

General Terms and Conditions of Sale and Delivery

The company HAWE Micro Fluid GmbH, which issues these General Terms and Conditions of Sale and Delivery, is hereinafter referred to as "**Supplier**".

1. General / Scope of Application

1. These General Terms and Conditions of Sale and Delivery ("**GT&C of Sale and Delivery**") shall apply to all contractual relationships of the Supplier with customers ("**Purchaser(s)**").
2. The GT&C of Sale and Delivery apply to contracts for the sale and/or delivery of movable property ("**Goods**") irrespective of whether the Supplier produces the Goods itself or buys them from sub-suppliers and to the performance of work or services provided by the Supplier to the Purchaser. All of the Supplier's goods and services under the above-mentioned contracts (hereinafter together referred to as "**Contract**") are defined as "**Performance**". All of the Supplier's Performances are based on these Terms and Conditions and on any separate agreements in writing.
3. The GT&C of Sale and Delivery apply exclusively. Any terms and conditions of the Purchaser, which are contrary to or deviate from the GT&C of Sale and Delivery are not acknowledged unless the Supplier has expressly consented in writing to their application. These Terms and Conditions also apply if the Supplier carries out the delivery to the Purchaser without reservation while being aware of the Purchaser's terms and conditions, which are contrary to or deviate from the GT&C of Sale and Delivery.
4. These GT&C of Sale and Delivery also apply to all future Contracts with the Purchaser without the Supplier having to refer to the GT&C of Sale and Delivery again in each individual case.
5. Any individual agreements reached with the Supplier in an individual case (including side agreements, addenda or amendments) shall in any event take precedence over these GT&C of Sale and Delivery. A written contract or written confirmation by the Supplier shall be authoritative for the content of any such agreements.
6. Any legally significant declarations and notices that have to be given by the Purchaser to the Supplier after conclusion of the Contract (e.g. the setting of a deadline, a warning notice, a declaration of rescission) are required to be in writing in order to be effective.
7. In the event that a provision of these Terms and Conditions and any further agreements entered into is or becomes void, the validity of the remainder of the terms and conditions / agreements shall not be affected thereby. The parties shall, however, try to replace the void provision by an economically equivalent regulation. This does not apply if adhering to the Contract would constitute unreasonable hardship for one of the parties. The same shall apply if the terms and conditions or further agreements contain a gap.
8. Any references to the application of statutory provisions are for the purposes of clarification only. The statutory provisions therefore apply even without any such reference made for the purposes of clarification provided that they are not directly amended or expressly excluded in these GT&C of Sale and Delivery.
9. A breach and/or a failure by the Supplier to enforce or exercise its rights under these Terms and Conditions shall on no account mean that said right(s) or other rights under these Terms and Conditions have been waived for the future.
10. Headings are not binding and do not extend or limit the purport of the provisions.
11. The contract language is German.
12. If the GT&C of Sale and Delivery are translated into another language, the German version shall apply in the event of any ambiguity about their content.

2. Offer / Offer Documents

1. All offers by the Supplier are made subject to confirmation and are not binding.
2. The order for the Goods placed by the Purchaser shall be deemed to be a binding offer.

3. Unless otherwise expressly stated in the order, the Supplier shall be entitled to accept said offer of a contract within **4** weeks of receipt thereof. Said acceptance by the Supplier shall be effected in writing or by e-mail. Delivery of the Goods to the Purchaser on one or more occasion shall under no circumstances imply that the orders have been accepted upon the Purchaser's terms and conditions insofar as they deviate from the Supplier's offer.
4. The Supplier and its sub-suppliers reserve title to, and the intellectual property rights and copyrights in any pictures, drawings, calculations, samples, information, whether of a tangible or intangible nature, as well as to other documents ("**Information**"). Information may not be made accessible to third parties. Before passing Information on to third parties or prior to any other use or reproduction or change, the Purchaser shall require the express written consent of the Supplier. The Purchaser shall only receive the right to use the Information for the purposes of the contract negotiations or for carrying out the Performance. No other use is permitted.
5. To the extent that the scope of delivery includes software, the Purchaser is granted a non-exclusive right to use the software supplied including its documentation handed over by the Supplier for implementing the Contract. The software is provided for using for the specified Goods/Performances. The software may in particular not be used on more than one system. The Purchaser may copy, revise, translate the software or convert the object code into the source code only to the extent permitted by statute. The Purchaser is entitled to make one back-up copy. The Purchaser undertakes not to remove or to alter any manufacturer's details - in particular copyright notices - without the express, prior consent of the Supplier. All other rights in the software and in the documentation including the copies shall remain with the Supplier or the supplier of the software. The grant of sub-licences is not permitted. The Purchaser is not authorized to transfer, store and/or further process the software on another system or storage medium. It may be transferred or surrendered to third parties only on the system, storage medium or Goods agreed with the Supplier. Documentation of the software shall be provided only to the extent supplied by the Supplier. In the event of any deviating agreement Clause 1.5 shall apply.
6. Tools and appliances for producing and testing the Goods / Performance shall become or remain the sole property of the Supplier even if the Purchaser bears tooling costs, the cost of appliances and/or development costs either in whole or in part.
7. The Purchaser shall provide the Supplier with suitable tools and appliances that are free from defects, free of charge, if and to the extent that said tools and appliances are needed to fulfil the Supplier's contractual duties.

