

### I. General Scope

(1) These Terms and Conditions apply to all our deliveries and services. They furthermore apply to the initiation and handling of all business transactions - present and future - with the buyer. These terms and conditions only apply to natural or legal persons who, when concluding a legal transaction, act in the exercise of their commercial or independent professional activity, legal persons under public law or a special fund under public law.

(2) These terms and conditions apply in particular to contracts concerning the sale and/or delivery of movable items ("goods"), regardless of whether we manufacture the goods ourselves or purchase them from suppliers. Unless otherwise agreed, the terms and conditions in the version valid at the time of the buyer's order or in any case in the version last notified to him in text form will also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case.

(3) Our Terms and Conditions apply exclusively. We will not recognize the buyer's opposing conditions of purchase or opposing conditions of contract unless we have expressly confirmed their validity in writing. The present Terms and Conditions also apply whenever we make deliveries or provide services without reservation to the buyer while being aware that the buyer's conditions conflict with our Terms and Conditions, or at least differ from them.

(4) Individual agreements (e.g. framework supply agreements, quality assurance agreements) and details in our order confirmation take precedence over these Terms and Conditions. In case of any doubt, commercial clauses are to be interpreted in accordance with the Incoterms issued by the International Chamber of Commerce in Paris (ICC) in the version valid at the time of conclusion of the contract.

(5) References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions therefore apply, unless they are directly amended or expressly excluded in these Terms and Conditions.

### II. Written form

(1) E-mails, faxes, electronic data processing printouts or electronic declarations also suffice as written form within the scope of customary commerce, insofar as these Terms and Conditions expressly require written declarations. Data transmissions by e-mail will be carried out at the risk of the buyer. We reserve the right to comply with statutory formal requirements and to provide further evidence, in particular in the event of doubts about the legitimacy of the person making the declaration.

(2) No additional oral agreements have been made. Every amendment made to a contract requires the written form. This provision also applies to an agreement concerning divergence from the written form. The possibility of proving oral individual agreements remains reserved.

### III. Coming into effect of the contract

(1) Our offers are subject to change and non-binding. This also applies if we have provided the buyer with catalogues, technical documentation (e.g. drawings, plans, calculations), other product descriptions or documents - also in electronic form - to which we reserve rights of ownership and copyright.

(2) The order placed by the buyer is deemed to be a binding contractual offer. Unless stated otherwise in the order, we are entitled to accept this contractual offer within two weeks of receiving it.

(3) Acceptance can be declared either in writing (e.g.) by order confirmation or by delivery of the goods to the buyer.

(4) Our sales representatives are only authorised to acquire/negotiate, not to conclude contracts.

### IV. Provisions governing foreign trade

(1) In the event that, following conclusion of the contract, we discover circumstances which justify assumption of an existing or future violation of national or international regulations as well as US export law or existing licensing requirements and immediately and credibly inform the buyer about this, we are entitled to a reasonable period of time for further review of these facts. It is mutually agreed to exclude a delay in performance for the period of investigation as well as for the

period required for the approval procedure. Insofar as a required approval is not granted or cannot be granted for some other reasons, we will be entitled to refuse performance and to withdraw from the contract.

(2) Agreement is also required in every case for reselling [the goods] in countries that are subject to an embargo (total embargo or partial embargo) or for reselling to barred persons. The buyer undertakes not to utilize the delivered goods for military or nuclear purposes of any kind, nor to sell these goods to third parties connected with the aforementioned final utilizations, nor to procure such third parties directly or indirectly in another way.

(3) In response to our demand, the buyer is to forward us immediately or within a maximum period of ten working days (Mondays to Fridays), the relevant conclusive remaining final-use documents or "end-use certificates" in the form specified by the State Secretariat for Economic Affairs (SECO).

(4) It is the buyer's responsibility to ensure compliance with the relevant provisions relating to foreign trade and the other laws of his country and of the country in which the delivery is to be made, and to ensure that such provisions are applied. He is to advise us in writing about any special issues that arise from such provisions when concluding the contract, Appendices I and IV of the European Union Dual-use Directive, or the American Commerce Control List.

