

## General Conditions of Sale and Delivery (GCS)

### § 1 Scope of application

- 1.1 These General Terms and Conditions of Sale and Delivery (hereinafter: GCS) shall apply to all business transactions between Advanced Sports GmbH, Bergstrasse 16 + 18 in 73557 Mutlangen (hereinafter: "Seller") and its customers (hereinafter: "Buyer"), if the latter are entrepreneurs (§ 14 BGB), a legal entity under public law or a special fund under public law. They shall also apply if they are not mentioned in subsequent contracts. They shall also apply to all online business transactions between the Buyer and the Seller in e-commerce. Furthermore, the GCS apply to contracts for work and services.
- 1.2 These GCS shall apply exclusively. Any conflicting, additional or deviating terms and conditions of the Buyer shall not become part of the contract unless the Seller has expressly agreed to their validity.
- 1.3 These GCS shall also apply if the Seller carries out the delivery without reservation in the knowledge of conflicting or deviating terms and conditions or if these GCS are not attached in individual cases in the case of future transactions.
- 1.4 Individual agreements made in individual cases shall in any case take precedence over these GCS. Verbal declarations made before or at the time of conclusion of the contract shall only be binding if confirmed in writing.
- 1.5 Rights to which the Seller is entitled under the applicable mandatory statutory provisions governing these GCS shall remain unaffected.
- 1.6 The contractual language is German. The German version of the GTS shall prevail in case of questions of interpretation and disputes.

### § 2 Offer and conclusion of contract, cancellation, resale

- 2.1 Offers of the Seller are subject to change and non-binding, unless they are expressly designated as a binding offer. They only represent an invitation to the Buyer to submit a corresponding offer to the Seller by placing an order. All information about the goods in catalogs and brochures, the presentation of goods on the website and in the online store of the Seller, in e-commerce and other promotional media, as well as information to meet legal requirements, are intended to provide an overview of the goods and are not subject to the contract unless expressly agreed.
- 2.2 Orders of the Buyer contain binding offers. The Seller may accept orders within 14 days of their receipt. The acceptance of orders shall be effected by a separate order confirmation of the Seller or the delivery of the ordered goods or the issuance of an invoice.
- 2.3 If the Buyer orders via the Seller's online store in e-commerce, the Buyer will immediately confirm receipt of the order electronically. The confirmation letter does not yet constitute acceptance of the contract.
- 2.4 Decisive for the time of the conclusion of the contract is the receipt of the order confirmation of the

Seller by the Buyer or, in case of immediate execution of the order, the delivery of the ordered goods to the Buyer or the issuance of the invoice. If, in individual cases, there is no order confirmation or the contract is concluded without an order confirmation, the details in the offer and then in the invoice of the Seller shall be decisive for the content of the contract.

- 2.5 If the Buyer has any objections to the content of the order confirmation or the goods sent, he must object to this immediately (without culpable delay). Otherwise, the contract shall be concluded in accordance with the terms and contents of the order confirmation.
- 2.6 The Seller is entitled to withdraw from the contract if the Buyer gives incorrect information about his creditworthiness, if the Buyer has stopped his payments or if insolvency proceedings have been filed against his assets and the Buyer does not make the payments due within one week after a renewed request for payment.
- 2.7 Conclusion and performance of the contract are subject to the proviso that there are no obstacles due to German, US-American or other applicable national, EU or international regulations of foreign trade law or embargos or sanctions. The Buyer shall be responsible for compliance with export control regulations. In particular, he is obliged to provide all information and documents and to obtain permits, licenses, approvals and releases at his own expense which are required for the export, transfer or import of the products. The refusal of an export permit does not entitle the Buyer to withdraw from the contract or to claim damages.
- 2.8 The Seller may discontinue the distribution of individual products at any time for justified reasons, without the Buyer being able to derive any rights or claims against the Seller.
- 2.9 In case of cancellations by the Buyer, the Buyer will be charged 10% cancellation fee of the corresponding net value of the goods.
- 2.10 Without the express written consent/approval of the Seller, commercial resale of the Seller's goods by the Buyer, in particular via sales platforms and/or online marketplaces, is prohibited. Any restriction on resale shall be based exclusively on objective and purely qualitative criteria and shall otherwise be non-discriminatory. In the event of resale without consent/approval, the Seller reserves the right to discontinue further delivery and/or to claim an appropriate contractual penalty.

