

**PFEIFER Bautechnik GmbH**  
**Woringer Straße 11**  
**DE-87700 Memmingen**

**GENERAL TERMS AND CONDITIONS OF SALE**

For all national and international commercial transactions with businesses, governmental legal entities, as well as special state funds and foundations.

**1. SCOPE**

- 1.1. These General Terms and Conditions of Sale (hereinafter referred to as "Terms and Conditions") apply to all transactions between us and our buyers. Our Terms and Conditions apply in particular to orders for the sale and/or delivery of chattel (hereinafter also referred to as "Goods"), regardless of whether we manufactured the Goods ourselves or purchased same from suppliers (§§ 433, 650 BGB). Our Terms and Conditions also apply as a master agreement to future orders for the sale and/or delivery of Goods with the same buyer, without the need for us to refer to them again in each individual future transaction.
- 1.2. Any terms and conditions of buyer that conflict with, supplement, or alternate these Terms and Conditions shall not become part of a purchase order, unless we have expressly agreed to their application in writing. These Terms and Conditions shall also apply if we provide the Goods to buyer without reserving our rights despite being aware of conflicting or alternating terms and conditions of buyer.
- 1.3. Individually negotiated terms and/or agreements made with buyer (including ancillary agreements, supplemental agreements, and amendments) shall always take precedence over these Terms and Conditions. The content of such individual terms and/or agreements shall be, subject to proof to the contrary, memorialized by a written contract or our written confirmation.
- 1.4. Any rights to which we are entitled by law and/or equity beyond these Terms and Conditions shall not be changed by these Terms and Conditions.
- 1.5. The transmission of documents by facsimile, email, or comparable electronic text formats shall be sufficient to satisfy the written form requirement within the meaning of these Terms and Conditions.
- 1.6. The interpretation of (three-letter) trade terms shall be governed by the Incoterms® in their most recent version.

**2. ACCEPTING ORDERS**

- 2.1. Our offers and estimates are subject to change and non-binding, unless they are expressly designated as binding offers. This also applies to catalogs, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions, or documents that we provide to buyer.
- 2.2. Illustrations, drawings, weight and dimensional specifications, as well as other descriptions of the Goods contained in the documents associated with an offer, are nominal values only, unless they are expressly designated as exact (and binding). They do not represent an offer and/or agreement or warrant a specific properties of the Goods.
- 2.3. Standard specifications (e.g. pursuant to DIN) refer to the most recent version of such specification.
- 2.4. An order only becomes binding only after it was confirmed by us in text form. Our silence with regards to orders, requests, or other communications from buyer shall only be deemed as consent if we had previously expressly agreed to same in writing.  
If our order confirmation contains obvious or otherwise easily detectable errors, typographical mistakes, or calculation errors, it shall not be binding.
- 2.5. We do not assume any type of procurement risk. Accordingly, we may terminate an order if our suppliers are unable to deliver or if a supplier files for bankruptcy.

