

# General Terms of Sale and Supply of Duo-Technik GmbH

For exclusive use in business transactions with entrepreneurs as defined in Section 310 para. 1 in association with Section 14 of the German Civil Code  
As of January 2020

## I. Scope of Application

(1) In supplementation of individual contractual provisions, solely these General Terms of Sale apply for our deliveries and services for all business transactions between us and the buyer, ordering party or customer, hereinafter jointly called the Buyer. We do not recognise any differing terms of purchase or other differing general terms of business of the Buyer. Neither do such terms become part of the contract through acceptance of the order. A lack of reaction on our part does not mean that we have recognised such terms. These present General Terms of Sale shall also apply even if we accept payments or render services in the knowledge of contradictory or differing terms of the Buyer. By accepting our deliveries or services, at the latest, the Buyer expresses his agreement with our terms.

(2) If these General Terms of Sale become part of contracts with the Buyer by being legally incorporated, they shall also apply, in the event of a continuing business relationship between the Buyer and us, to all future contracts without being repeatedly incorporated, until we have new General Terms of Sale that apply.

(3) All agreements that have been or will be made between the Buyer and us must always be recorded in writing so that evidence of the same can be provided.

## II. Information, Suitability, Ownership of Materials

(1) Every form of advice given by us, e.g. by our field service, whether verbal or in writing, is provided to the best of our knowledge on the basis of our experience. Information about our products, particularly that in our brochures, catalogues, other written material and electronic media, e.g. on the internet, particularly that about suitability and use of our products, is not binding, unless it has been included in our offer or our order confirmation. Such information does not release the Buyer from the need to make his own tests and trials. In particular, the Buyer is not released from testing himself the suitability of our products and recommendations for the intended purpose and all other purposes. This applies in particular to compliance with statutory and public-authority regulations when using our products as well as in regard to possible impairments of existing machines, systems, equipments and its parts.

(2) The drawings and other written material, together with models, samples and all other items, especially software, instruction sheets, parts lists and diagrams which we provide, shall remain our property and must be returned to us upon request. We reserve all rights to the same, in particular the copyrights. They must not be made available to third parties or used other than for the purpose for which they were given to the Buyer. This applies in particular to written material which is marked as confidential. Before passing written material on to third parties, the Buyer must obtain our express written consent.

## III. Scope of Performance, Conclusion of Contract, Written Form

(1) The order placed by the Buyer always constitutes the offer which is usually accepted by us by written confirmation (order confirmation). Our written order confirmation represents the criterion for the scope of our performance; if we have made an offer, this shall be the criterion but only in the event of acceptance in due time if said offer has set a deadline. We shall no longer be bound by the offer if the deadline is exceeded.

(2) We have the right to accept the Buyer's order within two weeks after the Buyer has placed the order, unless a longer period for acceptance is provided. If we do not issue order confirmation, our performance shall be deemed to be order confirmation.

(3) We are bound for 3 months by the offers that we make. Production and supply will be on the basis of the information provided by the Buyer. We have the right to revoke our offer until it has been declared accepted by the Buyer. Orders from the Buyer which cannot be categorised as acceptance of our offer shall only be deemed accepted by us if expressly confirmed. Then our order confirmation is the criterion for the scope of performance.

(4) Any statements of intent by Buyers must always be made in writing. Telephone orders and orders by telefax are placed and data sent by email at the Buyer's risk.

(5) A signed letter, scanned as pdf-file, which will be send as email enclosure, would be enough, to keep the agreed form.

## IV. Amendments, Testing Parameters

(1) In the event that the Buyer fails to provide information or provides inaccurate information, we reserve the right to make reasonable amendments to the content of performance. Any losses

suffered as a result, particularly relating to costs or damages, will be borne by the Buyer.

(2) If certain measurement or control values or other testing parameters are scheduled to apply to tests, the testing methods must be specified before the start of delivery and recognised by both parties. If no such specification is made, our testing methods shall apply.

## V. Prices, Price Increases, Cash On Delivery, Advance Payment

(1) If nothing is agreed to the contrary, our prices shall apply ex works in euros plus value-added tax, which must be entered separately in the invoice. The costs of packaging, freight, postage, customs and transportation insurance are payable by the Buyer.

(2) If supply is delayed for reasons for which we are not responsible, the prices valid on the date of actual supply shall apply. If there have been significant price increases, the Buyer has the right to rescind the contract.