### § 3 Changes, description of goods

- 3.1 Customary or insignificant changes of the goods in quality and quantity are conceded by the Buyer in case of serial production as well as in case of custom-made products. This applies in particular to insignificant deviations in color or material. Raw material and auxiliary material tolerances specified by the Seller as well as unavoidable deviations due to production technology shall not constitute a reason for complaints on the part of the Buyer, provided that the usability for the contractually agreed purpose is not impaired.

- 3.2 If the contract relates to goods which are subject to further technical development, the Seller shall be entitled to deliver the goods in accordance with the latest development status or manufacturer's data sheet, insofar as the usability for the contractually agreed purpose is not impaired. Likewise, deviations due to legal regulations are permissible as long as they do not impair the usability for the contractually intended purpose. The Buyer is obliged to inform the Seller if his interest is exclusively limited to the ordered type and in no case deviation from this type is allowed.
- 3.3 The safety data sheets or technical data sheets of the Seller as well as other manufacturer data sheets describe the goods. They shall not be deemed to be an assurance of a specific property or guarantee. A warranty or guarantee shall only be accepted if the Seller expressly declares it in writing.
- 3.4 Information about the goods sold by the Seller (e.g. weights, dimensions, load capacity, tolerances and technical data) as well as representations of the same (e.g. drawings and illustrations), in particular in brochures, catalogs, promotional literature and other documents as well as the website and online store of the Seller are only approximately authoritative, unless the quality and usability for a particular purpose is contractually agreed and do not constitute a quality or durability guarantee of the Seller.

#### **§ 4 Prices and price adjustment**

- 4.1 Unless otherwise agreed, the prices stated in the Seller's order confirmation shall apply in Euro. The prices shall apply ex works of the Seller and only to the scope of performance and delivery specified in the order confirmation. Not included are in particular costs for freight, packaging, insurance, customs, public charges and VAT.
- 4.2 The statutory value added tax shall be shown separately in the invoice at the rate applicable on the date of invoicing.
- 4.3 If, between the conclusion of the contract and the delivery of the ordered goods, cost increases occur which cannot be justified by the Seller and which were unforeseeable at the time of the conclusion of the contract, in particular due to changes in market prices, material and raw material prices, and which result in the Seller only being able to obtain the goods from its supplier under worse economic conditions than was foreseeable at the time of the conclusion of the contract with the Buyer, the Seller shall be entitled to adjust the prices agreed with the Buyer within the scope of the changed circumstances and without charging any additional profit, than was foreseeable at the time the contract was concluded with the Buyer, the Seller shall be entitled to adjust the prices agreed with the Buyer within the scope of the changed circumstances and without charging any additional profit if the goods are to be delivered more than four months after the conclusion of the contract. If the increase of the net purchase price agreed with the Buyer is more than twenty percent, the Buyer may withdraw from the concluded contract.
- 4.4 The Seller shall be entitled to perform or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, circumstances become known to the Seller which are likely to substantially reduce the creditworthiness of the

Buyer and which jeopardize the payment of outstanding claims. This shall apply mutatis mutandis if the Buyer refuses to pay the Seller's outstanding claims or fails to make payment and there are no undisputed or legally established objections to the Seller's claims.

#### **§ 5 Terms of payment**

- 5.1 Unless otherwise agreed in writing, all invoices of the Seller shall be paid immediately without any deduction, free of postage and expenses, to the Seller's account stated on the invoice, at the latest within 30 days after the date of the invoice, in Euro.
- 5.2 Spare parts and components are payable net without deduction immediately.
- 5.3 If the Buyer is in default with a due payment, the Seller shall be entitled to charge interest per invoice from the due date at a rate of 9 percentage points above the respective base interest rate plus a flat-rate default fee of EUR 40.00 as well as reasonable collection costs and attorney's fees and to make all outstanding invoice amounts due immediately. The Seller reserves the right to claim higher damages for default.
- 5.4 Bills of exchange and checks shall only be accepted on the basis of an express written agreement and only on account of payment. Discount charges and other bill of exchange and check costs shall be borne by the Buyer. The Seller's rights under § 9 of these GCS shall remain in force until all claims arising from bills of exchange have been satisfied in full.
- 5.5 The Seller shall be entitled to credit payments of the Buyer first against the Buyer's oldest debt. If costs and interest have been incurred, the Seller shall be entitled to set off the payment against the costs, then against the interest and finally against the principal claim.
- 5.6 If the Buyer does not accept purchased goods after the expiry of a grace period granted to him (default in acceptance), the purchase price shall become due on the date of the Seller's declaration of readiness for dispatch. At the same time, the Seller may demand a lump sum for storage costs from the date of default in acceptance. This shall amount to 0.5 % of the net order value for each week or part thereof of the delay in acceptance and shall be limited to 5 % of the net purchase price concerned. The Buyer and the Seller shall be at liberty to prove that no, lower or higher storage costs were incurred in connection with the non-acceptance of goods. Other claims remain unaffected.