**3. DELIVERY, DELIVERY TIMES, DELIVERY DELAYS, AND RESERVATION OF SELF-SUPPLY**

- 3.1. Unless otherwise expressly agreed to, delivery shall be made "Ex Works" (EXW pursuant to Incoterms® 2020 Dr.-Karl-Lenz-Straße 66, 87700 Memmingen, GERMANY). At buyer's request and expense, we will ship the Goods to another destination (hereinafter referred to as "Sale by Dispatch"), whereby we may, unless otherwise agreed to, determine the mode of shipment at our sole discretion, including (but not limited to) the type of shipment, in particular the transport company, shipping route, and packaging.
- 3.2. The details of your order shall be determined by our order confirmation. Changes to the scope of your order shall only become valid if we confirm such changes. We reserve the right to make design and format changes to the Goods and/or their engineering, provided, however, that such changes are not significant and are reasonable to buyer.
- 3.3. We may make partial deliveries. Buyer shall accept and pay for partial deliveries, unless such acceptance is unreasonable or materially adversely affects buyer's other contractual rights.
- 3.4. Delivery dates specified by us are non-binding, unless we have expressly confirmed same in writing as "binding delivery dates."
- 3.5. A delivery period shall commence upon dispatching our order confirmation but not before buyer has provided all documents, approvals, and clearances regarding the Goods required for delivery, the agreed upon advance payment, if any, as well as buyer having duly performed any and all of its other cooperation obligations in connection with the order. In the case of assembly and installation, buyer shall ensure that such assembly or installation may be carried out without interruption and all necessary preparations such as substructures, electricity requirements, and similar provisions will have been made available free of charge.
- 3.6. If buyer fails to perform any contractual obligations – including (but not limited to) obligations to cooperate or any ancillary obligations, such as opening a letter of credit, providing domestic or foreign certificates, making its advance payment, or reviewing drawings or samples – on time, we may extend our delivery date(s) commensurate with the needs of our production process, albeit without prejudice to any of our other rights because of the default of buyer.
- 3.7. Agreed delivery dates shall be deemed met if we make the Goods available at the place of delivery on time or – if a Sale by Dispatch has been agreed to pursuant to Section 3.1 above – hand the Goods over to the transport company, or if buyer has already announced that it will refuse to accept the Goods.
- 3.8. Because we may source the Goods wholly or in part from other manufacturers, our delivery obligation is subject to our ability to completely and/or timely procure the Goods.
- 3.9. We shall not be liable for the impossibility of performance or delays in performance because of force majeure or other events that were not foreseeable at the time the order was made and that we are not responsible for. Such events include (but are not limited to) operational disruptions of any kind, fires, natural disasters, weather conditions, floods, war, riots, terrorism, transport delays, strikes, lockouts or curfews, shortages of workers, energy or raw materials, epidemics, pandemics, delays in obtaining necessary official permits, governmental measures or prohibitions (e.g. sanctions, embargoes, or other export control regulations), or not foreseeable increases in procurement risk. Such events also include improper or delayed deliveries and/or supplies by our suppliers. In such cases, delivery dates shall be automatically extended for the duration of the event plus a reasonable ramp-up period. The parties shall promptly provide each other with all necessary information and shall

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adjust their contractual obligations in good faith based on the respective event. If the obstruction by an event lasts longer than 45 days, each party shall be entitled to terminate the order.

3.10. Buyer may only terminate an order or claim damages because of a delivery delay if such delay was caused by our negligence or willful misconduct.

3.11. If buyer has made a specific master agreement with us for the future supply of Goods and buyer fails to order such Goods in a timely manner, we may, after providing notice of a reasonable grace period, deliver and invoice such Goods, terminate the agreement, or – if buyer acted with negligence or willful misconduct – claim damages instead of performing the contract.

**4. PASSING OF RISK, INSPECTION AND ACCEPTANCE OF GOODS**

4.1. The risk of accidental loss and/or accidental deterioration of the Goods shall pass to buyer at the latest upon handover of the Goods. In the case of a Sale by Dispatch, however, the risk of accidental loss and accidental deterioration of the Goods, as well as the risk of delay, shall pass upon handover of the Goods to the transport company (including – but not limited to – the carrier or freight forwarder) or any other person or institution designated to execute the shipment. If an inspection was agreed to, such inspection shall determine the passing of the risk. Furthermore, if an inspection was agreed to, the rules of law and/or equity governing acceptance and inspections of “works contracts” shall apply. Handover or inspection/acceptance shall be deemed to have taken place if buyer is in default accepting the Goods.

4.2. If buyer is in default accepting the Goods, fails to cooperate, or delays the loading or transportation of the Goods for reasons attributable to buyer, we may, at buyer’s expense and risk, store the Goods at our discretion, take all measures deemed necessary to preserve the Goods, and invoice the Goods as delivered. The same shall apply if Goods reported as ready for dispatch are not accepted within four days. The rules of law and/or equity governing default of acceptance shall not be changed by these Terms and Conditions.