3. Prices / Payment Terms

1. Unless otherwise provided by the Contract, the prices shall, applying the applicable ICC INCOTERMS 2010, be understood to be net EXW "the Supplier's works" not including packaging and the return of packaging, carriage, customs and statutory taxes; said items shall be charged separately. Unless otherwise agreed the Supplier shall determine the method and route of dispatch.
2. The prices do not include the statutory value added tax; it shall be indicated separately in the invoice at the statutory rate on the date the invoice is issued.
3. Any bank transfer fees incurred shall be borne by the Purchaser.
4. The deduction of any cash discount shall require a special written agreement.
5. Unless otherwise agreed, the Purchaser undertakes to pay the purchase price without deduction and in the agreed currency within 14 (fourteen) days following receipt of the Performance. Following expiry of the period the Purchaser shall - automatically - be in default of payment ("*Zahlungsverzug*"). In that case the Supplier shall be entitled to demand default interest at a rate of 8 (eight) % above the base interest rate p.a.. If the Supplier is able to prove greater damage caused by default, the Supplier shall be entitled to assert said greater damage. The Purchaser shall, however, be entitled to prove to the Supplier that the Supplier did not incur any, or incurred significantly less, damage as a consequence of the default in payment. This shall be without prejudice to the right to claim commercial interest on arrears ("*kaufmännische Fälligkeitsszinsen*") from merchants ("*Kaufleute*") under the German Commercial Code ("*Handelsgesetzbuch*").
6. If after the Contract has been concluded it becomes apparent that the Supplier's payment claim is at risk because of a lack of solvency on the part of the Purchaser, the Supplier can refuse the Performance and can stipulate a reasonable period within which the Purchaser must pay contemporaneously against

delivery or furnish security. If the Purchaser refuses or the period expires to no avail the Supplier shall be entitled to rescind the Contract and to demand damages. The payment claim shall be deemed to be at risk if, inter alia, the Purchaser fails to make a payment in time, a petition for insolvency or some other petition concerning the Purchaser's assets is filed, or a credit report or other circumstances objectively indicate a risk.

7. The Purchaser shall have rights of set-off or rights of retention or rights to refuse performance only insofar as the Purchaser's counterclaims have become final and absolute, are undisputed or have been acknowledged by the Supplier. There shall be no right to retain Information within the meaning of Clause 2(4).
8. The Supplier shall even have a right of set-off or right of retention if its claim against the Purchaser is not based on the same legal relationship as its own obligation.