#### **§ 6 Set-off, retention, assignment**

- 6.1 Counterclaims of the Buyer shall only entitle him to set-off or to assert a right of retention if they have been legally established or are undisputed. This shall not apply to a counterclaim due to a defect which is based on the same contractual relationship as the purchase price claim.
- 6.2 The assignment of any claims of the Buyer against the Seller arising from the contractual relationship to third parties shall require the written consent of the Seller in order to be effective. The Seller shall refuse its consent only for justified reasons.

## **§ 7 Delivery, delivery and performance time and partial deliveries**

- 7.1 Unless otherwise agreed, deliveries shall be made ex works of the Seller (EXW Incoterms® 2020).
- 7.2 Delivery periods and delivery dates stated by the Seller are estimated, non-binding periods and dates. The Seller shall not be liable for delays in delivery. Delivery periods and dates shall only be binding on the Seller if the Seller has expressly designated or confirmed them as binding in writing. Unless otherwise agreed, deliveries by the Seller shall be deemed to have been made on time if the goods are handed over to a transport person for transport to the Buyer at the manufacturer's place of business or at the Seller's place of business or warehouse, or if the Seller has notified the Buyer that the goods are ready for dispatch after the Buyer has defaulted in accepting the goods.
- 7.3 Agreed delivery periods shall not commence before the complete provision of the documents, approvals and releases to be procured by the Buyer, the clarification of all questions and the receipt of an agreed down payment. Compliance with the delivery period or delivery date shall be subject to the timely and proper fulfillment of this and all other obligations of the Buyer. Compliance with agreed delivery periods and dates shall be subject to timely and proper delivery to the Seller. The same shall apply to performance periods and delivery dates.
- 7.4 If, for reasons for which the Seller is not responsible, the Seller does not receive deliveries or services from manufacturers, upstream suppliers or subcontractors, or does not receive them correctly or on time, despite proper congruent coverage, or if events of force majeure occur, i.e. impediments to performance through no fault of the Seller, with a duration of more than four weeks, the Seller shall inform the Buyer in writing in due time. In this case, the Seller shall be entitled to postpone the delivery or service for the duration of the impediment or to withdraw from the contract in whole or in part due to the part not yet fulfilled, the latter insofar as the Seller has fulfilled its aforementioned duty to inform and the impediment to performance lasts longer than 2 months. Force majeure shall include strikes or lockouts, including at upstream suppliers, official interventions, energy and raw material shortages, transport bottlenecks for which the Seller is not responsible, operational hindrances for which the Seller is not responsible, e.g. due to fire, water and equipment damage, cyber attacks, epidemics or pandemics and all other hindrances which, viewed objectively, were not culpably caused by the Seller.
- 7.5 If a delivery or performance date or a delivery or performance period has been bindingly agreed and if this period or this deadline is exceeded by more than two months as a result of events in accordance with Section 7.4 above and if the Buyer cannot reasonably be expected to accept the delivery or performance as a result of the delay, the Buyer may withdraw from the unfulfilled part of the contract vis-à-vis the Seller after the fruitless expiry of a reasonable grace period with the threat of rejection. The occurrence of the delay in delivery shall be determined in accordance with the statutory provisions.

7.6 Partial deliveries are permissible if the partial delivery is usable for the Buyer within the scope of the contractual purpose, the delivery of the remaining ordered goods is ensured and the Buyer does not incur any significant additional expenses or costs as a result.

7.7 If the delivery is made using returnable packaging, such as Euro pallets or skeleton containers, these are to be returned by the Buyer free of charge via the carrier in the exchange procedure. All other packaging is disposable and must not be returned to the Seller and must be disposed of by the Buyer.

## **§ 8 Transfer of risk, shipment and insurance**

8.1 The risk of accidental loss and accidental deterioration of the goods shall pass to the Buyer upon their handover to the forwarder, carrier or other person designated to carry out the shipment to the Buyer. The Seller has thus fulfilled his obligation to deliver. This shall also apply if partial deliveries are made or if a shipment free of freight charges or costs for the Buyer has been agreed upon or if the Seller selects the mode of shipment, the shipping route or the shipping person. At the request and expense of the Buyer, the Seller shall insure the goods against the risks to be specified by the Buyer by means of transport insurance.

