

**General Terms and Conditions of Purchase of Robert Karst GmbH & Co. KG****(Version October 2016)****1. Sphere of Application**

- 1.1 All orders for goods or services by us are made on the basis of these General Terms and Conditions of Purchase. The General Terms and Conditions of Purchase become part of the content of the purchase contract concluded with us regardless of whether the supplier manufactures the goods himself/herself or purchases them from suppliers. The order confirmation and/or the performance of the delivery or service ordered by us is always deemed to be an acknowledgement of our General Terms and Conditions of Purchase. If the supplier objects to our General Terms and Conditions of Purchase, we are entitled to revoke the order by written notice (or by fax, E-Mail) to the supplier. The supplier cannot derive any rights from such revocation.
- 1.2 Our General Terms and Conditions of Purchase apply exclusively; we do not acknowledge terms and conditions of the supplier which contradict, diverge from or supplement our General Terms and Conditions of Purchase unless we have expressly agreed to their application in writing. Our General Terms and Conditions of Purchase apply in these cases by way of supplement. In such cases, our General Terms and Conditions of Purchase also apply if we accept delivery from the supplier without reservation even in the knowledge of terms and conditions of the supplier which contradict or diverge from our General Terms and Conditions of Purchase.
- 1.3 Our General Terms and Conditions of Purchase only apply in relation to entrepreneurs as defined in Section 310 (1) German Civil Code.
- 1.4 Our General Terms and Conditions of Purchase also apply in their respective applicable version to all future purchase contracts with the supplier, in particular in case of subsequent orders, possibly by telephone, without our having to repeatedly point them out in each individual case; we will inform the supplier about changes to our General Terms and Conditions of Sale immediately.
- 1.5 Individual agreements reached with the supplier in an individual case (including side agreements, additions and alterations) take precedence over these General Terms and Conditions of Purchase in each case. A written contract or our written confirmation (also by fax or E-Mail) is decisive for the content of such agreements.
- 1.6 Legally relevant explanations and notifications which must be provided to us by the supplier after the conclusion of the contract (e.g. statement of deadlines, warning notices, declaration of withdrawal) must be in written form in order to be valid.
- 1.7 We are entitled to electronically store and process supplier data connected with the business relationship with the supplier as defined in the Federal Data Protection Act. In this context, we have an obligation to use the data provided by the supplier solely for our own purposes and not to pass it on to outside third parties.

**2. Offer – Offer Documentation**

- 2.1 Our enquiry is binding for the supplier's offer. The supplier must expressly point out any divergences.

- 2.2 Orders and order changes are deemed to be binding at the earliest upon written submission or confirmation (or by fax, E-Mail). Oral agreements only take effect after they have been confirmed in writing (or by fax, E-Mail). The supplier must point out to us any obvious mistakes (e.g. spelling and calculation mistakes) and incompleteness of the order, including the order documentation, for purposes of correction and/or completion prior to acceptance; otherwise, the contract is deemed not to have been concluded.
- 2.3 The supplier has an obligation to accept our order and every change to the order within a time-limit of two weeks, by sending us a corresponding confirmation of the order, or in particular by performance without reservation through the dispatch of the goods (acceptance). Late acceptance is deemed to be a new offer and requires acceptance by us.
- 2.4 Offers, samples and models of the supplier are free of charge for us and do not give rise to any liabilities for us.
- 2.5 We reserve rights of title and copyright to images, drawings, calculations and other documents; they may not be made available to third parties without our express written consent. They must be used exclusively for manufacturing on the basis of our order. They must be kept secret from third parties.
- 2.6 Remuneration or reimbursement for visits or the production of offers, etc., will not be paid unless something different has been expressly agreed in writing.
- 2.7 We can require changes to the goods and/or the time of delivery within the framework of what is reasonable for the supplier, even subsequently. Effects, in particular with regard to additional costs or lower costs and the delivery dates must be regulated by mutual agreement in a reasonable way.
- 2.8 The supplier must make available to us free of charge all documents which are necessary for the use of the item(s) delivered in accordance with their intended purpose in good time, without having to be requested to do so.
- 2.9 The supplier must request our current company standards and guidelines in good time and base the delivery and/or service on them. All company standards and guidelines provided by us must be applied in the respective newest version.
- 2.10 If we bear the costs for the manufacture of tools or models, these will be manufactured for us, so that we acquire original title to them. If the acquisition of original title fails, the supplier will transfer title to us pursuant to Sections 929, 930 German Civil Code. In this case, he/she takes the tools or models into safekeeping on our behalf and properly cares for and insures them. The supplier has an obligation to surrender the tools and models to us without undue delay upon request.