4.3. Notwithstanding the terms of Section 9.6 below, buyer shall inspect the Goods upon delivery for any externally visible damage and to report such damage to the transport company executing the delivery, and obtain a corresponding written confirmation of such damages. If buyer fails to comply with this obligation, buyer shall be liable to us for any damages resulting therefrom.

4.4. Unless otherwise agreed to or industry practice, the Goods shall be delivered unpacked and without corrosion protection. Packaging materials such as paper, plastic, jute, etc., as well as disposable pallets and reels, shall be invoiced separately and will not be taken back. Loaner reels shall be invoiced at customary costs and shall be paid for by buyer. If returned at no cost to us and received in good condition at our dispatch plant within two months, they shall be credited at two-thirds of the invoiced cost.

4.5. Exchangeable packaging materials, such as mesh crates and euro pallets, shall be returned to the transport company in exchangeable condition (EPAL) without undue delay after unloading. If these are damaged or not returned to the transport company within a reasonable period of time, buyer shall reimburse us for same at market rate.

**5. PURCHASE PRICE**

5.1. All consideration is agreed to in European Union euros, as stated in the order confirmation, plus value-added tax (VAT). In the case of assembly and installation, buyer shall reimburse us for the expenses incurred because of such assembly and/or installation at our applicable rates as well as for all travel and accommodation expenses in connection

therewith.

5.2. Accordingly, all consideration is net of statutory VAT, and VAT is not included in the respective purchase price but shall be shown separately on the invoice at the rate applicable on the date of the invoice.

5.3. Unless otherwise agreed to, all prices shall be “Ex Works” (EXW according to Incoterms® 2020) and do not include packaging costs. In the case of a Sale by Dispatch pursuant to Section 3.1 above, buyer shall bear the transportation costs and, if requested, the cost of insurance during such transport.

5.4. We may adjust our prices pursuant to and in accordance with the following terms:

- a) We may adjust the consideration payable by buyer to reflect changes in our total costs on which the calculation of the agreed to price was based upon. Such adjustment(s) shall be in our reasonable discretion pursuant to § 315 BGB.
- b) Our total costs consist of the following relevant components: costs for procuring raw materials and energy, labor costs, transportation costs, customs duties, taxes, and (other) public levies, as well as charges by our suppliers.
- c) A price increase may be considered, and a price reduction shall be made, if our total costs increase or decrease.
- d) Increases in one cost component (e.g. raw material costs) may justify a price increase only if there is no decrease with regard to other cost components (e.g. energy costs).
- e) In the event of a reduction in cost components, we shall lower prices, unless such reduction(s) are offset by increases in other cost components.
- f) While exercising reasonable discretion, we shall time a price adjustment in a manner that cost reductions are not calculated based on less favorable criteria for buyer than cost increases; cost reductions shall be made on the same bases as cost increases.
- g) We shall inform buyer in text form of any price adjustments at least four weeks before they take effect.
- h) Our right to adjust prices does not apply to deliveries or services we provide within four months of the acceptance of an order.

**6. TERMS OF PAYMENT**

6.1. Unless otherwise agreed to, all payments of consideration shall be made in advance immediately upon ordering, without any deduction. Any instant-payment discount must be expressly agreed to (by us) and shall only be granted if buyer is not in default with any of its invoice payment obligations. Payment shall be deemed made only after the respective amount is at our sole disposal.

6.2. Upon expiry of the payment terms prescribed above, buyer shall be in default. During buyer’s default, the unpaid purchase price shall bear interest at the statutory default interest rate. We reserve the right to claim further delay damages. In transactions with merchants, we may charge additional commercial interest (§ 353 HGB).

6.3. Buyer may only offset its open payment obligations with counterclaims, or assert a right of retention, if such claims or rights have been adjudicated to final judgement or are undisputed. Buyer may also assert a right of retention only if such right arises from the same transaction.

6.4. If buyer is in default of payment, we may demand immediate payment of any and all invoices and other claims from our business relationship with such buyer, even if such claims have not yet become due (at such time). Additionally, we may withhold any outstanding deliveries under then current agreed to orders.