(3) Changes in freight, taxes, customs and other public charges justify price adjustments without the Buyer having a right of rescission. Details of additions, reductions and other terms of delivery are shown in the price agreements applicable at the time. The prices are not binding for follow-up orders.

(4) If we do not have an ongoing business relationship with Buyers, we will supply them in return for cash on delivery or advance payment.

## VI. Internal and External Assembly

(1) If the Buyer assembles the supplied item himself or if a third party assembles the same on behalf or in the name or for the account of the Buyer (External Assembly) and if he is supplied with defective assembly instructions, we shall solely be obliged to provide non-defective assembly instructions. This shall only apply if the defect in the assembly instructions is in contradiction with due assembly. The Buyer must prove that assembly instructions are defective.

(2) If assembly by us has been agreed (Internal Assembly), the costs incurred for assembly, start-up and training of staff will be charged to the Buyer in accordance with the fitter rate applicable at the time. Such costs comprise, in particular:

a) Hours of work, waiting and travel times, overtime; work at night, on Sundays and public holidays; daily rates specified by the manufacturer, including Sundays and public holidays, and the costs of transportation from hotel to workplace, together with hours of work or daily rates for days on which employees are prevented from working through no fault of their own.

b) Travelling costs (1<sup>st</sup> class train travel, travel by car or air) and costs of transportation of material, in particular systems and parts of systems, luggage and tools.

c) Order-related taxes, contributions and fees abroad, in particular those required from employees and all other expenses necessary for foreign travel (e.g. visas, vaccinations).

(3) For both Internal and External Assembly, the Buyer undertakes to take at his own risk and expense all the measures necessary to enable or facilitate the work of the fitters, assistants, technicians and instructors by supplying the following support:

a) Lifting appliances and the necessary assistant workers for performance of assembly, in particular for unpacking, cleaning and erection of the machines or systems and their parts;

b) Safe foundations in compliance with the relevant foundation plans;

c) Electrical installations; skilled workers for connection and start-up of machines or systems or their parts;

d) Instructable employees;

e) Cleaning agents and working materials (cardboard, stamping die moulds, printing inks, etc.) for adjustment of machines and for training of employees;

f) In addition, the Buyer shall supply other support and materials to a reasonable extent insofar as necessary for due, prompt and safe assembly.

The measures listed under a) to f) must also be taken by the Buyer even if we are paying the costs of assembly.

## VII. Terms of Payment, Interest, Deterioration in Financial Position, Miscellaneous

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Managing Director: Michael Reuel / Boris Kröll

Register of companies: Gießen HRB 5544  
VAT-Id No.: DE 112400620

Banking connections:

HypoVereinsbank Schweinfurt, SWIFT: HYVEDEMM451, IBAN: DE70793200750301123000  
Sparkasse Oberhessen, SWIFT: HELADEF1FRI, IBAN: DE05518500790363122973

- (1) Purchase prices, wages and costs of repairs and assembly are payable without deductions 8 days after receipt of invoice.
- (2) Payments are to be made in euros plus statutory value-added tax to our bank account stated in the invoice, without any charges.
- (3) The Buyer is deemed in default when 30 days have elapsed after the date of the invoice and supply of the goods. If the period of payment is exceeded, we have the right to charge default interest at a rate 8 percentage points p.a. above the then applicable basic interest rate under Section 247 of the German Civil Code. Interest is payable immediately. Both we and the Buyer have the right to provide evidence of higher or lower damages. If the Buyer has not made the agreed payment within a reasonable period of grace but no later than within one month after it has become due, we have the right to rescind the contract and claim damages for non-performance.
- (4) If it has been agreed that the goods are to be released for dispatch (called) by our Buyer within a certain period after our notification of readiness for dispatch, we are entitled to invoice the goods as of the time of readiness for dispatch. The same applies to set dates for call orders.
- (5) If the Buyer fails to pay due invoices or other circumstances indicate a significant deterioration in the Buyer's financial position after the contract has been made, we are entitled – irrespective of the term of bills of exchange taken in payment – to make all our claims payable immediately if they are based on the same legal relationship. In the event of justified doubts about the solvency or credit standing of the Buyer or if insolvency proceedings are opened, we have the right to require advance payment or suitable security for the payment to be made by the Buyer. If the Buyer is not willing to make advance payment or create security, we have the right to rescind these contracts after allowing a reasonable period of grace and to claim, at our discretion, either damages for non-performance or reimbursement of expenses.
- (6) Apart from the above, the legal provisions on payment default are not prejudiced.
- (7) We reserve the right to accept bills of exchange or cheques. Bills of exchange and cheques will only be accepted by agreement and only on account of performance and subject to their being discountable. Discount charges will be made as of the date on which the invoiced amount becomes due. Bank, discount and collection charges are payable by the Buyer.
- (8) Waiving Sections 366, 367 of the German Civil Code and notwithstanding any stipulation of the Buyer to the contrary, we shall specify which claims will be settled by the Buyer's payment. To this extent, the Buyer waives his right to stipulate how his payments are to be used.