### **3. Prices – Payment Conditions**

- 3.1 The price stated in our order is binding. The order price does not include statutory value added tax.
- 3.2 Agreed prices are fixed prices. Unless something different is agreed in an individual case, the prices include all services and ancillary services by the supplier (e.g. assembly, installation) and all ancillary costs (e.g. proper packaging, transportation costs including any transportation and third party liability insurance). The return of packaging must be agreed separately.

- 3.3 The claim by the supplier falls due for payment once the item delivered has been completely received at the place of intended use and/or the service has been completely performed. This must be accompanied by formal acceptance to the extent to which this is provided for by statute or contract, as well as the issue of a proper invoice (fig. 3.5).
- 3.4 In case of formal acceptance of early deliveries, payment falls due at the agreed delivery date. If invoiced goods arrive later than the invoice, the date on which the goods were received is deemed to be the date of invoice receipt.
- 3.5 We can only process invoices if they state the order number, the ROKA article number, delivery note number and delivery note date in accordance with the specifications of our order; the supplier is responsible for all consequences resulting from the failure to comply with this obligation, to the extent to which he/she does not demonstrate that he/she is not responsible for this. Each invoice must conform to the respective statutory requirements. Invoices which are not properly produced are deemed not to have been issued. Statutory value added tax must be shown separately.
- 3.6 Unless something different has been agreed in writing (or by fax, E-Mail), we pay the purchase price within 14 days, calculated from the date of receipt of the proper invoice with 3% discount, or net within 30 days after receipt of the proper invoice; however, the time-limit does not begin to run before full performance by the supplier. In case of bank transfer, payment has been made in time if our transfer instruction has been received by our bank before the expiry of the time-limit for payment.
- 3.7 Interest on arrears amounts to five percentage points per annum above the basis interest rate. The statutory provisions apply to the start of our delay, whereby a written warning notice by the supplier is necessary in every case, possibly in divergence from such statutory provisions.
- 3.8 The supplier is not entitled to assign his/her claims against us or have them collected by third parties without our prior written consent. Such consent may not be inequitably refused.
- 3.9 We are entitled to rights of retention and the objection of failed fulfilment of the contract to the extent provided for by statute. In particular, we are entitled to retain payments which are due – possibly on a pro rata basis – until proper fulfilment as long as we are still entitled to claims against the supplier out of incomplete or faulty performance. On the other hand, payments made do not mean acknowledgement of the delivery as being in accordance with the contract.
- 3.10 The supplier only has a right of set-off or retention due to legally binding or undisputed counterclaims.

#### **4. Delivery Period and Delay with Delivery**

- 4.1 The delivery date specified in the order is binding and is deemed to be a fixed date. Any delivery period begins at the time the order is sent off by us. Receipt of the goods at the point of receipt or use specified by us is decisive for compliance with the delivery date or delivery period.
- 4.2 The supplier has an obligation to inform us without undue delay in writing (or by fax, E-Mail), stating the reasons and the anticipated duration of the delay, if circumstances arise or become apparent to him/her from which it is evident that the agreed delivery date of delivery period cannot or probably cannot be adhered to, for whatever reason.