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- 6.5. If, after agreeing to an order, it becomes apparent that our right to the respective consideration becomes endangered because of buyer's inability to perform (e.g. because of an application for insolvency proceedings), we may refuse delivery and/or performance pursuant to applicable law and/or equity and – if necessary, after providing notice in due course – terminate the order (§ 321 BGB). In the case of orders for the manufacture of non-fungible items (custom-made products/works contracts), we may terminate the order immediately; the rules of law and/or equity regarding the dispensability of providing notice shall not be changed by these Terms and Conditions.
- 6.6. If buyer does not specify the allocation of its payment, it shall be applied, first, to debt due, then, among several due debts to the one providing us with the least security, thereafter, among equally secured debts to the one most burdensome for buyer, then, among equally burdensome debts to the oldest, and, finally, among debts of equal age, pro-rata amongst such debts.
- 7. ASSIGNMENT OF PURCHASE PRICE COLLECTIONS**
- 7.1. We reserve the right to assign our rights to the payment of the purchase price against buyer to third parties (e.g. a factoring company) without requiring buyer's consent. In addition, § 354a HGB shall apply.
- 7.2. Buyer shall bear all fees, costs, and expenses incurred by us or by a third party to whom we have assigned a right to the payment of the purchase price (e.g. a factoring company) in connection with a successful collection process against a buyer outside the Federal Republic of Germany.
- 8. RETENTION OF TITLE**
- 8.1. We retain ownership of the Goods sold to buyer (hereinafter also referred to as "Reserved Goods") until all present and future consideration and other claims arising out of the underlying order as well as the ongoing business relationship are paid in full (secured claims).
- 8.2. Before our secured claims are paid in full, the Reserved Goods may not be pledged to third parties, transferred as security, or otherwise hypothecated. Buyer shall inform us without undue delay and in writing if and to what extent third parties are trying to claim the Reserved Goods.
- 8.3. Buyer shall handle the Reserved Goods with due care for the duration of our retention of title. In particular, buyer shall insure the Reserved Goods at its expense against fire and water damages as well as damages caused by theft at the value ascribed to such Goods in the order. Buyer hereby assigns to us all claims for compensation from such insurance. We hereby accept this assignment. If an assignment is not permissible buyer hereby instructs the insurer to make any payments deriving therefrom exclusively to us. Rules of law and/or equity providing us with additional claims shall not be changed by these Terms and Conditions. Upon request, buyer shall provide us evidence of the insurance coverage.
- 8.4. If the Reserved Goods are amalgamated or otherwise combined with other items not belonging to us to form a new good, we shall acquire co-ownership of such new good proportionate to the value of the Reserved Goods (total invoice amount including VAT) to the other goods combined in the new good at the time of combination. If the Reserved Goods are combined in such way that buyer's other goods are to be regarded as the principal goods, buyer shall transfer co-ownership of the new good to us on a pro-rata basis. We hereby accept this transfer. The terms of this Section 8.4 shall apply accordingly if the Reserved Goods are processed with other goods that buyer does not own.