8.2 If the handover or shipment is delayed due to circumstances for which the Buyer is responsible, the risk shall pass to the Buyer on the day on which the goods are ready for shipment and the Seller has notified the Buyer of this fact.

8.3 If the Seller selects the shipping method, the shipping route and/or the shipping person, the Seller shall only be liable for intent or gross negligence in the relevant selection.

8.4 In case of return of goods by the Buyer, the Buyer bears the risk of damage and accidental loss.

8.5 Items delivered for testing, rental, consignment or loan shall be stored at the customer's premises at the customer's risk and shall be insured against burglary, fire, water and other hazards and stored properly.

## **§ 9 Retention of title**

9.1 The delivered goods remain the property of the seller until full payment of all claims to which the seller is entitled against the Buyer from the business relationship. The Buyer is obliged to treat the goods subject to retention of title with care for the duration of the retention of title. In particular, he shall be obliged to insure them adequately at his own expense against damage by fire, water and theft at replacement value. The Buyer hereby assigns to the Seller all claims for compensation arising from this insurance. The Seller hereby accepts the assignment. If an assignment should not be permissible, the Buyer hereby irrevocably instructs its insurer to make any payments only to the Seller. Any further claims of the Seller shall remain unaffected. Upon request, the Buyer shall provide the Seller with evidence of the conclusion of the insurance policy. If maintenance and inspection work has to be carried out, the Buyer shall carry this out in good time at its own expense.

9.2 The Buyer is not entitled to pledge the goods subject to retention of title, to assign them by way of security or to make any other dispositions endangering the Seller's title. In the event of seizure or other interventions by third parties, the Buyer

- shall immediately notify the Seller in writing and provide all necessary information, inform the third party of the Seller's ownership rights and cooperate in the Seller's measures to protect the goods subject to retention of title. The Buyer shall bear all costs for which he is responsible and which have to be incurred in order to cancel the seizure and to recover the goods.
- 9.3 The Buyer hereby assigns to the Seller the claims arising from the resale of the goods with all ancillary rights, irrespective of whether the goods subject to retention of title are resold without or after processing. The Seller accepts this assignment already now. If an assignment should not be permissible, the Buyer hereby irrevocably instructs the third-party debtor to make any payments only to the Seller. The Buyer is revocably authorized to collect the claims assigned to the Seller in trust for the Seller. The collected amounts shall be paid to the Seller immediately. The Seller may revoke the Buyer's authorization to collect and the Buyer's authorization to resell if the Buyer fails to duly meet its payment obligations to the Seller, defaults in payment, suspends its payments or if insolvency proceedings are instituted against the Buyer's assets. Upon notification of the assignment to the third-party debtor, the Buyer's right to collect shall expire. In the event of revocation of the authority to collect, the Seller may demand that the Buyer discloses the assigned claims and their debtors, provides all information required for collection, hands over the associated documents and notifies the debtors of the assignment.
- 9.4 In the event of default in payment by the Buyer, the Seller shall be entitled to withdraw from the contract without prejudice to its other rights. The Buyer shall immediately grant the Seller or a third party commissioned by the Seller access to the goods subject to retention of title, surrender them and inform the Seller where they are located. After due warning, the Seller may otherwise dispose of the goods subject to retention of title in order to satisfy its due claims against the Buyer.
- 9.5 In the case of deliveries of goods to other legal systems in which the retention of title provision under Clauses 9.1 - 9.4 does not have the same security effect as in the Federal Republic of Germany, the Buyer shall grant the Seller a corresponding security interest. To the extent that further declarations or actions are required for this purpose, Buyer shall make such declarations and cooperate in all measures which are necessary and conducive to the effectiveness and enforceability of such security interests.
- 9.6 Insofar as the Seller replaces goods under warranty, it is agreed that ownership of the goods concerned shall pass from the Buyer to the Seller as soon as the Seller receives the goods back from the Buyer.

## § 10 Goods returns and redemptions

- 10.1 Goods may be returned by the Buyer only after prior consultation with the Seller. In the case of voluntary return of goods, for which there is no legal obligation on the part of the Seller, the return may only be made within two weeks of written approval by the Seller and only in unopened and resalable original packaging.
- 10.2 For voluntary returns of goods, which the Seller is not legally obliged to take back, and which the Buyer is responsible for or wishes to take back, the Buyer shall owe a processing and restocking fee of 10% of the net purchase price, at least EUR

- 10.00 per transaction, which the Seller reserves the right to assert.
- 10.3 In case of voluntary return of goods, the Buyer bears the freight risk and freight costs for the return shipment.
- 10.4 For goods voluntarily taken back, the Seller shall issue the Buyer a goods credit note which can only be offset against a goods delivery claim from a new goods order of the Buyer. Cash refunds are excluded, unless the Seller determines otherwise.

