

GENERAL TERMS AND CONDITIONS

for

DELIVERIES AND SERVICES

by Gutehoffnungshütte Radsatz GmbH

(Last revised: November 2024)

1. SCOPE

- 1.1 Unless otherwise expressly agreed in writing, every CONTRACT concluded by Gutehoffnungshütte Radsatz GmbH (the "COMPANY") will be governed exclusively by the terms and conditions set out below (the "TERMS AND CONDITIONS").
- 1.2 The TERMS AND CONDITIONS apply exclusively. The COMPANY hereby objects to any supplementary, deviating or conflicting terms and conditions of the CUSTOMER, unless the COMPANY has expressly agreed to them in writing. It does not constitute consent, for example, if the COMPANY, with knowledge of the CUSTOMER'S terms and conditions, accepts orders without reservation, provides DELIVERIES or SERVICES or directly or indirectly refers to letters, etc. containing the CUSTOMER'S terms and conditions or third-party terms and conditions.
- 1.3 The unconditional acceptance of the COMPANY'S delivery or service will in any case be deemed to constitute the CUSTOMER'S agreement to the COMPANY'S TERMS AND CONDITIONS.
- 1.4 Unless otherwise agreed, the version of the TERMS AND CONDITIONS valid at the time of the CUSTOMER'S order will also apply as a framework agreement (section 305 (3) German Civil Code (BGB)) to any subsequent agreements with the same CUSTOMER without the COMPANY having to refer to the TERMS AND CONDITIONS again.

2. DEFINITIONS

- 2.1 "CONTRACT" is any contract for the supply of PRODUCTS or the provision of SERVICES between the COMPANY and the CUSTOMER.
- 2.2 "PARTY" is the COMPANY or the CUSTOMER; "PARTIES" are the COMPANY and the CUSTOMER together.
- 2.3 "PRICE" is the price without value added tax which the CUSTOMER has to pay for the PRODUCTS or the SERVICES.
- 2.4 "PRODUCTS" are the goods which are the subject matter of the CONTRACT.
- 2.5 "SERVICES" are all types of services that are the subject matter of the CONTRACT.
- 2.6 "CUSTOMER" is any party who concludes a CONTRACT with the COMPANY for the delivery of PRODUCTS or the provision of SERVICES by the COMPANY and who is an entrepreneur within the meaning of section 14 German Civil Code (BGB).

3. OFFERS AND PRICES

- 3.1 The COMPANY'S offers are non-binding and subject to change without notice unless they are expressly marked as binding or they indicate a specific deadline by which the offer must be accepted.
- 3.2 The order by the CUSTOMER is deemed a binding offer to conclude a CONTRACT (unless the offer was already binding in accordance with clause 3.1). Unless otherwise indicated in the CUSTOMER'S offer, the COMPANY may accept it within fifteen (15) business days of receipt. The COMPANY will confirm orders in writing (e.g. an order confirmation or notice that goods are ready for pick-up/dispatch). The content of the written confirmation is decisive for the content of the CONTRACT.
- 3.3 All prices indicated are net without value added tax or other charges, which are to be paid by the CUSTOMER in addition to the PRICE. The PRICES are "EXW Incoterms (2020)".
- 3.4 If the COMPANY and the CUSTOMER agree on a subsequent change to the specifications (in particular after the final technical inspection), the COMPANY may adjust the agreed PRICE appropriately to take account of the corresponding additional expenditure.
- 3.5 All information and data in brochures, price lists and other documents are only binding insofar as they are expressly referred to and thereby included in the CONTRACT.

4. PAYMENT

- 4.1 The PRICES are due for payment to the address or bank account specified by the COMPANY in the currency specified in the CONTRACT within thirty (30) days from the invoice date. Unless otherwise expressly agreed in writing, payments in connection with export orders must be made in cash against documents or by a confirmed irrevocable letter of credit drawn on a clearing bank in Germany.
- 4.2 The CUSTOMER is automatically in default when the payment deadline expires. In the event of default, the CUSTOMER must pay interest on the amount due at the statutory rate. The standard statutory default fee is payable on top. The COMPANY reserves the right to assert claims for any additional losses.
- 4.3 All costs for transport, packaging and other costs are shown separately on the invoice. Clauses 4.1 and 4.2 apply accordingly.
- 4.4 The CUSTOMER only has a right of set-off and retention if the counterclaims have been finally established by a court of law or are undisputed.