4. Delivery Time and Delay in Delivery

1. The delivery time shall be agreed individually or shall be stated by the Supplier upon acceptance of the order. The relevant date for determining whether the delivery date or the delivery time has been complied with is the date the Goods are made available at the Supplier's works.
2. Delivery times shall only be deemed to be commercially fixed dates of delivery ("*kaufmännisches Fixgeschäft*") if this has been expressly agreed in writing.
3. The delivery time stated by the Supplier shall not begin until the Supplier has received all of the information necessary for fulfilling the Contract from the Purchaser and the payment obligations agreed for the supply have been fulfilled. In order for the Supplier's obligation to deliver to fall due the Purchaser must have properly fulfilled his duties to cooperate and must have done so in a timely manner. The Supplier is not obliged to draw the Purchaser's attention to any duties to cooperate, which he has failed to carry out or has failed to carry out properly. If the Purchaser does not fulfil his obligations under sentences 1 and 2, the parties shall jointly determine a new delivery date. Any further rights of the Supplier - particularly to compensation and the reimbursement of expense - shall remain unaffected.
4. The Supplier's duty to perform is subject to the Supplier receiving correct and timely supplies itself unless the Supplier is to blame for the incorrect or late supply.
5. If the failure to comply with the delivery deadline is due to Force Majeure (e.g. mobilization, war, uprising, natural catastrophes) or similar events, for which the Supplier is not responsible (e.g. industrial dispute, strike, lock-out, administrative measures, operational disruption due to fire or due to restricted supplies to and waste removal from the plant, administrative / statutory import and export regulations) or at the subsupplier, the delivery times deadlines shall be automatically extended by the periods during which the above-described event or the effects thereof persists plus a reasonable start-up period. The Supplier shall notify the Purchaser of the commencement and the end of any such circumstances without undue delay. The Purchaser shall have no claim to compensation for this.

Notwithstanding this, each contract partner shall be entitled to withdraw from the affected obligation to perform if the Force Majeure persists for more than **120 (one hundred and twenty) days** since the agreed delivery date. This is without prejudice to the right of each contract party to terminate the Contract for good cause in the event that the Force Majeure persists for a longer period of time.

6. The Purchaser can rescind the Contract without setting a deadline if the entire Performance becomes finally impossible for the Supplier before the risk has passed. The Purchaser can also rescind the Contract if, in the case of a purchase order, it becomes impossible to execute part of the delivery and the Purchaser has a legitimate interest in rejecting a part delivery. If this is not the case, the Purchaser must pay the contract price apportionable to the part delivery.
7. The Supplier's statutory rights of rescission and termination and the statutory provisions on the processing of the contract when the duty to perform has been suspended (e.g. impossibility or unreasonableness of the performance and/or supplementary performance ("*Nacherfüllung*") shall remain unaffected.
8. If the Performance becomes impossible during the Purchaser's default of acceptance or if the Purchaser is solely or predominantly responsible for this fact, the Purchaser shall remain under a duty to render his counter-performance in accordance with the statutory provisions.

9. The occurrence of any default in delivery shall be determined in accordance with the statutory provisions. A warning notice ("*Mahnung*") by the Purchaser shall in any event be required.
10. If, taking into account the statutory exceptions, the Purchaser grants the Supplier in default a reasonable deadline for performance and the deadline is not complied with, the Purchaser shall have the statutory rights subject to the limitations of Clause 7 of the GT&C of Sale and Delivery.
11. Any further claims arising out of any delay in delivery shall be governed exclusively by Clause 7.

5. Delivery, Passing of Risk

1. Unless otherwise agreed by the parties, the delivery shall be effected applying the applicable ICC INCOTERMS 2010 EXW "Supplier's works", which is also where the place of performance is. The Goods shall, at the Purchaser's request and cost, be sent to a different point of destination ("**Point of Destination**") (sale by dispatch to a place other than the place of performance ("*Versendungskauf*"). The Goods are therefore dispatched at the risk and for the account of the Purchaser. If the Purchaser so wishes, the delivery shall be covered by transport insurance; the costs incurred in this regard shall likewise be borne by the Purchaser. Separate agreements shall apply to taking back packaging.
2. The risk of accidental loss and of accidental deterioration of the Goods shall pass to the Purchaser in accordance with ICC INCOTERMS 2010 EXW "Supplier's works" or the terms and conditions agreed hereunder respectively. In the case of a sale by dispatch to a place other than the place of performance ("*Versendungskauf*") the risk of accidental loss and of accidental deterioration of the Goods and the risk of delay shall already pass upon delivery of the Goods to the freight forwarder, the carrier or whoever else has been appointed to perform the dispatch.
3. Part deliveries shall be permitted to the extent they are reasonable for the Purchaser.
4. If the Purchaser is in default of acceptance or if he fails to perform an act of cooperation or if the delivery is delayed for other reasons, for which the Purchaser is responsible, the Supplier shall be entitled to demand compensation for any loss thereby incurred including any additional expenses (e.g. storage costs).
5. If the statutory provisions on contracts for work and services ("*Werkvertragsrecht*") apply to the Supplier's Performance and acceptance of the Performance is therefore required or if acceptance of the Performance has been contractually agreed with the Purchaser, the risk of accidental loss and of accidental deterioration shall not pass to the Purchaser until the Goods have been accepted. Paragraph 5, Clause 2, sentence 2 shall apply *mutatis mutandis* in cases of dispatch. Acceptance cannot be refused because of negligible defects. In all other respects, the statutory provisions governing contracts for work and services ("*Werkvertragsrecht*") shall apply to any agreed acceptance. If the Purchaser is in default of acceptance this shall be deemed to be the equivalent of handover or acceptance.