(5) The buyer will be liable to us for damages in connection with incidents caused by not complying with the regulations in paras. 2 to 4 and he has to exempt us on initial demand from any third-party claims that arise in the external relationship concerning this matter.

### V. Export certificate

If a buyer resident outside Switzerland, or his agent, collects the goods and transports or despatches them abroad, then the Buyer has to provide us with the export certificate that is required for tax purposes. If this certificate is not provided, the buyer will have to pay the VAT rate applicable to deliveries within Switzerland from the invoice amount.

### **VI. Time limits for delivery; force majeure; partial delivery and delayed delivery; transfer of risk**

(1) Our deliveries are fundamentally made ex works either by collection from the buyer or, on request, by dispatch "carriage forward" within the meaning of the EXW clause of Incoterms 2020. In the event that an individual delivery clause within the meaning of Incoterms is agreed, Incoterms 2020 shall apply. We will notify the buyer promptly about the point in time for the collection in such a way that the buyer can take the usual necessary measures. Concerning adherence to delivery times and periods, the point in time when the consignment leaves the plant or indication of willingness to collect the consignment is decisive. The agreed date of delivery is complied with if the items to be delivered are ready for despatch on an ex-works basis on the date agreed for delivery. The dates of delivery are complied with if notification is given that the goods are ready for dispatch - even if, through no fault of our own, the consignment cannot be despatched promptly. The periods of delivery are approximate time limits and only quoted with an indication of the week in the confirmation of order; they are only binding after being confirmed in writing. It is a prerequisite for complying with the time limits for deliveries and services that all of the documents, requisite licences and approvals which the buyer has to deliver are obtained and provided punctually, as well as that the buyer complies with the agreed terms of payment and other obligations. If these prerequisites are not fulfilled promptly, then the time limits will be prolonged to a reasonable extent.

(2) If we are unable to meet delivery deadlines for reasons for which we are not responsible (non-availability of the service), we are to inform the buyer of this without delay and, at the same time, inform him of the expected new delivery time. If the service is also not available within the new delivery period, we are entitled to postpone the delivery or service for the duration of the hindrance or, either completely or partially, to withdraw from the contract. Non-availability of the service is deemed to exist in the event of force majeure of any kind (namely unforeseeable operational, traffic or shipping disruptions, fire damage, floods, unforeseeable shortages of labour, energy, raw materials or auxiliary ma-

terials, strikes, lockouts, official decrees, epidemics/pandemics) or if we are not obliged to procure the goods in the individual case. If our purchasing sources should be partially or completely unavailable, we are not obliged to cover our requirements from a different sub-supplier. In such a case, we will be entitled to distribute the available quantities of goods under consideration of our own requirements. The buyer does not have any other claims.

(2) If we are unable to meet delivery deadlines for reasons for which we are not responsible (non-availability of the service), we inform the buyer of this without delay and at the same time inform him of the expected new delivery time. If the service is also not available within the new delivery period, we are entitled to postpone the delivery or service for the duration of the hindrance or to withdraw from the contract in whole or in part. Non-availability of the service is deemed to exist in the event of force majeure of any kind (namely unforeseeable operational, traffic or shipping disruptions, fire damage, floods, unforeseeable shortages of labour, energy, raw materials or auxiliary materials, strikes, lockouts, official decrees, epidemics/pandemics) or if we are not obliged to procure in the individual case. In the event of partial or complete discontinuation of our sources of supply, we are not obliged to obtain supplies from external suppliers. In this case, we are entitled to distribute the available quantities of goods taking into account our own requirements. The buyer has no other claims.

(3) Compliance with delivery deadlines is subject to the proviso that we have been supplied correctly and on time by our own suppliers or that the stock for the delivery has not been exhausted.

(4) Supply and invoicing of partial deliveries and is permissible insofar as no disadvantages arise as a consequence, in connection with implementation of the contract

In the case of delivery of a large number of fungible items (generic goods, in particular small parts), we are entitled to deviate from the agreed quantity by up to 10%.