## § 11 Condition, use, notification of defects

- 11.1 The basis of the Seller's warranty, insofar as such exists, shall primarily be the subjective requirements for the contractual conformity of the goods on the basis of the agreed quality and the agreed specifications and use at the time of delivery. The agreed quality pursuant to Section 434 of the German Civil Code shall be deemed to be in particular the manufacturer's information on performance specifications, load and intended use of the goods in the Seller's technical product sheets. The Seller warrants that the delivered goods have these characteristics, provided that the intended use, as specified in the technical product sheets or customary, is observed at all times. Annexes, lists and other documents of the Buyer shall not become part of a quality agreement, unless the Seller has expressly agreed to their applicability.
- 11.2 The delivered goods are only intended for the specific and released purposes. The Seller shall not assume any liability for expenses and damages resulting from any use deviating from the intended use pursuant to Clause 11.1 without prior express confirmation. The Buyer undertakes to indemnify the Seller against all claims by third parties for personal injury and/or damage to property, insofar as such expenses and damage have arisen in connection with the use of the goods for purposes which have not been released, are prohibited or are not in accordance with the intended use pursuant to Clause 11.1 without the Seller's prior express confirmation.
- 11.3 The Buyer is solely responsible for the suitability and safety of the goods for a Buyer-specific use. Due to the multitude of possible applications, the different requirements and individual conditions of use, the Seller cannot guarantee the suitability of the goods for a Buyer-specific application deviating from the technical product sheets, if he has not expressly guaranteed the suitability in writing. The Buyer is obliged to check the suitability of the goods for the use intended by him himself. The Seller does not provide any warranty, in particular not for the composition, quality or durability of the goods.
- 11.4 Warranty rights of the Buyer require that he has fulfilled his inspection and complaint obligations. In particular, he shall carefully inspect the delivered goods upon receipt without undue delay within one working day of delivery to determine whether they correspond to the ordered goods and quantity and whether there are any recognizable transport damages or any defects recognizable through mechanical and technical inspections of the goods that are otherwise customary in the general course of business. The Buyer shall notify the Seller in writing immediately upon receipt of the goods of any defects or damage to the goods which become apparent during such inspection, stating the specific complaints and

symptoms of defects, as well as the article number and quantity of the goods concerned. Hidden defects and field failures shall be notified by the Buyer to the Seller in writing without undue delay after their discovery, stating the relevant details as per sentence 2 as well as the place and date of their occurrence. The notification shall be deemed to be immediate if it is made within three working days at the latest, whereby the dispatch of the notification or complaint to the Seller shall suffice to meet the deadline. If the Buyer fails to duly inspect the goods or to give notice of defects in accordance with the above information, the Seller shall not be liable for defects that are not reported, not reported properly or not reported on time, in particular warranty claims pursuant to § 12.

11.5 The Buyer shall immediately give the Seller the opportunity and the necessary time to examine the defects complained of and any measures already taken in this regard - including by third parties. He shall immediately present or make available to the Seller the goods complained about and submit complaint and service reports. At the request of the Seller, the Buyer shall be obliged to have the quality of the goods and the complaints made recorded by a neutral expert at the Buyer's expense or shall give the Seller or its sub-supplier the opportunity to check the identity and quality of the goods complained about on site. Otherwise, he may not invoke the defects complained of against the Seller.

## § 12 Warranty

12.1 In the event of defects in the goods existing at the time of the transfer of risk, the Buyer shall first have the right to subsequent performance by rectification of the defect or replacement delivery of defect-free goods at the Seller's discretion within a reasonable period of time. The right of the Seller to refuse subsequent performance under the statutory conditions shall remain unaffected. If the Seller is not willing or able to provide subsequent performance after a reasonable period of time, the Buyer may, at its option, withdraw from the contract or reduce the purchase price. In the event of an insignificant defect, the Buyer shall have no right to rescind the contract.

12.2 The Seller shall be entitled to make the subsequent performance owed dependent on the Buyer paying the purchase price due. The Buyer shall have the right to retain a reasonable part of the purchase price in relation to the defect.