- 8.5. Buyer is revocably entitled to resell the Reserved Goods in its ordinary course of business. However, buyer is not permitted to pledge, transfer any type of security interest in, or otherwise dispose of our ownership interest in the Reserved Goods. In the event of seizures or other enforcement actions by third parties, buyer shall notify us without undue delay in writing, provide all necessary information regarding such action, inform the third party of our ownership rights, and assist us in taking measures to protect the Reserved Goods.
- 8.6. Buyer hereby assigns to us all consideration arising from the resale of the Reserved Goods in the amount of the invoice (including VAT) as well as any ancillary rights arising from such sales. We hereby accept this assignment. If the Reserved Goods are sold together with other goods not supplied by us, such assignment shall be in the consideration from such sale in the amount proportionate to the value of the Reserved Goods (final invoice amount including VAT) relative to the other sold goods. If an assignment is not permissible, buyer hereby irrevocably instructs the third party debtor to make payments only to us.
- 8.7. Buyer is revocably authorized to collect the consideration assigned to us as our fiduciary for us in its name. The so collected amounts shall be transferred to us immediately.
- 8.8. We may revoke buyer's right to resell Reserved Goods and its collection authorization if buyer fails to perform its payment obligations in the ordinary course of business, otherwise defaults on its payment obligations or suspends its payments, or if an application for insolvency proceedings over buyer's assets is made.
- 8.9. At buyer's request, we shall release our existing security interests to the extent that their realizable value, taking into account customary banking valuation discounts, exceeds our receivables from our business relationship with buyer by more than 10%. We may select the security interests we release at our sole discretion.
- 8.10. Where the Reserved Goods are sold abroad and the retention of title agreed to pursuant to this Article 8 in connection with the applicable foreign law does not provide us with same or similar rights than German law, buyer hereby grants us a security interest that is most similar to the interest provided by German law. If additional measures are required for this purpose, buyer shall without undue delay take all necessary actions to grant us such comparable security interest. Buyer shall cooperate regarding all measures necessary and beneficial to perfect the validity and enforceability of such security interests.
- 9. BUYER'S WARRANTY CLAIMS**
- 9.1. If a Good is defective, buyer's rights shall be governed by the rules of law and/or equity, unless otherwise stipulated in these Terms and Conditions.
- 9.2. We warrant that, at the time risk passes to buyer, the Goods comply with the agreed to subjective specifications (§ 434(2) BGB) defined in the individual order agreed to with buyer.
- 9.3. In addition, buyer shall be entitled to all warranty rights provided by the rules of law and/or equity in the event of:
- a) defective assembly (§ 434(4) BGB); or
  - b) delivery of goods other than the Goods owed pursuant to the applicable order (§ 434(5) BGB).
- 9.4. Our warranty for the objective specifications of the Goods (§ 434(3) BGB) is limited to:
- a) our agreement to the subjective specifications pursuant to Section 9.2 above, which – unless otherwise agreed to – shall always take precedence over any and all objective specifications; and
  - b) the terms of Section 9.5 below.
- 9.5. The Goods meet the objective specifications if:
- a) they have the properties that buyer may expect based on our public statements, particularly in advertising or on labels; however, we do not assume liability for public