- 4.3 If the supplier does not perform his/her service at the agreed delivery date or within the agreed delivery period or if he/she falls into delay, our rights – in particular to withdrawal and compensation – are determined by the statutory provisions. The regulations in fig. 4.4 remain unaffected.
- 4.4 If the supplier falls into delay, then in addition to further-reaching statutory claims we can require the payment of lump-sum compensation for our damage/loss resulting from the delay, amounting to 1% of the net price per completed calendar week, but in total not more than 5% of the net price of the goods delivered late. We remain entitled to prove that we have suffered higher damage/loss. The seller remains entitled to prove that we have suffered no damage/loss at all or only significantly lower damage/loss.
- 4.5 *Force majeure*, industrial action or other unavoidable and unforeseeable events only exempt the supplier from his/her performance obligations for the duration of the disruption and to the extent of its effect. The supplier has an obligation to provide the necessary information without undue delay within the framework of what is reasonable and to adapt his/her obligations to the changed circumstances in good faith. We are exempted from the obligation to accept the ordered delivery/service as a whole or in part and are entitled to withdraw from the contract in this context if the delivery/service can no longer be used by us due to the delay caused by such circumstances, taking into consideration economic aspects. We are in any case entitled to withdrawal in the cases described above if the delay in performance is longer than one month. The supplier is not entitled to any claims against us due to withdrawal declared by us.

## **5. Performance, Delivery, Documents, Passing of Risk, Delay with Acceptance**

- 5.1 The supplier is not entitled to have the performance owed by him/her carried out by third parties (e.g. subcontractors) without our prior written consent. The supplier bears the procurement risk for his/her services unless something different has been agreed in an individual case.
- 5.2 To the extent to which nothing different is agreed, goods are delivered “free to the point of delivery” to the place specified in the order. If the stated place of delivery is not specified and nothing different has been agreed, delivery must be made to our registered place of business in Berlin. The respective stated place of delivery is also the place of performance (obligation to be performed at our address).
- 5.3 Delivery must be accompanied by a delivery note with a precise statement of the date (date of issue and dispatch), content of the delivery (ROKA article number and quantity) and our order reference (date and number). If the delivery note is missing or if it is incomplete according to the stipulations above, we are not responsible for delays in processing or payment resulting from this.
- 5.4 Partial deliveries are only permissible by express agreement. In case of agreed partial deliveries, the remaining quantity must be stated. We have no obligation to accept deliveries of larger or smaller quantities than agreed (additional or short delivery). Acceptance of the goods in this context does not constitute agreement to the divergent delivery quantity. Additional deliveries which have not been agreed entitle us to choose between either accepting the additional goods in return for a corresponding invoice or to store them at the supplier’s expense until they are one again collected by the supplier or to return the additional goods to the supplier at the supplier’s expense.

- 5.5 All letters, dispatch notifications, consignment notes, invoices, etc. must always contain the information stated in fig. 5.3 including statements about the delivery point. All consignments which we cannot accept due to failure to comply with these dispatch stipulations will be stored at the supplier's expense and risk. We are entitled to ascertain the content and condition of such consignments. The supplier is liable for all costs and disadvantageous consequences which we incur due to failure to comply with these dispatch provisions. He/She is also liable for compliance with these dispatch provisions by subcontractors/sub-suppliers employed with our consent.
- 5.6 The risk of accidental destruction and accidental deterioration of the goods passes to us in accordance with proper transfer at the place of performance pursuant to figs. 5.1 to 5.5 above. To the extent to which formal acceptance is agreed, this is decisive for the time at which risk passes. The statutory provisions in relation to contracts for services also apply accordingly in case of formal acceptance. If we fall into delay with formal acceptance, this is equivalent to transfer of possession and/or formal acceptance.
- 5.7 The statutory provisions apply to the start of our delay with formal acceptance. The supplier also has to expressly offer his/her service to us if a specific or specifiable calendar date/period is agreed for action or cooperation by us (e.g. provision of material). If we fall into delay with acceptance, the supplier can require compensation for his/her additional expenditure in accordance with the statutory provisions (Section 304 German Civil Code). If the contract relates to an item which must be manufactured by the supplier which cannot be replicated (unique individual manufactured item), the supplier is only entitled to further-reaching rights if we undertook to cooperate and are responsible for the failure to cooperate.