12.3 Expenses required for the purpose of subsequent performance, such as transport, travel, labor and material costs, shall be borne by the Seller if it turns out that a defect existed at the time of the passing of risk. All other necessary expenses shall be determined according to objective standards in accordance with these GTC, insofar as they are necessary and reasonable. Removal and installation costs associated with the subsequent performance of the goods processed by the Buyer or attached to another item are excluded if the goods have not been used by the Buyer for their intended purpose or have been used improperly. The necessary expenses expressly do not include the Buyer's own expenses, as well as damages that are not necessarily connected with the subsequent improvement measure, as well as loss of use damages and frustrated expenses.

12.4 If the Seller is not responsible for the defective delivery, the Buyer may demand reimbursement

of its expenses for necessary removal and installation costs only to a proportionate extent up to a maximum of twice the net order value as supplementary performance. If the Seller is responsible for the defective delivery, the Buyer may demand full reimbursement of the necessary removal and installation costs under the conditions set out in Clause 13.1. In all other respects, claims for subsequent performance and claims under a right of recourse for payment of removal and installation costs due to defects irrespective of fault shall be excluded.

12.5 The Buyer's warranty claims shall lapse if the Buyer attempts to repair the goods itself or has them repaired or modified by a third party without the Seller's prior consent and if this makes it impossible or unreasonably difficult to remedy the defect. In the case of the purchase of used goods, the Buyer shall not be entitled to any warranty claims, subject to the unlimited liability under Clause 13.1.

12.6 Claims for reimbursement of expenses instead of damages in lieu of performance are excluded insofar as these were not necessary or a reasonable third party would not have incurred the expenses, which the Buyer must demonstrate.

12.7 If, as a result of a defect in the goods delivered by the Seller, the Buyer had to take them back from a customer, accept a reduction in the purchase price or pay the customer damages or reimbursement of expenses, the rights against the Seller described in § 437 BGB and §§ 445a, b BGB, because of the defect asserted by the Buyer's customer, require the setting of a deadline for subsequent performance against the Seller.

12.8 The limitation period for claims of the Buyer is one year. The limitation period for warranty claims shall commence upon transfer of risk, at the latest upon delivery of the goods to the Buyer. For all other claims, including claims in tort, the limitation period shall commence upon the Buyer's knowledge or grossly negligent ignorance of the circumstances giving rise to the claim and the person of the debtor. The unlimited liability of the Seller for damages arising from breach of warranty or from injury to life, limb or health, for intent and gross negligence and for product defects under the Product Liability Act shall remain unaffected by this, for these the statutory limitation periods shall apply exclusively.

12.9 The limitation of claims within the supply chain according to § 445a of the German Civil Code (BGB) shall commence two months after the date on which the Buyer fulfills the claims of its customer. This suspension of expiry shall end at the latest two years after the time at which the Seller has delivered the goods concerned to the Buyer, if the Buyer is or has been granted an equivalent compensation. In all other respects, the statutory provisions on supplier recourse shall apply.

12.10 A statement by the Seller to the Buyer regarding a notice of defect shall not be deemed to be an acknowledgement of a defect or entry into negotiations regarding a claim or the circumstances giving rise to a claim, unless negotiations are expressly entered into. This shall also apply to the involvement of third parties if the Seller has rejected any claims.

12.11 The place of performance for subsequent performance and rectification is the registered office of the Seller. The Seller shall also be entitled to subsequent performance and rectification at the Buyer's registered office.

- 12.12 The Buyer is obliged to provide the Seller with the goods for the purpose of subsequent performance.
- 12.13 The warranty does not cover services or goods which, after they have been provided, are impaired as a result of incorrect or negligent handling, excessive stress (racing or competitive use), unsuitable operating materials or which are impaired due to special external influences which are not assumed according to the object of use. Furthermore, warranty claims shall not exist if services or goods provided by the Seller are improperly handled, incorrectly operated, forcibly destroyed or damaged by chemical, physical or electrical influences.
- 12.14 The Seller's warranty does not cover wear and tear or natural wear and tear of wear parts.