- 4.5 If the credit limit granted to the CUSTOMER is exceeded, the COMPANY is entitled to require advance payment or that payment is made concurrently for all or part of its services. The COMPANY also has the right to refuse to perform its outstanding services under a contractual relationship if it becomes apparent after the contract has been concluded (e.g. an application for insolvency filed by or against the CUSTOMER) that the COMPANY'S claim for payment under the respective contractual relationship is at risk due to the CUSTOMER'S inability to pay. The COMPANY'S right to refuse performance lapses if payment is made or security has been provided for it. The COMPANY is entitled to set the CUSTOMER a reasonable deadline by which it must choose to either pay or to provide security concurrently in return for performance by the COMPANY. The COMPANY may rescind the CONTRACT if the deadline expires and neither payment nor security has been provided.

5. DELIVERY, DELAY AND TRANSFER OF RISK

- 5.1 Unless otherwise agreed, the PRODUCT is delivered "ex works" (EXW, INCOTERMS 2020). The COMPANY will specify the place in each case.
- 5.2 Delivery times or dates which the COMPANY indicates for the delivery of PRODUCTS and for providing SERVICES (delivery dates) are always only approximate unless a fixed delivery date is expressly promised or agreed. If the COMPANY realises that it will not be able to deliver or perform by an agreed delivery date, the COMPANY must inform the CUSTOMER of this in writing without undue delay, stating the reason why the delivery date will not be met and the expected delivery date, if possible.
- 5.3 If the delivery date is not met due to circumstances pursuant to clause 12 or any other act or omission by the CUSTOMER, in particular a change in the specifications, or failure to provide the PROVIDED PARTS on time, the delivery date will be extended automatically to a reasonable extent. This applies irrespective of whether the reason for exceeding the delivery date occurs before or after expiry of the agreed delivery date. If the PROVIDED PARTS are provided late, the production capacity reserved for production of the order may be forfeited. In such a case, the COMPANY therefore reserves the right to set new delivery dates based on the then current production capacity utilisation.
- 5.4 Insofar as the delay in delivery is the COMPANY'S fault, any liability of the COMPANY for compensation towards the CUSTOMER will be limited in accordance with the limitation of liability agreed in clause 11.
- 5.5 If the CUSTOMER or its party responsible for transport is in default of acceptance for any reason, it will nevertheless be required to pay any part of the PRICE that becomes due in accordance with clause 4. The COMPANY will arrange for the PRODUCTS to be stored at the CUSTOMER'S risk and expense. At the CUSTOMER'S request, the COMPANY will insure the PRODUCTS at the CUSTOMER'S expense. At the request of the COMPANY, the CUSTOMER will reimburse the COMPANY for all costs and liabilities in connection with any storage, handling, insurance or other services provided or utilised by the COMPANY. This also applies if the COMPANY incurs a loss due to unsuitable delivery instructions or a delay in acceptance by the CUSTOMER or its party responsible for transport, or if exceeding the delivery date is caused by the CUSTOMER or by another reason for which the COMPANY is not responsible. In this respect, the COMPANY has a right of retention in the PRODUCTS.
- 5.6 If the PRODUCTS are to be delivered "ex works" (clause 5.1) and the COMPANY nevertheless undertakes to ship the PRODUCTS in whole or in part to their destination at the CUSTOMER'S request, the COMPANY will be entitled to determine the shipping method (in particular transport company, shipping route, packaging) at its due discretion. If the CUSTOMER would like insurance to be taken out, it must expressly say so. The risk of accidental loss and deterioration of the PRODUCTS passes to the CUSTOMER when the PRODUCTS are handed over to the first party responsible for transport.
- 5.7 If there is a special agreement that the COMPANY has to take out transport insurance for the delivery, the COMPANY is only required to include the part of the value of the PRODUCTS in the insured amount which is not attributable to any PROVIDED PARTS (clause 9). If the CUSTOMER also wishes to include the value of the PROVIDED PARTS in the insurance, it must notify the COMPANY of the relevant value in good time and bear the proportionate insurance costs incurred.