6. Defects in Quality and Defects in Title

1. Unless otherwise provided below, the Purchaser's rights in the event of any defect in the quality ("*Sachmangel*") of, or defect in the title ("*Rechtsmangel*") to, the Performance (including any wrong performance or underperformance as well as improper assembly, defective assembly) shall be governed by the statutory provisions.
2. The basis for any liability for defects shall be the agreement reached on the condition/quality ("*Beschaffenheit*") of the Goods. Only the product descriptions in agreed specifications and drawings shall be deemed to be an agreement on the condition/quality of the Goods. Any guarantees concerning condition/quality and durability must be expressly stipulated in writing and must in particular be designated as such.
3. If the condition/quality has not been agreed, the statutory provisions must be applied to assess whether there is a defect or not.
4. Any public statements, promotion or advertising, like the general product description in publications such as brochures, catalogues and internet information, HAWE product ranges and price lists, do not constitute any statement as to the condition/quality of the Goods. The details and information contained therein, like pictures, drawings, descriptions, dimensions, weights and other performance data, are subject to change and are only binding insofar as the Contract expressly refers to them. Minor deviations from any such details describing the product shall be deemed to have been approved and do

not affect the performance of Contracts provided that they are not unreasonable for the Purchaser or the Purchaser has not expressly objected thereto.

5. Any warranty claims of the Purchaser shall require that the latter has properly complied with his duties to inspect and to report any complaints.
6. Insofar as is expedient in the ordinary course of business the Purchaser shall inspect the Goods for their compliance with the agreed condition/quality and quantity. If a defect is thereby discovered, that is to say, a deviation between the agreed condition/quality of the Goods and the condition/quality of the Goods provided or the agreed delivery quantity, said deviation must be reported to the Supplier without undue delay. If no such report is made, the Goods shall be deemed to have been approved unless the defect was not discernible upon inspection. If a defect in the Goods supplied does not become discernible until a later point in time, the Purchaser must likewise report said defect to the Supplier without undue delay. If no such report is made the Goods shall be deemed to have been approved as regards said defect.
7. Discernable transport damage must be reported without undue delay to the freight forwarder, who provided delivery.
8. If the Purchaser reports a defect, which does not exist according to the Supplier's inspection, the Purchaser must compensate the Supplier for the damage incurred. The Purchaser shall be entitled to prove that the defect reported does exist after all. Under the above provisions the Supplier shall particularly be entitled to demand reimbursement from the Purchaser of the expenditure it has incurred, for example for inspecting the Goods or for the repair demanded by the Purchaser.
9. The Supplier gives a warranty for defects in quality (*Sachmängel*) and defects in title (*Rechtsmängel*) in the Goods - to the exclusion of any further claims and subject to Clause 7 - as follows:
 - 9.1 If the Goods are defective, the Supplier shall have the right to provide supplementary performance ("*Nacherfüllung*"), by, at its option, either eliminating the defect or by delivering new goods that are free from defects.
 - 9.2 The Purchaser must give the Supplier the necessary time and opportunity required to eliminate the defect or to deliver new goods that are free from defects following a reasonable assessment of the circumstances of the individual case. Unless otherwise agreed in writing, in the event of a replacement delivery the Purchaser must return the defective Goods in accordance with the statutory provisions.
 - 9.3 In the event of supplementary performance the Supplier shall be obliged to bear all of the expense necessary for the supplementary performance, in particular but without limitation the transport costs, infrastructure costs, labour costs and cost of materials. Sentence 1 shall, however, apply only to the extent that the expense is not increased by the fact that goods purchased were transported to somewhere other than the place of performance.
 - 9.4 In urgent cases (e.g. in the case of danger to industrial safety or in order to avert disproportionately great losses) the Purchaser shall have the right to eliminate the defect himself or to demand compensation from the Supplier for the expense objectively needed for this. The Supplier must be informed of any such action by the Purchaser himself without undue delay, if possible in advance. The Purchaser's right to take action himself shall not apply if the Supplier would have been entitled to refuse corresponding supplementary performance under the statutory provisions.
 - 9.5 If the Purchaser or a third party rectifies defects improperly, the Supplier shall not be liable for the consequences resulting therefrom. The same shall apply for any modifications made to the Goods/Performances without the Supplier's prior written consent or if the Goods/Performances are used in a manner that is not in conformity with the Contract.
 - 9.6 Unless otherwise agreed or customary in the trade for the treatment of defective serial deliveries the Purchaser can rescind the Contract or can reduce the purchase price if the supplementary performance has failed again or a reasonable deadline to be set by the Purchaser for the supplementary performance has expired to no avail or can be dispensed with under the statutory provisions. There shall, however, be no right of rescission if the defect in the Goods is negligible.
 - 9.7 The Supplier shall not be liable for defects, which are attributable to use of wearing parts, or which are attributable to defective maintenance or incorrect installation / assembly / commissioning, changes or other actions by the Purchaser or by third parties commissioned by the Purchaser, incorrect storage, insufficient security, the use of unsuitable operating materials, unsuitable or improper use, incorrect or careless treatment, defective construction work, chemical, electrochemical or electrical influences or