(5) We will only be considered in delay with the delivery or service if the delivery or service is due for provision and an express reminder has been issued in writing. If we are in delay with the delivery or service and the

buyer incurs damage as a result, he can demand compensation for every complete week of the delay at the rate of 0.5% in each case but not exceeding 5% of the total price of the part of the deliveries and services which is delayed.

(6) The Buyer's claims for damages due to delay and any claims arising from a withdrawal from the contract by the buyer which exceed the limits specified in the above paragraph (5) are excluded in all cases of delay, even after the expiry of any deadline set for us for delivery or performance. This limitation of liability does not apply in the case of intent or gross negligence or in the case of personal injury, insofar as this liability cannot be validly excluded. The buyer may only withdraw from the contract within the framework of the statutory provisions if we are responsible for the delay in delivery. A reversal of the burden of proof to the detriment of the buyer is not associated with the above provisions.

(7) Place of performance regarding the delivery and for any rectification of defects is the registered office of our respective supplying plant. The place of performance for payment is our registered office. Upon request and at the expense of the buyer, the goods will be shipped to another destination (mail order/distance selling). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.

(8) (a) The point in time when the risk is transferred is determined in accordance with the EXW section in Incoterms 2020. Accordingly, the risk of accidental destruction and accidental deterioration of the items to be delivered, or of goods entrusted to us for contractually defined processing (refinement or improvement), will pass to the Buyer on notification that the goods are ready for collection. Notification that the goods are ready for collection is in fact equivalent to handing over of the consignment to the person transporting the goods, i.e., carrier or driver, or to the purchased item leaving our plant or warehouse for purposes of despatch, providing the goods are being despatched at the buyer's request. All consignments will be sent at buyer's risk from the moment when they leave our delivery plant or warehouse, even if a delivery free of freight charges has been agreed.

(b) If the collection or the despatch is delayed at the buyer's request or because of another reason for which he is responsible, or if it is impossible for us to deliver through no fault of our own, the risk will subsequently also be transferred to the as soon as he receives notification that the goods are ready for collection or information that they are ready for despatch. In these cases, we are entitled to demand compensation for the resulting damage including additional expenses (e.g. storage costs). In this connection, we will charge a flat-rate compensation to the amount of 0.5% of the invoice amount for each month or part thereof, as from notification of readiness for collection or notification of readiness for despatch.

We reserve the right to prove higher damages and to assert our statutory claims (in particular compensation for additional expenses, reasonable compensation, termination); however, the contractual penalty is credited against further monetary claims. The buyer is free to prove that we have suffered no damage at all or only significantly less damage than the above contractual penalty. After unused expiry of a grace period for collection, we are furthermore entitled to dispose of the delivery item otherwise and to supply the buyer with an appropriately extended deadline or to supply the buyer at the latter's expense and risk.

### VII. Call-up orders

(1) If delivery on a call-up basis is agreed, we must be granted reasonable manufacturing times as from the point in time of the call-up. In the case of orders on a call-up basis, delivery dates for partial deliveries are to be agreed subject to our capacity planning and the possibility of procuring the upstream materials.

(2) Written agreements about the period of delivery are required for call-up orders and subdividing deliveries. In the case of call-up orders, we are entitled to procure materials for the entire order and to manufacture the entire quantity ordered.

(3) In the case of call-up orders, we grant a time limit of 12 months from date of placing the order, unless anything to the contrary has been agreed. If this time limit has expired without any call-ups, we will subsequently be entitled either to invoice the products or to

withdraw from the contract and claim compensatory damages, whichever we prefer.

### VIII Prices, due date for payment, cost of transport and payment arrangements

(1) The purchase price or wage will be recorded in our acknowledgement of order; the statutory value tax will be added in the case of business transactions on the domestic market, even if it has been overlooked in the confirmation of order.

We are entitled, up to the time of dispatch and following prior written notice issued with a period of notice of at least fifteen (15) days, to adjust the purchase price or the remuneration for work to be paid by the buyer for the products in accordance with the following provisions. A price adjustment will be considered if the costs for the procurement of raw materials, energy costs, import and export costs, taxes, customs duties or other contributions, as well as costs due to environmental protection requirements or exchange rate changes increase. It is to be emphasised that a price adjustment is not made to increase the profit margin. The buyer is to receive a list of the cost factors relevant for the price adjustment upon request. This also applies to individual orders which have already been confirmed by means of confirmation of order. The buyer hereby already accepts price increases in this respect.