## **6. Reservation of Title – Provision – Tools**

- 6.1 We reserve rights of title and copyright to images, drawings, calculations, company standard sheets, product descriptions, implementation instructions and other documents we place at the disposal of our supplier. Such documents may only be used for the performance contractually owed by the customer and must be returned to us free of charge after the order has been dealt with, without a request having to be made.
- 6.2 Fig. 6.1 applies accordingly to substances and materials as well as other items, in particular samples, tools and templates, which we provide to the supplier for manufacture. The supplier must keep such items safe— as long as they have not yet been processed – separately at his/her own expense and labelled as our property to the appropriate extent and insure them at his/her own expense against destruction and loss, in particular against fire and water damage and theft loss. In case of an event insured against, the supplier hereby already now assigns to us all claims to compensation out of this insurance; we hereby accept the assignment. Tools made available by us must be used by the supplier exclusively for the manufacture of goods ordered by us. The supplier has an obligation to carry out any servicing and inspection work necessary for the tools provided by us, as well as all maintenance and repair work, in good time at his/her own expense. He/She must report any cases of disruption immediately; if he/she culpably fails to do so, claims to compensation remain unaffected.
- 6.3 Processing, mixing or the combination (further processing) by the supplier of items provided is undertaken for us. In case of processing, mixing or combination with other items which do not belong to us, we acquire co-ownership to the new item in the ratio of the value of the item provided by us to the other processed items at the time of processing, mixing or combination. If the supplier's item must be viewed as the main item, it is deemed to have been agreed that

the supplier transfers co-ownership to us on a pro rata basis. Our sole property and the co-ownership property will be kept safe for us by the supplier free of charge. In case of further processing by us of the goods supplied, we are deemed to be the manufacturer and acquire title to the product at the latest upon the further processing in accordance with the statutory provisions.

- 6.4 Unless there is an express written agreement to the contrary with the supplier, ownership of the goods must be transferred to us unconditionally and regardless of the payment of the purchase price. We expressly do not acknowledge a reservation of title by the supplier. All deliveries to us must be free of such reservations and of rights of third parties (such as, for example, rights of lien, etc.). If, in an individual case by way of exception, we accept an offer by the seller in the form required in sentence 1 which is conditional on the payment of the purchase price, the supplier's reservation of title expires at the latest upon payment of the purchase price for the goods delivered. We remain entitled to further process the goods in the ordinary course of business even before payment of the purchase price subject to advance assignment of the claim resulting from this (or alternatively, the assertion of the simple reservation of title extended to the onward sale). In any case, this excludes all other forms of reservation of title, in particular the extended reservation of title – in this context especially the reservation of title to the delivered goods until full payment of all claims out of the entire business relationship –, the forwarded reservation of title and the reservation of title extended to the further processing.
- 6.5 To the extent to which the security rights to which we are entitled pursuant to fig. 6.3 exceed the purchase price for all our as yet unpaid goods subject to reservation of title by more than 10%, we have an obligation to release the security rights of our choice upon request by the supplier.

## **7. Inspection for Defects – Liability for Defects**

- 7.1 The statutory provisions apply to our rights in case of defects in quality of and title to goods (including wrong delivery and short delivery as well as incorrect assembly, defective assembly, operating or use instructions) and in case of other breaches of duty by the seller, to the extent to which nothing different is stipulated below.
- 7.2 According to the statutory provisions, the seller is in particular liable for the goods being in the agreed condition at the time of passing of risk. In any case, the agreement as regards condition is deemed to be the product descriptions which – in particular through specification or reference in our order – form the subject-matter of the respective contract or are linked to the contract in the same way as these General Terms and Conditions of Purchase. In this context, it makes no difference whether the product description originates from us, the supplier or manufacturer. The supplier's warranty also includes the parts manufactured and services supplied by subcontractors/sub-suppliers.
- 7.3 In divergence from Section 442 (1) sentence 2 German Civil Code, we are also entitled to unrestricted claims due to defects if the defect remained undiscovered by us at the time of the conclusion of the contract as a result of gross negligence.
- 7.4 The statutory provisions apply to the commercial duty of inspection and complaint (Sections 377, 381 German Commercial Code), subject to the following proviso: Our duty of inspection is restricted to defects which are openly evident at our inspection upon receipt of goods from external inspection and inspection of the delivery papers, as well as our quality control checks