#### **VIII. Offsetting, Rights of Retention**

- (1) The Buyer may only offset against undisputed and recognised claims or claims that have been confirmed in a final form by a court of law.
- (2) The Buyer only holds rights of retention insofar as they are based on the same contractual relationship. The Buyer does not hold a right of retention in relation to the alleged existence of defects, unless our goods are obviously defective. In such a case, the Buyer is only entitled to retain payments insofar as the retained amount is in reasonable proportion to the defects and the anticipated costs of subsequent performance, in particular the remedying of defects.

#### **IX. Delivery, Delivery Periods and Dates, Co-operation Obligations, Partial Deliveries, Reminder**

- (1) If nothing has been agreed to the contrary, our deliveries will be performed ex works or branch (place of fulfilment) in accordance with Clause EXW of Incoterms 2000, this being either by collection by the Buyer or "carriage forward" shipment. We will notify the Buyer of the time of collection in due time for him to make the necessary arrangements.
- (2) The time of shipment ex works or, respectively, notification of readiness for collection is the decisive criterion for observance of delivery periods and dates. The agreed delivery date is deemed observed if the items concerned are ready for shipment ex works on the relevant date. If goods cannot be shipped punctually through no fault of ours, delivery dates are deemed observed when notification of readiness for shipment has been given.
- (3) Delivery periods begin on receipt of our order confirmation by the Buyer but not before final clarification of all details of the order and receipt of all written material and licences that are to be supplied by the Buyer; the same also applies for delivery dates. The delivery periods which we quote are approximate, insofar as the delivery date has not been agreed to be binding. The delivery period or date is stipulated subject to correct and due supply to ourselves and to unforeseeable production disruptions.
- (4) Observation of our delivery obligations requires on-time and due fulfilment of the Buyer's co-operative duties and obligations. If the Buyer fails to comply with contractual duties or obligations in due time, e.g. provision of German or foreign certificates, advance payment or similar, we have the right to postpone our delivery periods

and dates for an appropriate time in accordance with the requirements of our production sequence, without prejudice to our rights resulting from default on the part of the Buyer. If we are not able to observe binding delivery periods for reasons for which we are not responsible (non-availability of performance, e.g. due to lack of supply to us by our suppliers), we will notify the Buyer immediately and specify a new delivery period reasonable under the circumstances. If performance by us is still not possible within the new delivery period, we have the right to rescind the contract in whole or in part; we will immediately reimburse any counter-performance already rendered. Our statutory rights (e.g. exemption from performance obligation) and the Buyer's rights resulting from these General Terms of Sale are not prejudiced.

(5) Partial deliveries and invoicing of the same are permissible insofar as no disadvantages for performance of the contract result.

(6) The start of our default on delivery shall be determined by legal regulations. However, a reminder from the Buyer with specification of a period of grace is necessary under all circumstances.

#### **X. Force majeure**

Events of force majeure and significant unforeseen hindrances outside our sphere of influence, such as strikes and lock-outs, exceeding of delivery periods or failure to deliver by sub-suppliers, disruptions to operations or distribution or supply due to a lack of energy, raw materials or labour, difficulty in procuring transportation, traffic disturbances or public authority decrees affecting our suppliers or us shall exempt us from our contractual obligations for the duration of such measures and hindrances. Similarly, we shall not be deemed responsible for the circumstances specified above even if they occur when we are already in default. The Buyer will be notified immediately of the beginning and end of such measures and hindrances or, respectively, the non-availability of the supply item. If delivery is delayed by more than 4 weeks as a result of such measures and hindrances, the contracting parties have the right to rescind the contract. In the event of rescission, any counter-performance already rendered will be returned. Further claims by the Buyer are ruled out.