6. INCOMING GOODS INSPECTIONS

- 6.1 Unless it has been expressly agreed that acceptance must take place, the CUSTOMER must inspect the PRODUCTS delivered in accordance with sections 377, 381 (2) German Commercial Code (HGB) without undue delay after delivery to it or to the third party it designated, and report any defects in writing to the COMPANY without undue delay (email is sufficient). Notification is deemed to have been made without undue delay if it is sent within (a) five (5) working days after delivery (section 377 (1) German Commercial Code (HGB)) or (b) – if the defect was not apparent during inspection after delivery (section 377 (2) and (3) German Commercial Code (HGB)) – three (3) working days after the defect has been detected.
- 6.2 Inspection after delivery may not be limited to outward appearance and delivery documents. It must also adequately cover the quality and functionality and adequate sampling. For PRODUCTS intended for assembly, installation or other forms of processing, the inspection must precede these steps; the CUSTOMER is responsible for refraining from these steps if defects are found.

- 6.3 If the CUSTOMER does not carry out a proper inspection and report defects, the COMPANY'S warranty obligation and liability for the defect concerned are excluded. This does not apply if the COMPANY has fraudulently concealed the defect.
- 7. RESERVATION OF TITLE**
- 7.1 The delivered PRODUCTS remain the property of COMPANY until payment of the PRICE and all other payments under the CONTRACT (including any default interest thereon) and, in addition, all other claims of the COMPANY against the CUSTOMER arising from deliveries and SERVICES, including outstanding balance receivables from current account (collectively the "SECURED RECEIVABLES") existing at the time the respective CONTRACT was concluded. These PRODUCTS and/or the items with which they will be replaced in accordance with the provisions below, which are also covered by reservation of title, are referred to in the following as "RESERVED GOODS".
- 7.2 If the CUSTOMER intends to move the RESERVED GOODS to a location outside of Germany, it must (a) inform the COMPANY of this intention immediately, (b) and without undue delay and at its own expense determine and fulfil all local (including legal) requirements for the creation and retention of title and (c) also inform the COMPANY of this without undue delay in each case.
- 7.3 The CUSTOMER will store the RESERVED GOODS for the COMPANY free of charge. It will handle them carefully and insure them at its own cost against fire damage, water damage, theft and other loss or damage at replacement value. If maintenance, servicing, inspection or similar work becomes necessary with respect to the RESERVED GOODS (this does not include any work to be performed by us as fulfilment or subsequent performance), the CUSTOMER must perform such work or have it performed in a timely and professional manner at its own expense.
- 7.4 The CUSTOMER may not pledge RESERVED GOODS or transfer title in them as security or use them for sale-and-lease-back transactions. If an application is filed to open insolvency proceedings on the CUSTOMER'S assets and/or if third parties attempt to access the RESERVED GOODS (in particular by way of seizure), the CUSTOMER must clearly point out without undue delay that they are owned by the COMPANY. The CUSTOMER must inform the COMPANY of any such application or attempt to access without undue delay.
- 7.5 The CUSTOMER may use, process, alter, combine or mix the RESERVED GOODS in the ordinary course of business. The processing or altering of the PRODUCTS by the CUSTOMER is always carried out for the COMPANY as manufacturer in its name and for its account. The COMPANY directly acquires sole ownership in the newly created item or – if the processing or altering uses materials belonging to numerous owners – co-ownership (fractional co-ownership (*Bruchteilseigentum*)) in the newly created item commensurate with the ratio of the value of the RESERVED GOODS to the value of the other processed/altering materials at the time of the processing/altering. If the PRODUCTS are combined, mixed or blended by the CUSTOMER with other items which are not the property of the COMPANY, the COMPANY will automatically become co-owner of the new items in the ratio of the value of the RESERVED GOODS to the value of the combined, mixed or blended item. If the RESERVED GOODS constitute the principle item, the COMPANY directly acquires sole ownership.