on a random sample basis (e. g. damage during transportation, wrong delivery and short delivery). To the extent to which formal acceptance is agreed, there is no duty of inspection. In addition, the extent to which an inspection is appropriate taking into consideration the circumstances of the individual case in the ordinary course of business is decisive. Our duty of complaint for defects which are discovered later remains unaffected. In all cases, our complaint (notification of defect) is deemed to be without undue delay and in good time if it is received by the supplier within five working days, calculated from the receipt of the goods at the designated place for use stated in the order and from the submission of the proper documentation necessary for the inspection of the goods (in particular the dispatch note and delivery notes) or in case of hidden defects, from the time at which they are discovered.

- 7.5 Fig. 7.4 does not apply if we have concluded a quality control agreement with the supplier. In this case, the special provisions of the quality control agreement existing between the supplier and us apply with regard to the duties of inspection for defects and complaint about defects.
- 7.6 In case of the delivery of defective goods, at our request the supplier has an obligation to sort the defective goods and provide subsequent performance – at our choice by rectification of the defect (subsequent improvement) or delivery of an item free of defects (replacement delivery). The supplier has an obligation to bear all necessary expenditure for subsequent performance. If the supplier fails to fulfil his/her obligation in accordance with the right of choice to which we are entitled within a reasonable period or if subsequent performance fails, we are entitled to immediately assert our rights to a price reduction, withdrawal, compensation instead of performance or reimbursement of expenditure. Subsequent performance is deemed to have failed if an attempt at improvement or replacement delivery does not lead to defect-free delivery by the supplier. In addition, we are entitled to retain the corresponding proportion of the payment until proper fulfilment.
- 7.7 The supplier must bear costs incurred for the purpose of proof and subsequent improvement even if it becomes evident that no defect actually exists. Our liability for compensation in case of unjustified requests for the rectification of defects remains unaffected; in this context, we are, however, only liable if we recognised, or failed to recognise due to gross negligence, that no defect existed.
- 7.8 Our claim to performance exists until the assertion in writing or in court of compensation claims instead of performance. If we withdraw from the contract due to the existence of a defect, the supplier must also reimburse us for the costs of the contract.
- 7.9 If the supplier fails to fulfil his/her obligation of subsequent performance – at our choice either the rectification of the defect (subsequent improvement) or delivery of a defect-free item (replacement delivery) – within a reasonable subsequent time-limit set by us, we can rectify the defect ourselves and require reimbursement of the expenditure necessary for this from the supplier or a corresponding advance. If subsequent performance by the supplier has failed or is unreasonable for us (e.g. due to special urgency, risks to operational safety or threatening danger of disproportional damage), no subsequent time-limit is necessary; we will inform the supplier of such circumstances without undue delay, if possible beforehand.

## **8. Recourse against Suppliers**

- 8.1 We are entitled to our unrestricted statutory rights of recourse within the delivery chain (supplier recourse pursuant to Sections 478, 479 German Civil Code) in addition to claims due to defects. In particular, we are entitled to require from the supplier exactly the type of

subsequent performance (subsequent improvement or replacement delivery) which we owe to our purchasers in an individual case. This does not restrict our statutory right to choose (Section 439(1) German Civil Code).