(2) Invoices are due for payment without deduction 30 days after the invoice date; interest on arrears in the amount of 5 % accrue in the event of late payment. The right to assert further damages caused by delay is reserved. Contract processing business and repair work is payable immediately upon receipt of the invoice (without granting a discount).

(3) The cost and insurance of transporting the goods are not included in our prices insofar as no franco domicile delivery is agreed and they will be charged to the buyer. An insurance policy to cover transport damage will only be arranged upon the request and at the cost of the buyer. If we have undertaken an obligation to despatch the goods, then such an arrangement does not in any way alter the transfer of risk, place of performance (domicilium executandi) and the afore-mentioned provisions. We will choose the type and means of transport but without guaranteeing the cheapest freight, full exploitation of the payload and the desired or ideal sizes of the

wagons and containers. We will specify the carrier or freight-forwarder. Extra costs that arise because of the buyer's diverging requests will be charged to him. These requests must be notified to us promptly before the despatch. The buyer's requests will be considered if possible and at his own cost. If the goods are damaged or lost during transport, the buyer must arrange for an inventory to be made immediately and notify us about the result of it in writing immediately after receiving the consignment. The defective delivery is only to be sent back to us by prior agreement.

(4) Bills of exchange will only be accepted based on a separate agreement. Cheques will be accepted subject to being honoured for purposes of performance of contract. All bills of exchange and discounting expenses will be charged to the buyer. We are not liable - except in case of intent or gross negligence - for delayed presentation of bills of exchange or cheques. If there are several claims, we will determine which claims are satisfied by the buyer's payment. Any provisions of the buyer to the contrary is irrelevant.

(5) We are permitted to withdraw from the contract, to demand down-payments, or to make our delivery dependent upon pledging securities, whenever we become aware of circumstances after conclusion of contract which justify doubts about the buyer's creditworthiness or financial solvency. These rights exist in particular if due claims are not settled immediately despite a reminder or if a petition in bankruptcy has been filed against the buyer.

(6) The buyer grants us a right of retention to the material provided to us for the execution of the order and claims replacing it as security for all current and future claims arising from the business relationship with him. If the buyer is in default of payment or credit default, we are entitled to realise the pledged item privately (right of self-sale) or to initiate debt enforcement proceedings for the realisation of the pledge. The buyer will be notified of the self-sale within a reasonable period of time.

(7) If the buyer is not prepared to make a prepayment or to guarantee security, then we will be entitled to withdraw from this contract after granting a reasonable period of grace and to choose either compensatory

damages because of non-fulfilment or reimbursement of expenses.

(8) We are entitled, at our discretion, to issue invoices to the buyer in digital form via e-mail. Digitally issued invoices are deemed to be originals. At our request, the buyer will be responsible for providing a permanently assigned, secure e-mail address. The buyer is to notify us in writing at least five (5) days before changing this e-mail address.

### IX. Liability for drawings, illustrations, dimensions and weights

(1) Drawings, illustrations, dimensions and weights are only approximately decisive insofar as they have not been expressly described as binding. Divergences from the diameter, weight, dimension, the construction's number of articles and their quality, which are conditional on the raw materials or manufacture, remain reserved for the delivery of goods; the commercially usual excess lengths or short lengths of up to 10 % are permissible, insofar as the DIN, EN or ISO standards do not oppose them and they do not justify complaints and reduced prices. Insofar as no DIN standards, material sheets or other private or public standards, material containers or other private or public standards exist, the commercial usage shall apply.

(2) Colour samples and colour information are only provided as reference material and do not constitute a binding quality characteristic. Neither the determination of a degree of light fastness according to the wool scale nor the communication of the results of a test constitutes a quality agreement. These are merely test methods and do not constitute a quality of the products.

(3) The utilised raw materials are subject to certain colour tolerances ("Yellow Index"), whereby colour changes may occur both in dyed products and in natural materials. Furthermore, colour changes due to the external and climatic conditions to which they are exposed (especially UV radiation, air humidity, etc.) cannot be ruled out.