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- statements made by third parties;
- b) they conform to the properties of a sample, mock-up or other model that we provided to buyer before the order was made; and
- c) they are delivered with accessories, including (but not limited to) packaging, assembly or installation instructions, as well as other manuals that buyer may reasonably expect.
- Notwithstanding the above points, we hereby expressly exclude any warranty of merchantability and/or fitness for a (particular) purpose of the Goods, including (but not limited to) regarding their customary use, ordinary specifications or any fitness for their ordinary purpose.
- 9.6. Buyer may assert warranty claims only if buyer complies with its inspection and notification obligations provided by the rules of law and/or equity (§§ 377, 381 HGB), specifically by inspecting the delivered Goods upon receipt and notifying us in writing without undue delay of any apparent defects or defects that were identifiable during such inspection. Hidden defects shall be reported to us in writing upon discovery without undue delay. A notification is considered timely if made within eight business days after handover of the Goods to buyer in the case of apparent defects or defects identifiable upon inspection, or within eight business days after discovery for hidden defects; timeliness is determined by when such notification is received by us. If buyer fails to perform the proper inspection and/or defect notification, our liability for such defect shall be excluded. Buyer shall describe the defects in text form when notifying us.
- 9.7. If buyer's complaint regarding a defect proves to be unjustified, buyer shall reimburse us for any and all expenses incurred in connection therewith; provided, however, there will be no such obligation if buyer proves that it was not at fault in connection with lodging the unjustified complaint.
- 9.8. If the delivered Goods are defective, we shall have the choice of providing remedial measures either by remedying the defect (rectification) or by delivering defect-free Goods (replacement delivery). Our right to refuse the chosen remedial measure pursuant to the rules of law and/or equity shall not be changed by these Terms and Conditions. A rectification shall only be deemed to have failed after two unsuccessful rectification attempts.
- 9.9. We may condition the performance of our remedial measure on buyer's payment of the consideration for the underlying order. However, buyer may withhold a proportionate amount of the purchase price reasonably related to the defect.
- 9.10. Buyer shall provide us with reasonably necessary time and opportunity to attempt the owed remedial measure, particularly by handing over the Goods in question for our inspection. In the event of a replacement delivery, buyer shall return to us the defective Goods in accordance with the rules of law and/or equity.
- 9.11. We shall bear all costs required for inspection and remedial measures, particularly transport, travel, labor, and material costs if a defect actually exists. However, if buyer's complaint proves to be unfounded, we may claim reimbursement of the costs we incurred in connection with such complaint.
- 9.12. In urgent cases, such as operational health & safety risks or to prevent disproportionate damages, buyer may remedy the defect itself and demand reimbursement of the reasonably necessary expenses incurred thereby from us. Buyer shall inform us of such self remedy without undue delay, if possible, beforehand. The right to take such self remedy does not apply if we are entitled to refuse remedial measures pursuant to the rules of law and/or equity.
- 9.13. Buyer's rights to terminate the order pursuant to the rules of law and/or equity are excluded if buyer is unable to return the received Goods or if the defect was only discovered after the Goods were processed or modified.
- 9.14. If the ordered Goods are not at the place of delivery, buyer shall bear any and all additional costs incurred by us for taking remedial measures, unless the relocation of the Goods is consistent with the agreed to use of the Goods.
- 9.15. Unless otherwise agreed to, the following shall not be deemed defects of the Goods:
- a) natural wear and tear;
- b) the state of the Goods or damages thereto resulting from improper handling, storage, maintenance, excessive strain or use, each after the passing of risk;
- c) the state of the Goods or damages thereto caused by force majeure, special external influences that were not contractually assumed, or use of the Goods outside the contractually assumed or customary use;
- d) defects or damages resulting from non-compliance with operating instructions, application specifications, or warnings provided by us.
- 9.16. Buyer's claims for damages and/or reimbursement of its futile expenditures exist only in accordance with Section 10 below and are otherwise excluded.
- 10. LIABILITY**
- 10.1. Our liability for damages pursuant to the warranties we provide depends on us being at fault (negligence or willful misconduct). Mandatory liability pursuant to the rules of law and/or equity for product defects (particularly under the German Product Liability Act) shall not be changed by these Terms and Conditions.
- 10.2. We shall be liable for any and all damages – regardless of the applicable legal foundation(s) – if they are caused by tort involving gross negligence and willful misconduct. In cases of simple negligence, and subject to the limitations of liability pursuant to the rules of law and/or equity (e.g. due diligence in one's own affairs; immaterial breaches of contractual duties), we shall be liable only:
- a) for damages resulting from an injury to life, body, or health;
- b) for damages resulting from a material breach of contract (an obligation whose performance is essential for the successful execution of the contract and on whose compliance buyer regularly relies and may rely on); in this case, however, our liability is limited to compensation for foreseeable, typically occurring damages.
- 10.3. The limitations of liability set forth in Section 10.2 above shall also apply to third parties and in cases of breaches of duty by persons (including those acting in their favor) for whom we are legally required to assume liability. These limitations do not apply where a defect was fraudulently concealed, a guarantee for the specifications and/or properties of the Goods was provided, or where rights of buyer under the German Product Liability Act are concerned.
- 10.4. Buyer may only terminate an order, in case a breach of duty that does not relate to a defect, if we are at fault for such breach of duty. There is no unrestricted right of buyer to terminate (particularly pursuant to § 648 BGB). Otherwise, the rules of law and/or equity shall apply.
- 10.5. In the event of product liability, we shall only be liable to the extent required by the rules of law and equity applicable in the Federal Republic of Germany regarding recall or service actions. We shall not be liable for voluntary or disproportionate recall or service actions initiated by buyer; such actions are deemed disproportionate if a proper warning (if necessary, including instructions for non-use or decommissioning of the Goods) would have enabled the users of the Goods to protect themselves (if necessary, with our assistance in implementing safety measures at one's own expense).