- 7.6 The CUSTOMER is also entitled to resell the PRODUCTS in the ordinary course of business. However, the CUSTOMER hereby assigns to the COMPANY, as security, all claims for payment arising from the resale in the full final invoice amount (including value added tax) and those claims of the CUSTOMER with respect to the RESERVED GOODS which arise for any other legal reason against its customers or third parties, including any outstanding balance receivables from current accounts; in the event of co-ownership in the RESERVED GOODS by the COMPANY, such assignment will be based on the co-ownership share, irrespective of whether the PRODUCTS are resold without being processed or after processing. The COMPANY hereby accepts such assignment. The CUSTOMER is still authorised to collect this claim even after it has been assigned. This does not affect the COMPANY'S authority to collect the claim itself. However, the COMPANY will not exercise the right to collect the claim as long as the CUSTOMER fulfils its payment obligations to the COMPANY (in particular does not default with payment), an application has not been filed for insolvency proceedings and the CUSTOMER is not otherwise unable to provide performance (section 321 (1) German Civil Code (*BGB*)). However, if any of these events occurs, the COMPANY may require that the CUSTOMER discloses the assigned claims and the respective debtors, provides all information necessary for collection, hands over the relevant documents and notifies the debtors (third parties) of the assignment.
- 7.7 If the CUSTOMER so requests, the COMPANY will release the RESERVED GOODS (or the items and claims by which they have been replaced) to the extent that their estimated value exceeds the amount of the secured claims by more than 30%. The COMPANY is free to select which items to release.
- 7.8 If the COMPANY rescinds the CONTRACT in accordance with statutory provisions because the CUSTOMER has acted in breach of CONTRACT – in particular for default with payment – the COMPANY has the right to demand that the CUSTOMER release the RESERVED GOODS (realisation). Such request for release automatically also constitutes a declaration of rescission; if the COMPANY pledges RESERVED GOODS it also constitutes a declaration of rescission. The CUSTOMER will bear all transport costs which arise in connection with taking back the RESERVED GOODS. The COMPANY may realise RESERVED GOODS which have been taken back under reservation of title. The proceeds from realisation less a reasonable amount for the costs of realisation will be set off against the amounts the CUSTOMER owes the COMPANY.
- 8. INTELLECTUAL PROPERTY, FREEDOM FROM THIRD-PARTY PROPERTY RIGHTS**
- 8.1 If agreed with the CUSTOMER, the COMPANY will provide the information and drawings required for the CUSTOMER to install, operate and maintain the PRODUCTS free of charge upon delivery. The agreed number of copies of the information and drawings will be provided, at least one copy of each.
- 8.2 The COMPANY reserves all rights of title, copyrights and property rights in all documents, materials and other items provided to the CUSTOMER (e.g. offers, catalogues, price lists, cost estimates, plans, drawings, illustrations, calculations, information on production times and delivery times (lead times), product descriptions, service descriptions and specifications, samples, models and other physical and/or electronic documents, information and items). The COMPANY reserves all copyrights and property rights in the PRODUCTS and SERVICES of the COMPANY.
- 8.3 The COMPANY warrants that the PRODUCTS are free from industrial property rights or copyrights of third parties in the countries of the European Union at the time of delivery as far as the manufacturing of them by the COMPANY and their specifications are concerned. Each PARTY will inform the other without undue delay in writing if claims are brought against it owing to the infringement of such rights.
- 8.4 Claims arising from infringements of industrial property rights or copyrights of third-parties are excluded if the infringement is attributable (i) to the specific use of the PRODUCT as a part of another product or in connection with other products (or parts thereof) of the CUSTOMER or in connection with customer-specific processes or methods, (ii) to an instruction or requirement (including with regard to specifications or the design) of the CUSTOMER, (iii) to use by the CUSTOMER or its customers which is non-contractual use or use not in line with the specifications; (iv) to an arbitrary modification of the PRODUCT; or (v) to the use of the PRODUCT after notification of an (alleged) infringement of industrial property rights or copyrights of third-parties.
- 8.5 In the event that a court should finally establish that the PRODUCTS infringe an industrial property right or copyright of a third party, the COMPANY will choose, at its discretion and at its own cost, to either modify or replace the PRODUCTS in such a way that the third-party rights are no longer infringed but the PRODUCTS continue to fulfil the contractually agreed functions, or procure the right of use for the CUSTOMER by concluding a licence agreement. If the COMPANY does not manage to do this within a reasonable time period, the CUSTOMER may rescind the CONTRACT or reduce the purchase price by a reasonable amount.