#### **XI. Passage of Risk, Storage and Payment of Storage**

- (1) The time of passage of risk of our benefits in kind, meaning in particular delivery of the subjects of contract, also in that case, where an installation of the delivered items was agreed on our part, is determined by Clause EXW of the Incoterms 2000, according to which the risk of accidental destruction and of accidental deterioration of the goods passes to the Buyer after notification of readiness for collection. If the consignment is handed over to the transporting party or the purchased item leaves our works or warehouse for shipment, this constitutes the equivalent of notification of readiness for collection, provided that the goods are being shipped at the Buyer's request. All consignments are shipped at the risk of the Buyer from the time when they leave our supplying works, even if prepaid carriage has been agreed. Passing of risk for our services and work performances starts with take-over or startup of the delivered parts, whereas the respective earlier point of time is of importance.
- (2) If dispatch or delivery is delayed at the request of the Buyer or for a reason for which said Buyer is responsible or if it becomes impossible through no fault of ours, the risk shall still pass to the Buyer when notification of readiness for collection or readiness for shipment is given. In such cases, we have the right to store the goods at our reasonable discretion at the expense and risk of the Buyer, to take all action deemed suitable to preserve the goods and to invoice the goods as delivered. Legal regulations on default of acceptance are not prejudiced. After a reasonable period for collection has been allowed and expired without result, we are also entitled to make alternative use of the goods concerned and to supply the Buyer after a reasonable additional period or to supply the Buyer at the latter's expense and risk.
- (3) The Buyer shall pay the costs thus incurred as of the time of notification of readiness for shipment, these costs being no less than a warehousing fee amounting to 0.5% of the order value for each month or part of a month but totalling no more than 5% of the order value.

#### **XII. Insurance, Shipment, Payment of Costs, Inventory Control**

- (1) Insurance against transportation damage will only be taken out at the request and expense of the Buyer.
- (2) For the duration of assembly, the Buyer will take out appropriate insurance and maintain it at his expense, this being in the form of assembly insurance, building insurance and contents insurance.
- (3) An undertaking by us to ship the goods does not lead to any change in the passage of risk, place of fulfilment and terms set forth above. We will select the type and route of shipment but without giving any guarantee for the cheapest shipment, full use of the loading weight and desired size of car and container. We will decide on the carrier or forwarding agent. Any additional costs incurred through differing requests being made by the Buyer will be payable by the latter and we must be notified of the same in good time before shipment. Requests by the Buyer will be respected as far as possible and at his expense.

(4) If goods are damaged or lost while being transported, the Buyer must perform an inventory control immediately and notify us of the results in writing immediately after receipt of the consignment. The damaged consignment must be returned to us.

### **XIII. Packaging, Containers Belonging to the Buyer**

(1) If no other alternative agreement has been made, we will stipulate the type and scope of packaging. The series price is based on our standard packaging. Special packaging must be agreed separately. Packaging will be chosen with the necessary care to the best of our knowledge.

(2) Pallets remain our property and are to be returned to the delivery point immediately at no expense to us. Other packaging material will be disposed by the buyer.

(3) Containers supplied by the Buyer must be received free of charge by our supplying works in due time. We have no obligation to perform inspection, cleaning or repair but are entitled to do so at the Buyer's expense.

(4) In the event of damage or loss, we can, at our discretion require payment of the reinstatement value or supply of equivalent replacements in return for surrender of the damaged containers; if the containers are damaged, we can also require reimbursement of repair costs.

### **XIV. Property Rights**

(1) If the contractual products are to be made in accordance with data provided by the Buyer, said Buyer gives a guarantee that no property rights of third parties will be infringed by manufacture and delivery.

(2) If, in such a case, third parties prohibit manufacture and delivery, referring to property rights which they hold, we have the right to discontinue manufacture and delivery and require compensation for our expenses.

(3) We have no obligation to review the legal position.

(4) In such cases, damages claims cannot be made by the Buyer.

(5) The Buyer shall render compensation for damages incurred by the infringement of property rights and shall hold us harmless in relation to claims made by third parties. Upon request, an advance payment shall be made for any costs of litigation.