The above-mentioned colour changes are basically purely optical effects that have no negative influence on the material in terms of

overall strength, suitability, quality and service life and in any case do not constitute a defect.

### X. Intellectual property rights

(1) The buyer undertakes to guarantee that no third-party intellectual property rights will be infringed by the manufacture and delivery, insofar as the contractual products are to be manufactured according to the buyer's information.

(2) If a third party does not permit us to manufacture and deliver the goods by means of citing the intellectual property rights that are vested in him, then we will be entitled to suspend or stop the manufacture and delivery and to demand reimbursement of our expenses.

(3) We are not obliged to check the legal position.

(4) The buyer's claims for compensatory damages are excluded in these cases.

(5) The buyer must pay any compensation for the damages that we may incur because of infringing the intellectual property rights and he has to exempt us from third-party claims. An advance payment to cover the costs of legal proceedings must be made to us on demand.

### XI. Documents and confidentiality

(1) We reserve the right of ownership or copyright over all the issued quotations and estimated costs, as well as the drawings, illustrations, calculations, brochures, catalogues, models, tools, other documents and aids that we have provided to the buyer. The buyer is not allowed, without our express written consent, to make these articles - either the articles or their contents - accessible to third parties, make them available to third parties, use them himself or via third parties, or duplicate them. He has to give these articles back to us in response to our demand and he has to destroy any copies that were made of them if he does not need them any more during the ordinary course of business, or if negotiations do not lead to concluding a contract.

(2) Insofar as the buyer comes into contact with our business secrets or expertise, or both, while carrying out the order, he must observe confidentiality about them as well as take precautions so that our interests that are

worthy of protection are not infringed and so that our knowledge will only be utilized in connection with the order or with the subsequent use of the article itself according to the order. In particular, the buyer bears the burden of proof that business secrets or expertise, or both, were already known to him beforehand, or that they were at least apparent to the general public.

(3) The buyer is obligated to treat all of the commercial and technical details that are connected with the commission as business secrets. He is also obligated to observe secrecy concerning the documents and information after carrying out the respective contract. Copying of the documents is only permissible within the framework of the operational requirements and provisions according to the law of copyright. A disclosure vis-à-vis third parties is only permissible with our written consent.

### XII. Tools and non-recurring costs

(1) Unless otherwise stated in the order confirmation or in an individual agreement, one-off costs such as tooling and development costs will be charged at 40% directly after receipt of the order. A further 30% will be due upon readiness of the tools and the remaining 30% upon first pressing.

(2) The costs for the manufacture, procurement, modification, repair or provision of production moulds and tools will be borne by the buyer. The ownership of such moulds and tools as well as all associated copyrights will remain with us even after payment. This shall not apply if the buyer provides his own production moulds or tools for execution without us having substantially modified them or if an individual agreement stipulates otherwise. Any exclusive right of delivery with the products manufactured from the moulds must be expressly agreed with the buyer. We undertake to keep the production moulds and tools paid for by the buyer available until they are subject to natural wear and tear, but for no longer than two years after the last delivery.

### XIII. Information about quality, advice and testing materials

(1) We will only promise special properties or features of our delivery or service in response to the buyer's express request and we will only then guarantee them if we have expressly mentioned this guarantee in our

written acknowledgement of order. Reference to the technical descriptions of products, material indices, DIN standards, sales brochures and similar documents do not represent any guarantee of the properties which are described in them. A property or feature that will be ascertained only after mixing or connecting our product with other substances or articles will not apply as guaranteed in any case. Public statements, recommendations or advertising do not represent any information about the quality of our products.

(2) It is solely incumbent upon the buyer to check the suitability of the delivered goods or the refined, processed or refinished goods for his own operational purposes of use or re-processing, as well as to check the choice of quality or grade. This obligation especially applies to compliance with the legal and official regulations for utilizing our products.