- 8.2 Before we acknowledge or fulfil a claim due to defects asserted by our purchaser (including reimbursement for expenditure pursuant to Sections 478 (3), 439 (2) German Civil Code), we will inform the supplier and request a written opinion, providing a brief description of the facts and circumstances. If the opinion is not provided within a reasonable period and if no mutually agreed solution is reached, the defect claim actually granted by us is deemed to be owed to our purchaser; in this case, the supplier bears the burden of proof to the contrary.
- 8.3 We are also entitled to the rights of recourse pursuant to Sections 478, 479 German Civil Code against the supplier by analogy in case the supplier has only provided parts of the new item we have manufactured. Our claims out of recourse against the supplier therefore also apply in this context if the goods have been further processed by us or another purchaser prior to their sale to a consumer, e.g. through installation in another product or connection with another product.

## **9. Product Liability – Indemnification – Third Party Liability Insurance Cover**

- 9.1 To the extent to which the supplier is responsible for product damage, he/she is obliged to indemnify us from compensation claims by third parties in this context upon first request to the extent to which the cause is found in his/her sphere of control and organisation and he/she is liable himself/herself in relation to third parties.
- 9.2 Within the framework of his/her liability for cases of damage/loss as defined in fig. 9.1, the supplier also has an obligation to reimburse expenditure pursuant to Sections 683, 670 German Civil Code and pursuant to Sections 830, 840, 426 German Civil Code arising out of or in connection with being called to account by third parties, including recall actions carried out by us. We will inform the supplier about the content and scope of the recall actions to the extent reasonable and necessary and give him/her the opportunity to make a statement. Other statutory claims remain unaffected.
- 9.3 If recourse is taken against us by a third party due to strict liability regardless of fault under foreign law which cannot be contracted away, the supplier indemnifies us to the extent to which he/she would also be directly liable to the third party. The principles of Section 254 German Civil Code (contributory negligence) apply accordingly to the settlement of damage/loss between us and the supplier. This also applies in case the supplier is directly called to account.
- 9.4 We have the right to conclude settlements with third parties who have suffered damage/loss; the supplier's compensation duty remains unaffected as long as such settlements were commercially necessary.
- 9.5 The supplier undertakes to maintain product liability insurance with a sum of cover of EUR € 10 million per case of personal injury/damage to property as a lump sum; if we are entitled to further-reaching compensation claims, these remain unaffected.
- 9.6 The supplier must conclude sufficient third party liability insurance for damage/loss caused by his/her, his/her staff or authorised parties to the items delivered or services provided, or caused by them. Upon request, the sum of cover for each case of damage must be proven to us.



9.7 The supplier is obliged to adequately insure aids and materials provided by us at his/her own expense.

## **10. Intellectual Property Rights**

10.1 The supplier is liable for ensuring that our receipt of the delivery or service and the use thereof by us in accordance with the intended purpose does not infringe rights of third parties, in particular patent rights, licence rights and trade mark rights. The supplier is aware that we can market our products worldwide.

10.2 If we or our purchasers are called to account by third parties due to the infringement of such rights, the supplier has an obligation to indemnify us and our purchasers from all of these claims upon first request in writing (or by fax, E-Mail). The indemnification obligation relates to all expenditure necessarily incurred by us or our purchasers out of or in connection with being called to account by third parties. In proceedings initiated by third parties in court and out of court due to the infringement of such rights, the supplier must support us and bear the costs of these proceedings. The supplier's obligations pursuant to sentences 1 to 3 above do not exist if and to the extent to which the item delivered was manufactured in accordance with our instructions and the supplier did not know or could not have known that it involves an infringement of third party rights.

10.3 We are if necessary entitled to choose between either purchasing the necessary approval of the holder of an infringed right to the contractually agreed use of the delivered item, possibly including its onward sale, at the supplier's expense, or withdrawing from the contract.

10.4 The contractual partners undertake to inform each other without undue delay about risks of infringement which become known, as well as ostensible cases of infringement, and give each other the opportunity to ward off the claims by mutual agreement.

10.5 Upon request by us, the supplier has an obligation to notify us of the use of its own and licensed published and unpublished intellectual property rights and registrations of intellectual property rights to the delivered items.