### **XV. Obligations to Make Inspection and Give Notice of Defects, Acceptance**

(1) The Buyer's defect rights and all contractual damages claims relating to defective deliveries are subject to said Buyer having duly met his obligations to make inspection and give notice of defects as per Section 377 of the German Commercial Code and comparable foreign regulations. If this is not the case, the defect will be considered approved. In particular, the Buyer must inspect the goods with reasonable thoroughness immediately after delivery or, respectively, collection. Written notice must be given immediately of any defects found during such inspection. Notice of defects which could not have been found even with most careful inspection is to be given in writing immediately after discovery and any working or processing must be discontinued immediately. If this is not done, the defect will be considered approved.

(2) The ruling in Section 377 of the German Commercial Code applies accordingly to services and works. A notice of defects does not release the Buyer from his duty to meet payment obligations.

(3) If a work inspection procedure has been agreed, it must take place in our plant or warehouse within a week of the date of our notification of readiness for acceptance. The Buyer shall pay the costs of acceptance. Acceptance will be deemed to have been completed if the Buyer fails to accept our performance within this period of one week. Insofar as we have not given a warranty for the properties of the work nor maliciously concealed a defect, the Buyer's rights relating to any defect shall expire after completion of the agreed acceptance procedure by the Buyer, this being insofar as the Buyer failed to give notice of such a defect even though he could have discovered it by the agreed method of acceptance, i.e. he negligently failed to discover the defect.

(4) The Buyer must grant us the necessary time and opportunity to inspect the relevant defect and shall, in particular, provide us with the goods for this purpose. If complaints are unjustified, we reserve the right to charge the Buyer the costs of handling and freight and the expenses for inspection.

### **XVI. Properties, Defect Rights, Recourse Claims**

(1) If there is a defect, we must always initially be given the opportunity to render subsequent performance within a reasonable period. At our discretion, we are entitled to remedy the defect, make substitute supply or give credit. The right of refusal which we hold by law is not affected hereby. If subsequent performance is not successful, i.e. if at least two attempts at reworking fail or if the Buyer cannot reasonably be expected to tolerate subsequent performance, the Buyer has the right to rescind the contract, if the defect is more than minor, or to require a reduction in payment. In agreement with us, rectification can also be performed by the Buyer and will take place at the place of receipt that is contractually agreed.

The Buyer cannot make claims for expenses necessarily incurred for subsequent performance, in particular transportation, travelling, labour and material costs, insofar as expenses are increased because the goods were subsequently moved to a location other than the Buyer's seat of business, unless such moving is in accordance with their intended purpose. As far as can be reasonably expected, the Buyer must co-operate with rectification in return for reimbursement of costs and in compliance with our instructions. Only in urgent cases, e.g. when there is a risk of excessive damage or endangering of operating safety, is the Buyer authorised to remedy the defect himself or have it remedied by third parties. He shall notify us immediately and obtain our consent to such action. This requirement can only be waived if he was not able to contact us.

(2) A warranty for the items we supply is subject to perfect functioning of the Buyer's existing systems and machines in which said items are installed, to which they are affixed or with which they are connected in some other way. The Buyer is responsible for the same.

(3) No defect claims shall apply in the event of wear and tear on machines, systems and parts of systems. Neither do any claims apply for damages incurred as a result of improper use, use of unsuitable third-party parts, faulty installation, excess strain, unsuitable production aids or replacement materials or as a result of particular external influences, e.g. of a chemical, electrochemical or electrical kind, provided that the latter are not assumed under the contract or due to a fault on our part.

(4) Defect compensation claims and damages claims are also ruled out for damages caused by air pollution, a large amount of dust, sulphur and hydrocarbon compounds and other aggressive vapours, high air humidity, oxygen corrosion, non-compliance with operational or servicing instructions, improper alteration or repair by the Buyer or third parties and for damages resulting from the impact of parts of third-party origin.

(5) If we render subsequent performance without any legal obligation to do so, e.g. on a good-will basis, the Buyer only holds defect claims if expressly agreed.

(6) The Buyer's statutory rights of recourse to us only apply to the extent that he has not made any contractual agreements with his customer going beyond statutory defect and damages claims.

### **XVII. Limitation, Suspension of Limitation**

(1) The limitation period for claims and rights relating to defects in our products, services and works and the losses resulting therefrom is 1 year. The limitation period also applies to all damages claims against us, irrespective of whether they are associated with a defect and irrespective of the legal basis of the claim.

(2) Subsequent performance measures, i.e. supply of a non-defective item or remedying of a defect, do not mean that the limitation period starts anew but only suspend the limitation period applicable to the original supplied item for the duration of the subsequent performance measure. Subsequent performance by us does not constitute recognition as defined in Section 212 no. 1 of the German Civil Code.