- 8.6 Claims for compensation are only possible subject to clause 11.
- 8.7 To the extent that the PRODUCTS are manufactured in accordance with the CUSTOMER'S design and/or specification, the CUSTOMER will indemnify the COMPANY against all losses, damage, costs and expenses incurred by the COMPANY as a result of the COMPANY infringing any industrial property rights and/or intellectual property rights of any third party through the PRODUCTS, their manufacture, use or sale. The CUSTOMER will notify the COMPANY of any allegation of such infringements without undue delay. The COMPANY may conduct any negotiations or proceedings arising from such allegations at its own expense. The CUSTOMER will support the COMPANY in this.
- 8.8 Without the COMPANY'S prior written consent, the CUSTOMER may not make illegible, cover or omit any of the COMPANY'S trade marks or other marks or words on the PRODUCTS or add any additional marks or words or permit any third party to do so.
- 9. PROVIDED PARTS AND STORAGE**
- The following provisions apply if the CUSTOMER provides materials or components to manufacture the PRODUCTS or provides the COMPANY with parts and/or semi-finished parts for processing (collectively the "PROVIDED PARTS"):
- 9.1 The COMPANY will keep in safe custody, free of charge, any PROVIDED PARTS from the CUSTOMER and any co-ownership share of the CUSTOMER in the PRODUCTS after the PROVIDED PARTS have been combined with other parts. The COMPANY is only liable with regard to these PROVIDED PARTS or the co-ownership shares within the scope of clause 11, but not beyond that, i.e. for their accidental destruction or accidental damage. It is the CUSTOMER'S responsibility to take out its own insurance to cover any destruction of or damage to the PROVIDED PARTS or co-ownership shares not covered by the COMPANY'S liability.
- 9.2 If the PROVIDED PARTS from the CUSTOMER are delivered to the COMPANY directly from the seller, the COMPANY is not required to fulfil any of the CUSTOMER'S duties to inspect them and report defects.
- 9.3 The CUSTOMER is required to inform the COMPANY of the value of the PROVIDED PARTS upon request.
- 9.4 The CUSTOMER agrees that the COMPANY is allowed to temporarily store the CUSTOMER'S PROVIDED PARTS on the COMPANY'S outdoor premises at the CUSTOMER'S risk since there is limited storage space indoors. If the storage period exceeds a period of six (6) weeks because PROVIDED PARTS are missing, due to a lack of orders or other omitted acts or negligence by the CUSTOMER, the COMPANY may request storage costs from the CUSTOMER for PROVIDED PARTS and other production materials already procured for production of the PRODUCTS. The storage costs amount to 20.00 Euro/m² for each month or part thereof and will be invoiced separately to the CUSTOMER. Alternatively, the COMPANY may also return the PROVIDED PARTS to the CUSTOMER for a fee.
- 10. CLAIMS FOR DEFECTS, LIMITATION PERIOD**
- 10.1 The statutory provisions apply to the CUSTOMER'S rights in the event of quality defects and defects in title (including incorrect delivery/insufficient quantities, errors in assembly or similar services or faulty instructions), subject to deviating or supplementary provisions in these TERMS AND CONDITIONS.
- 10.2 The COMPANY exclusively warrants that the PRODUCTS and SERVICES have the quality expressly agreed when the CONTRACT was concluded and that the PRODUCTS and SERVICES are suitable for the use expressly agreed upon in the CONTRACT (e.g., as set out in product specifications/service specifications or product description/service description). If requirements have been agreed with regard to a feature of the PRODUCTS or SERVICES, this excludes other requirements relating to the feature, even if they would correspond to the objective requirements for the PRODUCT or SERVICE. Public statements, commendations or advertising by the COMPANY do not constitute the contractual quality of the PRODUCTS or SERVICES. The COMPANY accepts no liability for public statements made by third parties (e.g., advertising statements).
- 10.3 The CUSTOMER'S claims for defects presuppose that it has fulfilled its duty to inspect and to report defects (see clause 6).
- 10.4 If a PRODUCT supplied by the COMPANY or a part thereof is defective, the COMPANY will, at its discretion, either repair or replace the defective PRODUCT free of charge within the scope of subsequent performance. A further prerequisite for claims for defects is that the defective PRODUCT or part is returned at the COMPANY'S request or that the COMPANY is in some other way able to inspect the defect which has been reported. The costs for removing the defective PRODUCT (or part thereof) and the costs for installing the item delivered as a replacement will only be borne by the COMPANY if the COMPANY is liable