other circumstances such as different operating conditions, or for goods or services provided by the Purchaser or specifications or constructions specified by the Purchaser.

- 9.8 The Purchaser shall have a claim to damages or to the reimbursement of expenses incurred in vain only in accordance with Clause 7 of these GT&C of Sale and Delivery; in all other respects such claims are excluded.
- 9.9 If use of the Goods or the Performance leads to an infringement of intellectual property rights or copyrights the Supplier shall, at its cost, in principle procure the right for the Purchaser to continue to use the Goods or shall modify the Goods in a manner that is reasonable for the Purchaser such that the infringement no longer exists. This only applies if and to the extent that use of the Goods in accordance with the Contract results in the infringement of intellectual property rights and applications for intellectual property rights (IPR), of which at least one of the IPR family has been published either in the Supplier's home country, by the European Patent Office or in one of the states of the Federal Republic of Germany, France, Great Britain, Austria, Canada or the USA, and the infringement is attributable to the agreed Performance by the Supplier.
- 9.10 If a Performance in accordance with Clause 9.9 above is not possible under economically reasonable conditions or within a reasonable period, each party shall be entitled to rescind the Contract. Furthermore, the Supplier shall indemnify the Purchaser against claims by the proprietors of the intellectual property rights concerned, which are undisputed or which have been established and become final and unappealable.
- 9.11 The Purchaser is obliged
- to promptly notify the Supplier of any infringements of intellectual property rights asserted or copyright infringements asserted,
 - to provide the Supplier with reasonable support in taking defensive action against claims asserted or to allow the Supplier to implement the modification measures and
 - to preserve the right for the Supplier to take all defensive action including out-of-court arrangements.
- 9.12 The Purchaser's claims under the above-mentioned Clauses 9.9 - 9.11 are excluded if the defect in title ("*Rechtsmangel*") is due to an instruction / information / requirement of the Purchaser or the infringement was caused by the fact that the Purchaser altered the Goods / Performance of his own accord or through third parties or used them in a manner that is not in conformity with the Contract.
- 9.13 If the Supplier is not responsible under Clauses 9.1 to 9.12 the Purchaser shall indemnify the Supplier from and against all claims by third parties as well as from and against legal and procedural costs and shall procure the Supplier a suitable right of use that is free of charge for the Supplier.

7. Liability

1. Unless otherwise provided in these GT&C of Sale and Delivery including the following provisions, the Supplier shall only be liable for damage suffered by the Purchaser
 - 1.1 which the Supplier or its statutory representatives or vicarious agents have caused intentionally or grossly negligently;
 - 1.2 arising out of an injury to life, body or health caused by the Supplier or its statutory representatives or vicarious agents;
 - 1.3 if the Supplier expressly guaranteed the condition/quality or the durability of the Goods or Performance or fraudulently misrepresented such a guarantee in contracts for sale ("*Kaufverträge*") or contracts for work and services ("*Werkverträge*");
 - 1.4 which was caused by a breach of duty by the Supplier, which breach is of material importance for achieving the contractual purpose (cardinal duty);
 - 1.5 if claims for this exist under the German Product Liability Act ("*Produkthaftungsgesetz*").
2. In the case of Clause 1.4 the Supplier's liability shall be limited to the foreseeable damage which is typical for the contract. There shall be no liability for indirect damage, business interruption / assembly line stoppages consequential damage or lost profit.