(3) Any form of advice or recommendation that is given verbally or in writing by us or typically by our sales force, takes place subject to excluding any liability; we do not undertake any contractual duties of advice in this respect. Insofar as we give technical information or recommendations or we act in an advisory capacity and this information, these recommendations or this advice is not part of the written and contractually agreed scope of work that we owe, this service takes place non-remuneratively and is subject to the exclusion of any liability even regarding any third-party intellectual property rights. The products will be applied, utilized and processed outside our possible control and therefore they lie solely within the buyer's area of responsibility.

(4) If the provision of a chemical analysis or technical-physical data of a material test is contractually stipulated, we only vouch for their reliability according to the examination possibilities of our company laboratory.

#### **XIV. Packaging material**

(1) We will specify the type and extent of the packaging insofar as no other agreement has been made. The packaging will be chosen to the best of our judgement and subject to considering the requisite care. Packaging beyond the purpose of the specific transport, or other special protection, e.g., for long-term safekeeping or storage, needs to be expressly agreed.

(2) We will only take back the packaging materials insofar as we are legally obliged to do so.

#### **XV. Obligations to notify defects, material defects, right of recourse, withdrawal and compensatory damages**

(1) The basis of our liability for defects is in particular the agreement reached on the quality and the presumed use of the goods (including accessories and instructions). Our written product descriptions and manufacturer's specifications, which are the subject of the individual contract, is deemed to be an agreement on quality in this sense. Public statements (particularly in catalogues or on our Internet homepage, which were publicly announced at the time of the conclusion of the contract) are only used subordinately for the interpretation of the quality and for the presumed use of the goods. In addition to the warranted characteristics, we are only liable for physical defects which nullify or significantly reduce the value of the item or its suitability for the intended use (cf. Art. 197 OR). Public statements made by the manufacturer or on its behalf, in particular in advertising or on the label of the goods, take precedence over statements made by other third parties.

(2) ) In the case of goods with digital elements or other digital content, we are only obliged to provide such elements or content and, if applicable, update the digital content insofar as this results expressly from a quality agreement in accordance with paragraph (1). In this respect, we do not assume any liability for public statements made by the manufacturer and other third parties.

(3) As a matter of principle, we are not liable for defects of which the buyer is aware at the time of conclusion of the contract or was not aware due to gross negligence on his part.

In all other respects, the purchaser's rights in respect of defects and all contractual claims for damages on account of our deliveries, services and work performances presuppose that the purchaser has duly complied with its legally owed duties of inspection and notification of defects. Otherwise, the work/item is deemed to have been approved. After the arrival of the delivered goods or the goods processed by us, the buyer will inspect them to the customary extent and immediately notify us in writing of any material or processing de-

fects. Hidden defects shall be notified immediately after discovery of the defect. In the case of building materials and other goods intended for installation or other further processing, an inspection must in any case take place immediately before processing. At our request, the buyer permits the inspection of the goods complained of and will not make any changes to them through further processing, installation or other operational use until a decision has been made on the acceptance/rejection of the complaint. In the event of a culpable breach of this obligation on the part of the buyer, any claims for defects will lapse. In the event of unjustified complaints, we reserve the right to charge the buyer with freight and handling costs as well as the costs of inspection. The above statements apply to purchase contracts as well as to services and works. Notification of defects does not release the buyer from compliance with payment obligations.

(4) We are liable as follows for material defects that were already present at the point in time when risk was transferred.

(a) The buyer must give us the time and opportunity necessary to remedy the defect at our discretion, in particular to hand over the rejected goods for inspection purposes. In the event of a replacement delivery, the buyer returns the defective item to us at our request in accordance with the statutory provisions; however, the buyer does not have a claim for return. The rectification of defects does not include the dismantling, removal or deinstallation of the defective item or the installation, attachment or installation of a defect-free item if we were not originally obliged to perform these services; the buyer's claims for reimbursement of corresponding costs remain reserved. If the rectification fails, the buyer may - irrespective of any claims for damages - withdraw from the contract or reduce the remuneration.

(b) No defects claims will exist in the case of only diverging from the agreed quality insignificantly, or in the case of adversely affecting the agreed utility only insignificantly, or in cases of excessive stress, defective building work or unsuitable building ground, or on account of particular external influences that arise, which are not prerequisites according to the contract. If improper alteration or repair work is done by the buyer or by a third party,

then no defect claims will exist for these modifications, nor for the consequences arising from them.