Work such as adjustment of the systems or work of a maintenance or service character does not constitute rectification and thus has no influence on warranty periods.

### **XVIII. Liability Limitations**

(1) We are liable in compliance with legal regulations in the event of intent or gross negligence. Apart from this, we are only liable under the Product Liability Act, for loss of life, bodily injury or damage to the health of a person or for a culpable breach of major contractual obligations, i.e. a breach of the obligations which make due performance of the contract initially possible and the observance of which the contracting partner can usually expect. Damages claims due to a slightly negligent breach of major contractual obligations are limited to the foreseeable damage typical of the contract concerned.

(2) The above rulings also apply to a claim to reimbursement of futile costs and to liability for impossibility of performance and default.

(3) Damages claims made against us for reason of material financial losses, financial losses relating to products and recall costs are limited to the scope of coverage of our business and product liability insurance policy for 1 million euros. This liability limitation does not apply if we have liability in cases of intent, gross negligence, a culpable breach of major contractual obligations or under the Product Liability Act or in cases in which the Buyer claims damages on the basis of a warranty or assurance that we have given in relation to the existence of a property, unless the purpose of the property warranty solely relates to the contractual conformity of the delivery concerned and not to the risk of indirect losses due to defects.

(4) In addition, there is no obligation to render compensation if the Buyer, for his part, has effectively limited liability to his customer.

### **XIX. Retention of Title, Insurance, Processing, Assignment of Claims, Entry Right, Liens**

(1) We reserve the title to the supplied items (reserved goods) until settlement of all the claims already existing at the time of conclusion of the contract and all claims arising in the future on the basis of the existing business relations with the Buyer and his group companies or the business relations created by the contract. Reservation of title

also continues to apply if some of our claims have been included in current accounts and balanced and recognised. If bills of exchange or cheques are accepted in a cheque/bill of exchange process, the title to the goods we have supplied does not pass to the Buyer until we can finally dispose of the amount of the cheque or bill of exchange, at the earliest, and our liability resulting from the bill of exchange has expired.

If the realisable value of the existing securities exceeds the secured claims by a total of more than 10%, we have an obligation to release securities to this extent at the Buyer's request; we have the right to select the securities for release.

**(2)** The Buyer must treat the reserved goods with due care. In particular, he must take out insurance at his own expense for the reinstatement value of the reserved goods in the event of losses through fire, water, storm and tempest, burglary and theft. Security claims arising when such losses occur are to be assigned to us. We hereby accept this assignment. If maintenance and servicing work is necessary, the Buyer must perform this promptly at his own expense.

**(3)** Processing or treatment of the reserved goods is performed for us as the manufacturers as defined in Section 950 of the German Civil Code, without placing us under any obligation. The processed or treated goods are considered to be reserved goods as under para. 1. If the reserved goods are processed, combined or mixed with other goods by the Buyer, we obtain co-ownership of the new product, this being in the proportion of the invoiced value of the reserved goods to the invoiced value of the other items used. For the event that our title is lost through processing, combination or mixing, the Buyer hereby assigns to us the ownership or expectancy rights which he holds to the new asset or item to the amount of the invoiced value of the reserved goods or, in the event of processing, in the proportion of the invoiced value of the reserved goods to the invoiced value of the other items used. Said Buyer keeps such goods for us free of charge. Our co-ownership rights are considered to be reserved goods as under para. 1.

**(4)** The Buyer may only sell the reserved goods in the course of due business subject to his normal terms of business, this being for as long as he is not in default, with the proviso that he must reserve the title and the claims resulting from resale are assigned to us as under para. 5 and 6. He is not entitled to make any other disposition of the reserved goods. The use of the reserved goods to perform works contracts is also deemed to be resale for the purposes of this para. 4.

**(5)** The Buyer's claims resulting from resale of the reserved goods are hereby assigned to us. We hereby accept this assignment. These claims shall serve for security to the same extent as the reserved goods as set forth in para. 1. At our request, the Buyer must provide us with all the necessary information on the status of the goods of which we hold ownership and on the claims assigned to us

**(6)** If the reserved goods are resold by the Buyer together with other goods, the claim from resale is assigned to us in the proportion of the invoiced value of the reserved goods to the invoiced value of the other goods. We hereby accept this assignment. If goods in which we hold co-ownership rights under para. 3 are resold, the part of the claim corresponding to our co-ownership proportion is assigned to us and we hereby accept this assignment.