3. In cases other than the cases mentioned in sub-clause 1 the Supplier's liability is completely excluded - irrespective of the legal ground - unless otherwise stipulated in these GT&C of Sale and Delivery.
4. Insofar as the Supplier's liability is excluded, this shall also apply to the personal liability of the Supplier's employees, workers, staff, representatives and vicarious agents.
5. In determining the quantum of the claims for damages to be fulfilled the Supplier's economic situation, the type, scope and duration of the business relationship, any contributory causation and/or fault on the part of the Purchaser pursuant the statutory provisions on joint liability and any particularly unfavourable installation location of the Goods must be taken reasonably into account to the benefit of the Supplier. In particular, the damages, costs and expenses, which the Supplier is to bear must be reasonably proportional to the value of the Goods/Performance.
6. The principles of joint liability and the duty to mitigate damage shall apply *mutatis mutandis* to the compensation between the Purchaser and the Supplier. The Purchaser shall indemnify the Supplier from and against claims by third parties due to damage based on the requirements, specifications, information or instructions of the Purchaser.
7. The liability to pay damages shall be excluded to the extent that the Purchaser has for his part limited his liability towards his customer. The Purchaser shall thereby endeavour to agree limitations of liability also to the benefit of the Supplier to the extent legally permissible.
8. The Purchaser shall promptly and fully inform and consult the Supplier if he wishes to assert a claim against the Supplier under the above provisions. He must give the Supplier an opportunity to investigate the case of damage. The contract parties shall come to an agreement about the measures to be taken, particularly in the course of settlement negotiations.

8. Limitation of Actions

1. The general limitation period for claims arising out of defects in quality ("*Sachmängel*") and defects in title ("*Rechtsmängel*") shall be 24 months. For Goods used for a vehicle in accordance with their usual manner of use the limitation period for claims arising out of defects in quality ("*Sachmängel*") and defects in title ("*Rechtsmängel*") shall be 30 months.
2. The limitation period shall begin with delivery of the Goods. If it has been agreed that acceptance shall be performed, the limitation period shall commence upon acceptance.
3. The limitation periods under the German Product Liability Act ("*Produkthaftungsgesetz*") shall remain unaffected. Otherwise any claims for damages by the Purchaser under Clause 7 GT&C of Sale and Delivery shall be governed exclusively by the statutory provisions.
4. The above provisions do not entail any change to the statutory burden of proof to the detriment of the Purchaser or of the Supplier.

9. Reservation of Title

1. The Supplier reserves title to the Goods until all of the claims which the Supplier has against the Purchaser arising out of the business relationship have been satisfied. In the event of conduct by the Purchaser that is in breach of contract - especially in the event of default of payment - the Supplier shall be entitled to take back the Goods. The taking back of Goods shall not constitute rescission of the Contract unless such rescission has been expressly declared by the Supplier in advance. After the Goods have been taken back the Supplier shall be entitled to realize them. The right of realization shall, however, only exist if the Supplier has first validly declared rescission. The proceeds from any such realization, less the reasonable realization costs, must be offset against any claims against the Purchaser due to rescission of the Contract (damages, reimbursement of expenses, etc.).
2. The Purchaser may not pledge or transfer the Goods by way of security while the reservation of title exists. In the event of any distraint, attachment or other disposition or intervention by third parties the Purchaser must promptly inform the Supplier in writing and must hand over all of the documents required for a defence so that the Supplier can enforce its title. If in the event that the Supplier wins the third party is not in a position to reimburse the Supplier the court and out-of-court costs, the Purchaser shall be liable for the deficit incurred by the Supplier.