(c) Claims by the buyer due to expenses based on remedying defects are excluded to the extent of expenses increasing because the subject of delivery or service was subsequently transported to a different location than the buyer's site, unless the transport complies with its intended usage.

(d) Our liability for defects vis-à-vis third parties only exist insofar as the buyer has not made any agreements exceeding the statutory claims for defects. Should the buyer modify goods received or materially combine them with other items and resell them, we are released from liability claims against third parties.

(e) The limitation period for claims and rights due to defects of our products, services and work performances as well as the resulting damages is 1 year from delivery. Insofar as acceptance has been agreed, the limitation period begins with acceptance. Art. 210 para. 2 CO and Art. 371 para. 1 sentence 2 CO (limitation in the case of integration into an immovable work) as well as Art. 371 para. 2 CO remain reserved, as well as any mandatory legal provisions to the contrary.

These limitation periods also apply to contractual and non-contractual claims for damages by the buyer based on a defect in the goods, unless the application of the regular statutory limitation period would lead to a shorter limitation period in individual cases.

(5) In the event of withdrawal by the buyer, the latter pays us compensation for any reduction in the value of the delivery item, even if the deterioration has occurred as a result of use in accordance with the contract.

(6) In the case of a delivery of used articles or overhauled articles (esp. regenerate) that was agreed with us in an individual case any warranty for material defects will be excluded.

(7) Insofar as commissioned renovating work is agreed, it will only be done based on the additional terms in accordance with our data sheet about commissioned renovating work.

(8) If an acceptance of the work is agreed, then the acceptance has to take place within the period of a week beginning on the date

when we notify our readiness for the acceptance in our works or in our warehouse. The buyer will pay the cost of acceptance. If the buyer does not accept the delivered article within this period of one week, then that will be considered as acceptance. The buyer's rights because of a defect that appears after the buyer has completed the agreed acceptance are excluded, insofar as we do not undertake any guarantee for the workmanship quality or we have not fraudulently concealed a defect and the buyer did not complain about the defect although he would have been able to establish it with the agreed type of acceptance, i.e. he has failed to recognize the defect on account of his own negligence.

(9) The rectification of defects, i.e. the delivery of a defect-free item (redhibition) or the rectification of defects, do not cause the limitation period to start anew, but only suspend the limitation period applicable to the original delivery item by the duration of the performance of the rectification of defects. The warranty period does not start anew with the performance of the rectification of defects.

(10) No alteration of the burden of proof to the buyer's disadvantage is connected with the aforementioned regulations, i.e. contractual provisions.

(11) Otherwise, Article XVII applies to the claims for compensatory damages (other claims for compensatory damages). The buyer's further claims or his claims other than those in this Article XV against us and our agents or subcontractors because of a material defect are excluded.

### **XVI. Industrial property rights and copy rights; defects of title**

(1) Unless otherwise agreed, we are only obliged to provide the delivery or service in the country of the place of delivery in compliance with licences and copyrights of third parties (hereinafter: property rights). If a third party asserts justified claims against the buyer due to the infringement of property rights by a delivery or service provided by us and used in accordance with the contract, we are liable to the buyer within the period stipulated in Article XV. no. (4) (e) as follows:

(a) We will either obtain a right of use at our discretion and cost in order to alter or modify the affected deliveries and services in such a way that the intellectual property rights will

not be infringed, or we will replace them. If it is impossible for us to take this action in reasonable circumstances, then the legal rights of withdrawal or reduction will be vested in the buyer.

(b) Our duty to pay compensatory damages is orientated according to Article XVII.

(c) Our aforementioned obligations only exist insofar as the buyer immediately notifies us in writing about any claims that a third party has made and if he does not recognize an infringement; we also reserve the right to take defensive measures and compensatory action. If the buyer stops using the delivery or service because of important reasons, to reduce the damage or for other reasons, then he will be obligated to advise the third party that no recognition of infringing an intellectual property right is connected with stopping the use.

(2) Claims of the buyer are excluded insofar as he is responsible for infringing the intellectual property right.

