of the Customer against us and our vicarious agents due to a defect in title are excluded.

16. Claims for damages

16.1 Unless otherwise agreed herein, any claims of the Purchaser against us or our agents because of or in relation with any defects or lack of warranted qualities of the Product, no matter on which legal basis, in particular, claims arising out of breach of Contract or of precontractual relationship (culpa in contrahendo), infringement of duties arising in connection with the Contract or tort, subsequent frustration due to petty or slight negligence and/or repudiation of the Contract because of delayed delivery, shall be excluded.

16.2 We shall only be liable - and this shall also apply if we employed executive personnel or other persons in performing our obligations - in the event that:

(a) we, our legal representatives or vicarious agents are attributed gross negligence or intent;

(b) we, our legal representatives or vicarious agents fraudulently concealed the defect or warranted the quality of the Product;

(c) damage to life, bodily injury or damage to health has been caused; and/or.

(d) we, our legal representatives or vicarious agents violate substantial contractual obligations (cardinal obligations) endangering the purpose of the agreement as a whole, that is

(aa) in the event of material violations of duties which endanger the achievement of the contractual purpose, or

(bb) in the event of the violation of duties – the fulfilment of which enables the proper performance of the Contract in the first - place and on the observance of which the Customers may regularly rely, or

(cc) if obligations are individually defined as such essential duties („Cardinal duties").

The limitation to our liability does not apply to injury of life, bosily injury or damage of heath or in cases of intent. Therefore, the legal provisions shall apply.

16.3 The claim to damages compensation for the violation of cardinal duties in the case of clause 16.2 lit. (d) of these Conditions is – in terms of its amount – limited to, the value of the order. If, in an exceptional case, the order value should not correspond to the typically foreseeable damage, our liability – in any case, in terms of the amount – is limited to the typically foreseeable damage.

16.4 No change in the legally codified distribution of the burden-of-proof to the Customer's disadvantage is associated with the aforementioned rules. The exclusion of liability shall not be applicable to claims arising out of the German Product Liability Code.

16.5 Insofar as the Customer is entitled to damages-compensation claims according to clause 16 of these Conditions, these lapse upon the expiry of the corresponding statute of limitations applicable to defects on the Goods according to clause 14.2 of these Conditions. For damages-compensation claims arising according to the German Product Liability Code, the legal regulations on the statute of limitation apply unlimited.

17. Product Liability and Release

17.1 The Customer is obliged to apply and enforce all respectively current rules and processes of which we notify the Customer concerning the analysis, decision-making, reporting, handling and resolution of customer complaints, alleged damages, product-liability claims and all other issues with regard to the quality of the Goods, as well as safety aspects.

17.2 If any third parties assert product-liability claims against us, the Customer shall release us from such claims, insofar and to the specific extent that the Customer is itself liable for the product's fault according to applicable legal regulations. This release also encompasses all expenses and the costs of their legal pursuit. This release also encompasses the costs of a recall measure.

17.3 The Customer is in any case liable for product defects in the following areas, insofar and to the specific extent the Customer is solely responsible for their management:

(a) advertising for the end product,

(b) instruction of the end consumer, including any translation of specific instructions given by us,

(c) compliance of the end products with the respectively applicable national regulations of the country in which the end product is launched,

(d) product surveillance,

(e) organisation of the Customer's operations.

17.4 In regard to the claim to release we are obliged to provide support to the Customer in the context of necessary measures for the resolution of product-liability cases and also to inform the Customer of any asserted product-liability claim and any court proceedings.

18. Dimensions

Any technical modifications of the products offered in our catalogue or info brochures remain subject to technological change – especially with regard to modifications in the dimensions and errors in the specification of such dimensions.

19. Written Form

19.1 Any supplemental agreements, reservations, amendments and supplements to the contractual relations in effect with us require our written confirmation to become valid. This condition also applies to the event that this requirement is waived.

19.2 Any notices and statements, particularly reminders, require the written form to become valid.

20. Compliance with Export-Control Laws and Regulations

20.1 Prior to the delivery of the Goods, the Customer must procure all necessary licences, permits and approvals/clearances (in the following, „Licence") for the export of the Goods from Germany or from the country of origin as of their supply ex works and will fulfil all applicable requirements set forth by German law the European law and other applicable laws and regulations.. Upon first request, the Customer must provide to us copies of the Licences.

20.2 The Customer must procure every import Licence required by the state, federal, provincial and local laws regulations (in the following, „Country") to which the Goods are delivered and where relevant and necessary, every Licence for the use, operation and ownership in this Country, and it will fulfil all other necessary requirements according to the laws of this Country and other applicable laws.

20.3 If a required Licence is not issued according to clause 20.1 or clause 20.2 of these Conditions (or, following its issuance, was annulled, revoked or invalidated), our obligations to delivery are likewise invalidated. If the Licence is then not procured by the Customer within an appropriate period (not to exceed 30 days), we are then not obliged to supply the Goods. In this case we are entitled to withdraw from the contract of the Supply of the Goods, without the Customer being able to derive any claims from this. In this case, the Customer must pay a lump sum damages compensation amounting to 25 % of the total contractual price. The amount of the lump sum damages compensation increases by a further 10 %, if the Goods – upon the Customer's request – were custom-designed. The amount of the lump sum damages compensation shall be higher if we provide evidence of a higher damages amount and lower if the Customer provides evidence of lower damages. In this cases the individual proved damages have to be compensated.

20.4 The Customer must ensure that all documents required for the export or import of the Goods also correctly describe the Goods.

20.5 Other things being equal, the Customer is obliged to comply with any and all applicable laws, orders and provisions regarding the activities on its own account for the fulfilment of the Contract.

21. Commercial Conditions

The 2010 version of INCOTERMS applies – whereby the particular regulations set forth by these Conditions or by the Contract shall take precedence.

22. Applicable Law

FOR THESE CONDITIONS and THE CONTRACTUAL/LEGAL RELATIONS BETWEEN US and THE CUSTOMER, the LAW OF THE FEDERAL REPUBLIC OF GERMANY APPLIES EXCLUSIVELY. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.

23. Place of fulfilment and Arbitration agreement

23.1 Place of performance for us and the Customer is the location of our headquarters, namely Markgröningen (County of Ludwigsburg).

23.2. All disputes arising in connection with this contract or its validity (including all present and future claims arising from the business relations with us, including claims associated with bills of exchange and cheques) shall be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. A exception is the interin relief. The Arbitral Tribunal can also decide in binding form on the validity of this Arbitration contract.

The place of arbitration is Stuttgart in the Federal Republic of Germany.

The number of arbitrators is three (3). The chairmen of the Arbitral Tribunal must have sufficient expertise regarding applicable law and the language of the Arbitration...

The language of the arbitral proceedings is English.

The applicable substantive law is exclusively the law of the Federal Republic of Germany. The applicable procedure shall be solely and exclusively determined by the Arbitral Tribunal, based on DIS Rules of Arbitration.

24. Concluding Provisions

24.1 The headings used in these Conditions are for convenience or reference only, and no construction or inference shall be derived therefrom.

24.2 Wherever practical in these Conditions, the singular should encompass the plural and vice versa, and where two or more persons, enterprises or corporate bodies fall under the definition of „Customer“, then the obligations into which they enter shall be joint and several.