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**11. LIMITATION PERIOD**

- 11.1. Notwithstanding § 438(1)(no.3) BGB, the general limitation period for claims arising from defects of quality and legal defects shall be one year from the date of delivery. If a formal acceptance was agreed to, the limitation period shall begin upon such acceptance of the Goods by buyer.
- 11.2. If we sold a structure, or the Goods we sold are used in a structure in accordance with their ordinary purpose and have caused the structure's defectiveness (building material), the limitation period shall be five years as of the delivery date (§ 438(1)(no.2) BGB). Further special statutory law regarding limitation periods (particularly § 438(1)(no.1), (3), §§ 444, 445b BGB) shall not be changed by these Terms and Conditions.
- 11.3. The limitation periods agreed to above governing the sale of goods shall also apply to claims for damages based on buyer's contractual rights and/or the rules of law and equity that are based on a defect of the Goods, unless the application of the statutory limitation period (§§ 195, 199 BGB) would provide for a shorter limitation period in the individual case. Claims for damages by buyer pursuant to Sections 10.2, sentence 1 and 10.2, sentence 2(a) above, as well as under the German Product Liability Act, shall be barred exclusively pursuant to the respective statutory limitation period applicable thereto.

**12. CONFIDENTIALITY**

- 12.1. Commercial offers, drawings, technical documents, or other technical information provided by us may not be copied, reproduced, made available to third parties or the public without our consent, unless the customary use of the Goods sold demands same.
- 12.2. Unless otherwise agreed to, we shall grant buyer a simple, time-limited, non-exclusive, non-transferable license to use our drawings and data (including – but not limited to – manuals and operating instructions) if the customary use of the Goods demands same. Buyer may not duplicate or distribute such drawings and data to third parties without our consent.
- 12.3. We and buyer shall treat confidential information of the other party confidential and shall not disclose such information to third parties, unless expressly permitted by the other party or necessary to perform the obligations of the respective order. Each party may share confidential information with its employees, agents, or (sub)contractors if they have a legitimate interest in knowing such information and are bound by reasonable confidentiality obligations.
- 12.4. These confidentiality obligations shall not apply to any information that:
- (i) becomes public knowledge without any fault of the receiving party;
  - (ii) was known to the receiving party before receiving the confidential information from the other party;
  - (iii) was lawfully obtained from a third party without violating a confidentiality obligation; or
  - (iv) is developed by the receiving party without using confidential information of the disclosing party.
- A party may also disclose confidential information of the other party to the extent demanded by law; provided, however, that it informs the other party thereof in advance (if legally permissible).

**13. CHOICE OF LAW; CHOICE OF FORUM**

- 13.1. The legal relationship between buyer and us shall be governed by the laws of the Federal Republic of Germany; provided, however, the United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.
- 13.2. The court with exclusive jurisdiction for any and all claims and legal actions arising from the business relationship with

buyer shall be the court of competent jurisdiction at our place of business; provided, however, we may also bring legal action in a court of competent jurisdiction at buyer's place of business as well as in any other legally permissible court of competent jurisdiction.

**14. MISCELLANEOUS**

- 14.1. If any provision of these Terms and Conditions is or becomes wholly or partially invalid or unenforceable, or if these Terms and Conditions contain a gap, the validity of the remaining provisions shall not be affected by same. Instead of the invalid or unenforceable provision, a valid or enforceable provision shall be deemed agreed to that resembles as close as possible the purpose of the invalid or unenforceable provision. In the event of a gap, such provision shall be deemed agreed to that would have been agreed to in accordance with the purpose of these Terms and Conditions, had the matter been considered by the parties when they agreed to these Terms and Conditions.
- 14.2. The transfer of buyer's rights and obligations to third parties shall only be valid with our written consent.
- 14.3. The place of performance for all orders shall be our place of business.

The Terms and Conditions apply in German; this English version is for convenience only. Accordingly, in case of conflict between the German and this English version, the German version prevails.

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