## **11. Confidentiality**

11.1 Even after the end of the business relationship, the supplier has an obligation to treat all information in connection with the business relationship confidentially and not to bring it to the knowledge of third parties as a whole or in part. The supplier also will not use the information received for his/her own transactions without our approval. The obligation to obtain approval does not apply to information which is proven to be generally known or which the supplier already knew before we made it available to him/her, or was provided to the supplier by third parties without infringement of a secrecy obligation incumbent upon the third party.

11.2 In particular, the supplier must keep secret from third parties any documents received from us (see fig. 6.1), even after the end of the contract. The obligation to maintain secrecy only expires once and to the extent to which the knowledge contained in the documents provided has become generally known. If the supplier acquires knowledge about inventions in our company which are capable of protection, we are entitled to all rights out of the inventions, in particular the right to register intellectual property rights. The supplier will at no time disclose knowledge about the inventions and will not act against us by filing for the registration of intellectual property rights or otherwise acting against us in a way detrimental to novelty.

11.3 The supplier may only refer to the business relationship existing with us in advertising and information material with our express written consent.

## **12. Prescription**

12.1 The reciprocal claims of the contractual parties become statute-barred in accordance with the statutory provisions, to the extent to which nothing different is specified below.

12.2 In divergence from Section 438 (1) no. 3 German Civil Code, the general period of prescription for warranty claims is three years from the time at which risk passes. To the extent to which formal acceptance is agreed, the period of prescription begins to run at the time of formal acceptance. The three-year period of prescription also applies accordingly to claims for defects in title, whereas the statutory period of prescription for claims by third parties to physical surrender (Section 438 (1) no. 1 German Civil Code) remains unaffected; claims due to defects in title do not become statute-barred at all as long as the third party can still assert the right against us, in particular because it has not become statute-barred.

12.3 The periods of prescription of the law of sale, including the extension specified above, apply – to the extent specified by statute – for all contractual claims due to defects. To the extent to which we are also entitled to defect compensation claims outside the contract, the regular statutory prescription applies to this (Sections 195, 199 German Civil Code), unless the application of the periods of prescription of the law of sale leads to a longer period of prescription in an individual case.

## **13. Final Provisions**

13.1 The applicable law of the Federal Republic of Germany decisive for legal relations between parties in Germany applies exclusively to these General Terms and Conditions of Purchase and all legal relations between us and the supplier. By way of clarification, we point out that international unified standard law – in particular the United Nations Convention on the International Sale of Goods dated 11 April 1980 (CISG) or other conventions on the law of the sale of goods – including other conventions between states or international conventions, also in the future, does not apply even after their implementation into German law. German international private law also does not apply. However, the Incoterms® 2010 apply to the interpretation of commercial clauses.

13.2 The place of performance for the supplier's delivery obligation is determined according to fig. 5 of these General Terms and Conditions of Purchase. The place of performance for all other obligations of both contractual parties is our registered place of business in Berlin.

13.3 If the supplier is a businessman/woman as defined in the German Commercial Code, a legal person under public law or a public-law special fund, the exclusive – international – place of jurisdiction for all disputes out of and in connection with the respective contractual relationship – including for disputes about cheques and bills of exchange – is our registered place of business in Berlin (Section 38 (1) German Code of Civil Procedure). If the supplier fulfils the preconditions of Section 38 (2) German Code of Civil Procedure and does not have a general place of jurisdiction in Germany, our registered place of business in Berlin is deemed to be the place of jurisdiction. However, in the cases specified in sentences 1 and 2, we are also entitled to sue the contractual partner at a different statutory place of jurisdiction.

13.4 If individual provisions of these General Terms and Conditions of Purchase are or become invalid as a whole or in part, this does not affect the validity of the remaining provisions. In

such a case, the invalid provision or the invalid part of a provision must be replaced by a legally valid provision which comes as close as possible from an economic point of view in a legally permissible way to the regulatory purpose pursued by the invalid provision. This applies accordingly for provisions which cannot be actually implemented as well as regulatory gaps in these terms and conditions of sale.