(3) Claims of the buyer are furthermore excluded insofar as the buyer's special instructions cause an infringement of the intellectual property right, or because of a use that we have not foreseen, or the infringement is caused by the buyer changing the delivery or service and it will be used together with products that we have not delivered.

(4) Claims of the buyer that are regulated in no. (1) (a) apply in the case of infringing the intellectual property rights and the provisions of Article XV. Otherwise no. (2) (b) and (d) apply accordingly.

(5) The provisions of Article XV apply accordingly in the case of other defects of title.

(6) The buyer's further claims or his claims against us and our agents or subcontractors because of a defect of title are excluded, other than those claims that are regulated in this Article XVI.

### **XVII. Other claims for compensatory damages**

(1) Claims for damages, irrespective of the legal grounds, in particular due to breach of duties arising from the contractual obligation and from tort, are excluded. This also applies to claims for damages by the buyer against employees, representatives and bodies of the Röchling Group.

(2) This does not apply insofar as mandatory legal provisions oppose an exclusion of liability, e.g. liability under the Product Liability Act (PrHG) or in cases of intent or gross negligence. A change in the burden of proof to the detriment of the buyer is not associated with the above provisions.

(3) Furthermore, the compensatory duty is excluded insofar as the buyer has effectively limited his liability vis-à-vis his own buyer. Nevertheless, the buyer will also strive to agree the limitations of liability in our favour to the legally permissible extent.

(4) The buyer may only withdraw from or terminate the contract due to a breach of duty that does not consist of a defect if we are responsible for the breach of duty. A right of withdrawal on the part of the buyer (in particular pursuant to Art. 377 OR) is excluded. Termination for good cause remains reserved. In all other respects, the statutory provisions apply.

(5) Insofar as the buyer is entitled to claims for damages in accordance with this Article XVII, these will become statute-barred upon expiry of the limitation period applicable to claims for material defects in accordance with Article XV. no. (4) (e). In the case of claims for damages arising from unlawful intent or gross negligence, if we have fraudulently concealed the defect, if we have assumed a guarantee for the quality of the item and in the case of claims arising from the Product Liability Act, the statutory limitation provisions apply.

### **XVIII. Reservation of ownership**

We reserve title to the entire delivery until complete fulfilment of all claims to which we are entitled under the contract. Upon conclusion of the delivery contract, the buyer authorises us to enter the retention of title in the official register and to fulfil all formalities in this respect.

### **XIX. Right of set-off and retention**

Offsetting against our claims is excluded, unless the offsetting claims of the buyer are recognised by us, undisputed or legally established. The buyer is not entitled to exercise a right of retention on account of counterclaims arising from a contractual relationship other than the specific contractual relationship.

### **XX. Applicable law, place of jurisdiction, severability clause**

(1) The contractual relationship with the buyer is governed by Swiss law to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

(2) The sole -local and international- exclusive place of jurisdiction, if the buyer is acting within the scope of a professional or commercial activity, for all disputes arising directly or indirectly from the contractual relationship will be our registered office. This also applies to disputes in proceedings concerning docu-

ments, bills of exchange or cheques. However, we are also entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTCS or a prior individual agreement or at the general place of jurisdiction of the buyer. Overriding statutory provisions, in particular on exclusive jurisdiction, remain reserved.

(3) Should any provision of these GTC and the further agreements made be or become invalid or unenforceable, this will not affect the validity of the remainder of the contract.

### **XXI. Note on data protection and electronic commerce**

We collect and process data in accordance with the Data Protection Act (Datenschutzgesetz, DSG) and the Data Protection Ordinance (Datenschutzverordnung, DSV). We collect, process and use your personal data, in particular your contact details for the purpose of processing the business relationship, including your e-mail address if you provide us with this. In order to check your creditworthiness, we may use information (e.g. also a so-called score value) from external service providers to help us make a decision and make the method of payment dependent on this. We reserve the right to transfer the data to third parties (e.g. insurance companies) if necessary for the fulfilment of the contract. For more information, please refer to our general data protection provisions under the link:

<https://www.roechling.com/de/datenschutz>.