3. The Purchaser is permitted to process or re-shape the Goods ("Processing"). The Processing of the Goods by the Purchaser is always undertaken on behalf of the Supplier. However, if the value of the Goods belonging to the Supplier is less than the value of the goods, which do not belong to the Supplier, and/or the value of the Processing, the Supplier shall acquire joint title to the new goods in the proportion which the value (gross invoice value) of the processed goods has to the value of the other processed goods and / or the Processing at the time of Processing. If the Supplier does not acquire any title to the new goods under the above, the Supplier and the Purchaser are in agreement that the Purchaser shall grant the Supplier joint title to the new goods in the proportion which the value (gross invoice value) of the Goods belonging to the Supplier has to the value of the other processed goods at the time of Processing. The above sentence shall apply *mutatis mutandis* in the event that the Goods are inseparably mixed or combined with goods not belonging to the Supplier. If the Supplier acquires title or joint title under this provision, the Purchaser shall keep it in safe custody on behalf of the Supplier free of charge and exercising the care of an ordinary businessman. In the above cases the Purchaser must notify the Supplier of his respective contractor, the respective reference number, the customer, the order date and other relevant data for identifying the whereabouts of the Goods.
4. The Purchaser is entitled to resell the Goods or the new goods in the ordinary course of business. However, the Purchaser hereby already assigns his claim arising out of the resale to the Supplier together with all secondary rights by way of security without there being any need for any further special declaration. The assignment applies inclusive of any balance claims. However, the assignment only applies in the amount of the sum that corresponds to the price of the Goods invoiced by the Supplier.
5. The Purchaser shall remain authorized to collect said account receivable even after the assignment. The Purchaser shall promptly forward to the Supplier payments made towards the assigned accounts receivable up to the amount of the secured account receivable. The Supplier's authority to collect the account receivable itself shall remain unaffected by this. However, the Supplier undertakes not to collect the account receivable so long as the Purchaser complies with his payment obligations arising out of the proceeds collected, is not in default of payment and in particular has not filed a petition for the opening of insolvency proceedings and payments have not been suspended. If there is a legitimate interest, particularly in the event of any default of payment, the suspension of payments, the opening of insolvency proceedings, the protest of a bill of exchange or substantiated indication of the Purchaser's overindebtedness or impending inability to pay, the Supplier shall be entitled to revoke the Purchaser's authority to collect. Furthermore, following a prior warning and complying with a reasonable deadline, the Supplier can demand that the Purchaser discloses to the Supplier the assigned accounts receivable and the debtors owing said accounts receivable, provides the Supplier with all of the information required for collection, hands over the documents pertaining thereto and promptly notifies the debtors (third parties) of the assignment.
6. If a legitimate interest is substantiated prima facie the Purchaser must provide the Supplier with the information necessary to assert its rights against third parties and must hand over the necessary documents.
7. The Supplier undertakes to release the security, to which the Supplier is entitled, upon demand by the Purchaser to the extent that the value of the security exceeds the claims to be secured by more than 20 %. The choice of security to be released shall be up to the Supplier. The value of the Goods subject to a reservation of title is determined according to the market price applicable at the time when the release is demanded.
8. The Supplier hereby expressly accepts the assignments contained in the preceding sub-clauses.

10. Assembly and Commissioning

The following provisions shall apply to the assembly of Goods and to the commissioning work.

1. The Supplier shall assume assembly and commissioning work only on the basis of a special written agreement and provided the resulting costs have not already expressly been taken into account when the prices were fixed and in the offer of a contract.
2. For each mechanic provided (installation engineer) the expenses incurred by the Supplier according to the installation rates laid down by the Supplier as applicable from time to time (including surcharges for overtime that is due and payable) must be reimbursed. The travel expenses and baggage handling charges incurred on behalf of the Purchaser must likewise be reimbursed.

3. The Purchaser must provide the following at his cost and risk in a timely manner:
 - 3.1 The support staff needed for the assembly and/or commissioning (for whom and for whose work the Supplier shall have no liability whatsoever);
 - 3.2 The preliminary work, jigs and fixtures, materials, aids and tools necessary for the assembly and/or commissioning, lockable rooms suitable for properly keeping safe the equipment and materials of all kinds provided by the Supplier for the assembly and/or commissioning;
 - 3.3 Apart from that the Purchaser is under a duty to carry out any necessary structural and other measures that are necessary for carrying out the assembly and/or commissioning work in a timely and proper manner.
4. All risks associated with the equipment and materials of whatever kind intended by the Supplier for the assembly and/or commissioning (including the transport risk) shall be borne by the Purchaser.
5. The liability for damage of whatever kind (including consequential damage) associated with carrying out assembly and/or commissioning work shall be governed by the general limitations of liability under Clause 7 GT&C of Sale and Delivery.
6. The Supplier shall be liable for defects in the assembly and/or commissioning caused by operating conditions only as regards the parts delivered by it and to the extent governed by Clause 7 GT&C of Sale and Delivery.