for the costs in the context of a claim for compensation. For the avoidance of doubt, the limitation of liability pursuant to clause 11 applies.

- 10.5 If the subsequent improvement or replacement delivery ultimately fails after a reasonable period, the CUSTOMER may, at its discretion, request an appropriate reduction of the PRICE or – provided that the defect is not insignificant – rescind the CONTRACT.
- 10.6 If the COMPANY recommends that certain lubricants, materials or other accessories be used for the PRODUCTS, there will be no claims for defects if different lubricants, materials or accessories were used for a PRODUCT which has been delivered. Such a recommendation does not give rise to any liability on the part of the COMPANY for defects in such lubricants, materials or accessories.
- 10.7 The limitation period for any claims due to defects of the PRODUCTS begins with the transfer of risk to the CUSTOMER in accordance with clause 5 and ends
- (i) 30 months after this date, or
 - (ii) 24 months after the PRODUCT concerned is put into service,
- whichever comes first (the WARRANTY PERIOD). Claims for defects in SERVICES become time-barred 24 months after the SERVICE has been provided.
- 10.8 The WARRANTY PERIOD for repairs or spare parts ends
- (i) upon expiry of the WARRANTY PERIOD for the PRODUCTS that have been replaced or repaired, or
 - (ii) three months after the first use of the spare part or the repaired PRODUCT,
- whichever comes first.
- 10.9 If the CUSTOMER has duly notified the COMPANY of a defect in accordance with clause 6.1, but it turns out after inspection that there is in fact no defect, the COMPANY is entitled to reimbursement of all costs and expenses incurred as a result of notification of defects and the inspection.
- 10.10 Further claims of the CUSTOMER, in particular for compensation, only exist within the scope of clause 11.

11. LIABILITY FOR DAMAGES; CLAIMS AND THIRD-PARTY CLAIMS

- 11.1 The COMPANY'S liability for damages is governed exclusively by the following provisions, irrespective of whether it arises from contractual or non-contractual claims.
- 11.2 Insofar as the COMPANY has fraudulently concealed a defect in the PRODUCTS or SERVICES or has provided a guarantee for the quality of the PRODUCTS or SERVICES by express written declaration, the COMPANY is liable for damages in accordance with the statutory provisions. Special agreements between the PARTIES regarding the quality of the PRODUCTS or SERVICES, in particular defined specifications, do not constitute a guarantee of quality or durability within the meaning of section 443 German Civil Code (BGB).
- 11.3 Furthermore, the COMPANY is liable in accordance with the statutory provisions (i) for losses resulting from injury to life, limb or health which are based on a culpable breach of duty on the part of the COMPANY (including its representatives or vicarious agents), (ii) in cases of mandatory statutory liability, for example, under the mandatory provisions of the German Product Liability Act (*ProdHaftG*), and (iii) if the CUSTOMER asserts claims for damages based on either intentional or grossly negligent behaviour on the part of the COMPANY (including its representatives or vicarious agents).
- 11.4 In the event of a breach of duty by the COMPANY involving merely simple or slight negligence, the COMPANY is only liable (subject to a milder standard of liability in accordance with statutory provisions, e.g. for diligence in its own matters or for insignificant breaches of duty) for losses arising from the breach of material contractual obligations. Material contractual obligations are those obligations which are essential for proper performance of the CONTRACT and on the fulfilment of which the CUSTOMER regularly relies and is entitled to rely. In these cases, however, the COMPANY'S liability will be limited to losses which are typical for this type of CONTRACT and which were foreseeable at the time the CONTRACT was concluded. In this case, liability is also limited to a maximum amount of EUR 1,500,000 per loss event. Liability for indirect damage and purely financial losses, such as loss of profit and loss of production, is excluded in the cases of this clause 11.4.
- 11.5 Where the COMPANY'S liability is excluded or limited, this also applies to the personal liability of employees, staff, workers, representatives or vicarious agents of the COMPANY.
- 11.6 The CUSTOMER indemnifies the COMPANY against
- (i) any claims of third parties in connection with goods in which the PRODUCTS have become an integral part, insofar as the claims relate to components other than the PRODUCTS supplied by the COMPANY, in particular if and insofar as a loss was not caused by a defect in the PRODUCTS supplied by the COMPANY; and
 - (ii) any claims of third parties based on the fact that the COMPANY has followed the CUSTOMER'S design specifications or performance specifications when manufacturing the PRODUCTS or used PROVIDED PARTS from the CUSTOMER; and
 - (iii) any claims of third parties based on the fact that the PRODUCTS are not used in accordance with the requirements of the competent authorities or in accordance with the instructions of the COMPANY or for the purposes for which the PRODUCTS were supplied by the COMPANY.