### § 13 Compensation for damages

- 13.1 The right of the Seller to claim damages shall be governed by the statutory provisions, unless otherwise stipulated in the GCS. The Seller shall be liable without limitation for damages arising from the breach of a warranty or from injury to life, limb or health. The same shall apply to intent and gross negligence, to the mandatory statutory liability under the Product Liability Act and to liability for fraudulent concealment of defects. For simple negligence, the Seller shall only be liable for damages in the event of a breach of an essential contractual obligation which arises from the nature of the contract, the fulfillment of which is a prerequisite for the proper execution of the contract and on which the Buyer may regularly rely. Such essential contractual obligations of the Seller are in particular his main performance obligations, such as the defect-free delivery of the goods. In case of negligent breach of essential contractual obligations as well as in case of default and impossibility, the Seller's liability shall be limited to the foreseeable, typically occurring damage. Unless otherwise stipulated above, the liability of the Seller is otherwise excluded.
- 13.2 If the Seller claims damages for non-performance and the object of sale has not yet been delivered by him or is taken back by him, he shall be entitled to a lump sum of 15% of the net purchase price as damages without any special proof. If the Seller proves that he has incurred further damage, he may also demand compensation for such damage. The Buyer reserves the right to prove a lesser damage.
- 13.3 If the Seller takes back the object of purchase in execution of the agreed reservation of title in connection with his claims for damages due to non-performance, he shall be entitled to a further lump-sum payment of 10% of the net purchase price of the goods taken back in addition to the damages agreed in Clause 13.2 as compensation for the expenses of taking back and realizing the goods. The Buyer reserves the right to prove a lower damage.
- 13.4 Insofar as the Seller/Contractor provides technical information or acts in an advisory capacity and such information or advice is not part of the contractually owed scope of performance, this shall be provided free of charge and to the exclusion of any liability for damages.

### § 14 Product liability

- 14.1 The Buyer shall not modify the goods without the prior consent of the Seller, in particular the Buyer

shall not modify or remove existing warnings about dangers in case of improper use of the goods. In the event of a breach of this obligation, the Buyer shall indemnify the Seller internally against product liability claims of third parties, insofar as the Buyer is responsible for the defect giving rise to liability.

- 14.2 If Seller is required to issue a product recall or product warning due to a product defect in the Goods, Buyer shall assist Seller and take all reasonable actions directed by Seller. Buyer shall make available to Seller all documents relating to the production, delivery and complaint of the goods.
- 14.3 The Buyer shall be obliged to bear the costs of the product recall or product warning to the extent that it is responsible for the product defect and the damage incurred. Further claims of the Seller remain unaffected.
- 14.4 The Buyer shall immediately inform the Seller in writing of any risks in the use of the goods and possible product defects or product failures of which it becomes aware in each individual case.

### § 15 Industrial property rights and copyrights

- 15.1 The Seller shall remain the exclusive legal owner of all documents, specifications, drawings, illustrations, technical descriptions and other technical information supplied or provided in connection with this contract. With the purchase of the products, no licenses or rights of use, industrial property rights, rights equivalent to industrial property rights or other rights to intellectual property and industrial property rights shall be transferred to the Buyer. Excluded from this are rights necessarily associated with the delivery.
- 15.2 Without the prior consent of the Seller, the documents may not be used for purposes not related to the contract, in particular they may not be reproduced or made available to third parties.
- 15.3 The goods may be subject to patent, trademark, copyright, design rights and other intellectual property rights of third parties. Seller shall not be responsible or liable for any claim relating to an infringement of any of these rights.
- 15.4 The Buyer is not entitled as a result of investigations of the structures, conditions and behavior of the goods to extract their design elements and reconstruct the Seller's goods.

### § 16 Data protection

Personal data of the Seller shall be processed exclusively for the performance of the contract to which the Seller is a party as a data subject or for the performance of necessary pre-contractual measures which are taken at the Seller's request. The legal basis for the processing is Article 6(1)(b) of the General Data Protection Regulation (DSGVO). Notwithstanding any statutory retention periods, this data will be deleted after termination of the contract. The responsible party for this is:  
Office for Corporate Data Protection Services,  
Owner: Wolfgang Franz, Crailsheimer Straße 8 in  
74586 Frankenhardt, Germany, Tel.: +49 7959  
9265865, E-Mail: w.franz@datenschutz-  
ostalb.de.

### § 17 Export, export control, customs

- 17.1 Delivered goods are intended to remain in the country of delivery agreed with the Buyer. Goods

17.2 subject to embargo regulations may not be exported by the Buyer from the country of delivery. Insofar as the delivered goods are subject in particular to German, European and American export controls and embargo provisions, it is incumbent upon the Buyer to inform himself about the corresponding export and/or import provisions or restrictions and, if necessary, to obtain the corresponding approvals.

17.3 The Buyer shall be liable to the Seller for all damages caused by its culpable non-compliance with the provisions set forth in § 17 and shall indemnify the Seller against any claims of third parties.