11. Waste Disposal

1. The Supplier's Goods are not intended for private use.
2. When use of the Goods delivered by the Supplier has been discontinued, the Purchaser shall be obliged to properly dispose of said Goods at his own cost in accordance with the statutory provisions and regulations.
3. The Purchaser shall indemnify the Supplier from and against all obligations under Paragraph 10(2) German Act on the Bringing into Circulation, Taking Back and the Environmentally-Friendly Disposal of Electrical and Electronic Equipment ("*Elektrogesetz*") or other statutory regulations of other states of the European Union, which might apply and which correspond to this provision; in particular from and against the manufacturer's duty to take back goods and all related claims by third parties.
4. If Goods delivered are passed on to third parties, the Purchaser shall be obliged to contractually oblige said third parties to properly dispose of the Goods in compliance with the statutory provisions when the use thereof has been discontinued. If the Goods are passed on again, the third parties must be contractually obliged to impose a corresponding duty on the recipients of the Goods.
5. If the Purchaser fails to contractually oblige third parties, to whom he passes on the delivered Goods, to assume the disposal obligation and to pass on said obligation, the Purchaser shall be under an obligation to take back and properly dispose of the Goods when they are no longer used and to do so at his cost and in accordance with the statutory provisions. The Supplier must be indemnified from and against any claims by third parties.
6. The Supplier's rights and claims against the Purchaser to assume the obligation of disposal and the indemnity by the Purchaser, shall not be time-barred until the expiry of 2 years after use of the Goods has been finally discontinued. The two-year term shall begin no earlier than upon receipt by the Supplier of the Purchaser's written notice that the use has been discontinued.
7. Any deviating agreement regarding the taking back and disposal of the Goods by the Supplier shall require written form. The price does not include the taking back and disposal by the Supplier.
8. Unless otherwise agreed the Purchaser must dispose of non-returnable packaging and non-returnable load carriers at his own cost.

12. Contractual Obligations against the Background of Regulation (EC) No. 1907/2006 ("REACH Regulation")

1. In the event that the Goods / new goods or a chemical component of the Goods / new goods falls under the scope of application of the REACH Regulation and the Supplier is deemed to be the manufacturer or downstream user for the purposes of the REACH Regulation, the Supplier shall hand over to the

Purchaser all of the data, information and documents available to it (e.g. safety data sheet, substances safety report) upon handover the Goods / new goods.

2. After receiving the Goods / new goods the Purchaser is obliged to check whether he is a downstream user for the purposes of the REACH Regulation and whether the use of the Goods / new goods intended by him constitutes an "identified use" for the purposes of the REACH Regulation. If the intended use is not an "identified use" the Purchaser is obliged to inform the manufacturer and the Supplier thereof or to update the documents provided in accordance with the statutory requirements.
3. At the express request and cost of the Purchaser, the Supplier shall provide further information concerning the Goods / new goods of which it is aware for the purposes of the REACH Regulation, even if the Goods / new goods are not deemed to be hazardous within the meaning of the REACH Regulation nor within the meaning of the PBT (substances that are potentially persistent, bioaccumulative and toxic) - or vPvB (substances that are potentially very persistent and very bioaccumulative) - criteria. The Supplier can refuse to surrender the information if it would thereby breach statutory or contractual provisions.

13. Confidentiality Agreement

The Purchaser undertakes to keep all business information and/or know-how, of which he is or becomes aware, confidential, also beyond the duration of the business relationship. Information that is publicly known or which has entered the public domain or which has been received from third parties is excluded from this agreement.

14. Data Protection

Within the ambit of the business relationship personal data shall be treated in accordance with the data protection provisions.

15. Place of Jurisdiction / Place of Performance

1. These GT&C of Sale and Delivery and all legal relations between the Purchaser and the Supplier shall be governed by the law of the Federal Republic of Germany to the exclusion of all international and supranational legal principles of (contract) law, in particular the UN Convention on Contracts for the International Sale of Goods. The prerequisite for and effects of the reservation of title are subject to the law of the place where the respective article is stored if, under said law, a choice of law made in favour of German law is not permitted or is void.
2. If the Purchaser is a merchant (*Kaufmann*) within the meaning of the German Commercial Code (*Handelsgesetzbuch*), a legal entity under public law or a special body or fund under public law the exclusive - including international - place of jurisdiction for all legal matters shall be Munich, Germany. The Supplier shall however also be entitled to file an action at the Point of Destination of the obligation to deliver.