**(7)** The Buyer has the right to collect claims resulting from resale, unless we revoke such collection authorisation in the cases set forth in para. 8. In such cases, the Buyer must, at our request, notify his customers immediately of this assignment to us – if we do not do this ourselves – and provide us with the information and written material required for collection. The Buyer is not authorised to assign the claims under any circumstances.

**(8)** If the Buyer is in default on payment and if this indicates a risk to the collection of a not insignificant part of our claims, we have the right to prohibit the further processing of the goods supplied, to repossess the goods and to enter the Buyer's operations to do this, if necessary. Our repossession and attachment of the reserved goods does not constitute rescission of the contract, provided that the Consumer Credit Act or Section 449 II of the German Civil Code does not apply. In the agreement of retention of title, there is reservation of a right of rescission in the event that the Buyer is in default on payment. The Buyer hereby gives his consent that the persons commissioned by us to repossess the reserved goods may enter, either on foot or in a vehicle, the site or the building on or in which the reserved goods are located, for the purpose of repossessing the goods.

**(9)** Factoring transactions shall only be effective subject to our consent. The Buyer is not authorised to either pledge the reserved goods or assign them in security to third parties. In the event of impairment by third parties, the Buyer must notify us immediately. If third parties seize the reserved goods in any way, in particular if they attach them, the Buyer will inform them of our title and notify us immediately, so that we can assert our ownership rights. If the third party is not able to reimburse our court and out-of-court costs in this connection, the Buyer shall be liable.

**(10)** In relation to all claims under the contract, we hold a contractual right of lien as well as our statutory rights of lien to the items sup-

plied to us for processing. The right of lien can also be asserted in relation to claims for work performed at an earlier date, supply of replacement parts and other services, insofar as they are connected with the subject of performance. The right of lien applies to other claims resulting from the business relationship insofar as they are undisputed or have been confirmed in a final form by a court of law.

**(11)** If reservation of title is not effective under the law of the country in which the supplied goods are located, the Buyer must furnish equivalent security at our request. If he fails to comply with this request, we can require immediate payment of all outstanding invoices, regardless of agreed payment dates.

## **XX. Confidentiality**

**(1)** The contracting parties undertake to treat as confidential all the commercial and technical details that are not generally known and of which they learn through the business relationship.

**(2)** Drawings, models, templates, samples and similar items especially software, instruction sheets, parts lists and diagrams must not be given to unauthorised third parties or made accessible in any other way. The duplication of such items is only permitted as required in business operations and in compliance with copyright law.

**(3)** Sub-suppliers must enter into equivalent undertakings.

**(4)** The contracting parties are only permitted to use their business relationship in advertising subject to obtaining prior written consent.

## **XXI. Export record**

If a Buyer recorded in a country outside of the Federal Republic of Germany or his authorised representative collects goods and transports or ships them to the other country, said Buyer must furnish us with the export record required for tax purposes. If this record is not furnished, the Buyer must pay on the invoiced amount the rate of value-added tax applicable to deliveries within the Federal Republic of Germany.

## **XXII. Legal Venue, Applicable Law, Place of Fulfilment, Ineffectiveness, Data Protection**

**(1)** Wartenberg in Germany is agreed to have exclusive local and international jurisdiction for all disputes resulting from the contractual relations between the parties. This also applies to disputes in the processes relating to documents, bills of exchange and cheques. However, we also have the right to sue the Buyer at his seat of business. **(2)** The contractual relations with the Buyer are governed solely by the law of the Federal Republic of Germany. Application of the Convention of the United Nations of 11<sup>th</sup> April 1980 on the International Sale of Goods (CISG – "Viennese Commercial Law") is ruled out. If nothing to the contrary has been agreed in the above provisions, the version applicable at the time of the international rules on the interpretation of customary commercial contractual forms (Incoterms) shall apply to cross-frontier contracts.

**(3)** If nothing has been agreed to the contrary, the place of fulfilment shall be our seat of business in Wartenberg.

**(4)** If any provision in these General Terms of Sale or in further agreements is or becomes ineffective, the effectiveness of the rest of the contract will not be prejudiced thereby. The contracting parties will make every effort to replace the ineffective clause by a clause complying with the legal regulations relevant in this case and approaching as closely as possible the financial purpose and legal intent of the original wording.