12. FORCE MAJEURE, DELIVERY FROM OWN SUPPLIERS

- 12.1 Where performance is impossible or delayed, the COMPANY is not liable to the extent that it is attributable in each case to force majeure or another occurrence that was unforeseeable when the COMPANY entered into the CONTRACT and for which it is not responsible (force majeure, including but not limited to any operational disruptions, fire, natural disasters, weather events, flooding, war, insurgency, terrorism, pandemics, epidemics, transport delays, strikes, lawful lockouts, shortages of staff, energy or raw materials, delays with required official permits, official/sovereign measures, cyber attacks). The COMPANY is also not liable for disruptions or delays in performance caused by the war between Ukraine and the Russian Federation and its consequences; such disruptions or delays are also considered cases of force majeure.
- 12.2 Failure by a supplier to deliver the correct products to the COMPANY or to deliver on time will also constitute an occurrence of this type if the COMPANY is not responsible for it

and if, at the time it entered into the agreement with the CUSTOMER, it had entered into a congruent substitute transaction with the respective supplier (i.e., under which the COMPANY would be supplied with a sufficient amount of the input/raw materials required for its delivery). This also applies if the COMPANY enters into such substitute transactions without undue delay after entering into the agreement with the CUSTOMER.

- 12.3 If the COMPANY becomes aware of an occurrence within the meaning of clause 12.1 or clause 12.2, it will inform the CUSTOMER without undue delay. The delivery date is extended/adjusted automatically by the duration of the occurrence, plus reasonable start-up time. If such occurrences make it substantially more difficult or impossible for the COMPANY to provide the service and they last longer than three months, the COMPANY may rescind the CONTRACT.

13. TERMINATION, SUSPENSION OF PERFORMANCE

- 13.1 In addition to the statutory rights of termination and rescission, the COMPANY has a special right of rescission or termination in the following cases: (a) the CUSTOMER discontinues payments to its creditors; (b) the CUSTOMER applies for insolvency proceedings to be opened in respect of its assets; (c) the COMPANY or another creditor lawfully file the aforementioned application; (d) insolvency proceedings are opened provisionally or not provisionally; or (f) the aforementioned application is refused owing to lack of assets.
- 13.2 Notwithstanding the other termination provisions in the CONTRACT, either PARTY may suspend the performance of its obligations under a CONTRACT if it is obvious from the circumstances that the other PARTY will not fulfil its contractual obligations or is unable to do so. The PARTY that suspends its performance of the CONTRACT must inform the other PARTY of this in writing without undue delay.

14. GENERAL PROVISIONS

- 14.1 Any amendments or additions to any CONTRACT must be in written form to be valid. This also applies to any waiver of this written form requirement.
- 14.2 The CUSTOMER may not assign, pledge, encumber or otherwise dispose of the CONTRACT or any rights under a CONTRACT in whole or in part without the prior written consent of the COMPANY. The COMPANY is entitled to assign, transfer or otherwise dispose of the CONTRACT or parts of it.
- 14.3 If the COMPANY'S costs for performing its obligations under a CONTRACT increase due to the enactment or amendment of any law or regulation, statute or executive order after the date of the offer which directly affects the performance of the COMPANY'S obligations under the CONTRACT or the costs associated therewith (including, without limitation, changes in the regulatory framework), the PRICE will be increased accordingly.

15. APPLICABLE LAW AND JURISDICTION

Unless otherwise expressly agreed in writing, German law applies to every CONTRACT and to these TERMS AND CONDITIONS. The UN Convention on Contracts for the International Sale of Goods (CISG) and other international uniform laws do not apply. The exclusive place of jurisdiction for all disputes arising from or in connection with this CONTRACT is Duisburg (Germany). The COMPANY may also choose to bring legal action against the CUSTOMER at the CUSTOMER'S general place of jurisdiction.