17.4 If the Seller has to pay new, additional or changed customs duties, levies or comparable costs directly in relation to the Buyer or in relation to the goods even indirectly to its supplier, which were not foreseeable by the Seller in the price calculation in connection with the goods purchased under these GCS at the time of confirmation of the order to the Buyer and were therefore not taken into account accordingly, the Seller may, at its option, either:

- a) adjust the price stated in the order confirmation to the Buyer by an amount equal to the change in customs duties, levies or comparable costs without charging any additional profit to the Seller; or
- b) in the event of an unreasonable increase or reimposition by Seller of any customs duties, levies or similar charges, refund any amounts already paid by Buyer in connection with any affected Purchase Order and cancel the Purchase Order without incurring any liability on the part of Seller as a result of such cancellation, subject to Clause 13.1.

When adjusting the price in accordance with a), the Seller shall be obliged to take into account cost increases only if countervailing cost reductions in customs duties, levies or comparable costs are taken into account and to balance such cost increases and reductions. If the increase is more than 10% compared to the net purchase price originally agreed with the Buyer, the Buyer may withdraw from the concluded contract.

## § 18 Disposal and disposal instructions

18.1 To the extent required by law, the Buyer shall be obliged to dispose of products covered by the ElektroG, BatterieG or the Packaging Act on its own responsibility in accordance with all statutory provisions. The Buyer shall assume all related payment and notification obligations to the extent legally possible and shall impose the above obligations on its customers accordingly.

18.2 The Seller is obliged to take back and dispose of waste electrical and electronic equipment in accordance with § 19 Para. 3 ElektroG. If no return takes place, the Buyer or the end user is responsible for a complete and proper disposal.

18.3 The return and disposal options for waste electrical and electronic equipment created by the Seller can be viewed on the Seller's website (§ 19a No. 1 ElektroG).

18.4 The Buyer as the purchaser or end user, if this is not a private household, shall bear the costs of return and disposal.

18.5 In connection with the sale and delivery of battery/rechargeable battery and devices containing battery/rechargeable battery, the Seller is required by law to point out the following:

- The symbol of the crossed-out wheeled garbage can means that the battery/rechargeable battery or electrical/electronic product must not be disposed of with household waste (§ 19a No. 3 ElektroG).
- Waste electrical and electronic equipment must be collected separately from unsorted municipal waste (§ 10 Para. 1 Sentence 1 ElektroG).
- Batteries and accumulators not enclosed by the WEEE (Waste electronic or electrical equipment) must always be removed before return (§ 10 Para. 1 S. 2 ElektroG).
- With regard to the deletion of personal data on the disposed WEEE, the end users are solely responsible (§ 19a No. 2 ElektroG).

The Buyer undertakes to inform the customers or the end user about the points listed in Clause 18.5 and to inform them accordingly. Furthermore, the Buyer shall be obliged to impose this obligation on its own customers in the supply chain. In addition, the Buyer and end users shall observe the statutory provisions and obligations of the ElektroG, BatterieG and VerpackungsG accordingly.

## § 19 Final provisions

19.1 The transfer of rights and obligations of the Buyer to third parties shall be effective vis-à-vis the Seller only with the written consent of the Seller.

19.2 The place of performance for the contractual obligations is the registered office of the Seller.

19.3 The place of jurisdiction for all disputes arising from the contractual relationship shall be the Seller's place of business. The Seller shall also be entitled to bring an action at the Buyer's place of business as well as at any other admissible place of jurisdiction.

19.4 Furthermore, in international contractual relations, the Seller shall have the right to call upon the arbitration court at the Chamber of Industry and Commerce (IHK) Stuttgart or Ostwürttemberg as plaintiff. In this case, the arbitration court shall finally decide the legal dispute in accordance with the Arbitration Rules of the German Institution of Arbitration (Deutsche Institution für Schiedsgerichtsbarkeit e.V. (DIS) to the exclusion of the ordinary courts of law. The initiation of the judicial dunning procedure by the Seller does not constitute an exercise of the right of choice.

19.5 The contractual relationship, including its interpretation and execution, shall be governed by the laws of the Federal Republic of Germany, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

19.6 Should any provision of these GTC be or become invalid or unenforceable in whole or in part, or should there be a gap in these GTC, this shall not affect the validity of the remaining provisions. In their place, the valid or enforceable provision that comes closest to the purpose of the invalid or unenforceable provision shall be deemed agreed; the same shall apply insofar as a matter requiring regulation is not expressly regulated.

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