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These Terms and Conditions (Sales) for the sale of goods and the provision of services (hereinafter "T&Cs") are divided into two parts: Part A, which contains general regulations for all types of contracts, and Part B, which contains regulations for specific types of contracts in addition to Part A.

**A. GENERAL PROVISIONS**

The following provisions in this Part A apply to all types of contracts with our customers, subject to any special provisions in Part B.

**I. SCOPE**

1. These T&Cs apply to all our business relationships with our business customers. They apply in particular to contracts for goods, goods and services, services and the rental of goods. However, they shall not apply where the customer is a consumer.

2. The T&Cs shall also apply to any future contracts with the customer without us having to refer to them again in each individual case.
3. Our T&Cs shall apply exclusively, even if we accept orders without reservation with knowledge of the customer's terms and conditions, provide services or make direct or indirect reference to letters or the like which contain the customer's or third parties' terms and conditions. We recognise conflicting, deviating, or supplementary terms and conditions of the customer in each case only by expressly agreeing to the application of such in writing.

## **II. FORM**

1. Any individual agreements entered into in writing in individual cases (including ancillary agreements, supplements and amendments) shall take precedence over these T&Cs, provided that any customer's terms and conditions shall not apply. Subject to any proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements. Written form within the meaning of these T&Cs also includes electronic declarations signed by means of "Adobe Sign" or, by mutual agreement of the parties, signed by any other means of electronic system complying with the state of the art.
2. Unless otherwise stipulated below, notices (e.g. of delivery deadlines, payment demands, rescission, termination) must be made in writing to the other party.

## **III. CONCLUSION OF CONTRACT / REPRESENTATION**

1. Our offers are subject to change without notice and are non-binding unless they are expressly marked as binding or contain a specific acceptance period. This shall apply also if we have provided the customer with catalogues, technical documentation, other product descriptions or documents – including in electronic form.
2. An order by the customer shall be deemed to be a legally binding offer to conclude a contract. We are entitled to accept this contractual offer within 21 calendar days of its receipt by us. Our acceptance shall be made in writing (e.g. by our order confirmation or our notification of readiness for dispatch/collection) or by delivery of the goods.
3. In the event of any conflict between the terms of any purchase order provided by the customer and our order confirmation, the wording of our order confirmation shall take precedence over these T&Cs.
4. Any oral agreements made prior to the conclusion of the contract shall be legally non-binding and shall be superseded in full by the contract, unless it is expressly stated in each case that such shall continue to be binding.
5. Our information on the scope of any goods or services (e.g. weights, dimensions, utility values, load-bearing capacity and technical data) as well as our statements of the same (e.g. drawings and illustrations) are not binding and shall not operate as warranties, but serve merely as descriptions or identifications of the subject matter of the goods or services, unless they were expressly warranted as definite qualities in our offer or order confirmation or exact conformity is necessary to be able to use the subject matter of the performance for the agreed intended purpose. Deviations customary in the trade as well as any deviations based on legal regulations or representing technical improvements as well as the replacement of components by equivalent parts are permissible insofar as such do not impair the usability for the agreed intended purpose.

6. The customer acknowledges that only two authorised representatives acting jointly in accordance with our delegations of authority may make legally binding declarations on our behalf.

**IV. PRICES / PROCESSING SURCHARGES / DELIVERY MODALITIES / INCOTERMS**

1. "Free Carrier - FCA (Incoterms 2020)" shall apply to all our deliveries (with reference to the place from which we deliver in each case), unless otherwise agreed. If we are also liable for the installation of a delivery object, the place of performance shall be the place at which the installation is to take place.
2. In deviation from the above section A.IV.1. and only if agreed with the customer, we shall ship the goods to the destination specified by the customer. This shall be done – also with regard to any packaging – at the customer's expense.
3. Pallets, containers and other reusable packaging remain our property and are to be returned by the customer to our delivery point without undue delay and free of charge. Non-returnable packaging will not be taken back.
4. The price quoted by us is exclusive of VAT and any other applicable taxes, duties or levies (except where we are responsible for such taxes pursuant to the applicable Incoterm). The customer shall make payment to us of such additional taxes and VAT in addition to the price.
5. If the customer does not make use of its right of rescission from section A. VII.3., the price for our goods applicable at the time of delivery shall apply in deviation from our order confirmation.

**V. RESERVATION OF RIGHTS / SECRECY / CONFIDENTIALITY**

1. We do not grant any rights or licences to our intellectual property (including but not limited to patents, trademarks, know-how and software). We reserve all property rights, copyright and industrial property rights to all documents, materials and other objects (e.g. offers, catalogues, price lists, cost estimates, plans, drawings, illustrations, calculations, product descriptions and specifications, samples, models and other physical and/or electronic documents, information and software) handed over by us to the customer; in particular, the customer shall not exploit, reproduce or modify any of the aforementioned.
2. The customer and we will use the aforementioned items and the information received from the other party only in the course of initiating and executing the contract exclusively for the contractual purposes.
3. The contracting parties undertake to treat all information obtained in connection with this contract and its implementation as confidential and to disclose or make it accessible to third parties only in the following cases:
  - a) with the consent of the other party to disclosure,
  - b) in the case of an obligation based on statutory provisions,
  - c) in the context of court or arbitration proceedings or in the case of an obligation by a legally binding court or unappealable official order,
  - d) for disclosure to independent auditors familiar with the audit of the financial statements of the respective contracting party, as well as to legal and tax advisors.
4. The obligation to maintain secrecy shall continue after the termination of the business relationship.

5. Information need not be treated as confidential if it:
  - a) has been developed independently of the other party;
  - b) is or becomes publicly known without any breach of the confidentiality obligations in this contract;
  - c) is obtained from a third party, provided that such information has not become subject to a confidentiality agreement with the respective contracting party.
6. Unless mandatory law provides otherwise, the customer shall return any all items and information referred to in the above paragraphs to us upon our request and destroy any existing copies (including electronic copies). Upon our request, the customer shall confirm to us the completeness of the return and destruction/deletion or, the state any items or information it is required to retain due to mandatory law. Each party may pass on information subject to confidentiality to companies affiliated with it provided that the affiliated company is bound to a duty of confidentiality in a comparable manner. Each party shall be liable for its affiliated companies should they breach any confidentiality obligations.
7. The provisions under section A.XIII. shall also apply in addition hereto and with priority in relation to any software.

#### **VI. EXPORT CONTROL**

1. With regard to the business with our products, technology, software, services or any other commodity products ("Schaeffler Goods"), the customer shall strictly comply with all applicable export control and sanction regulations and laws of the European Union ("EU"), the United States of America ("U.S.") and other jurisdictions ("Export Control Regulations").
2. The customer shall inform us in advance and provide us with all information (including the end-use) required for us to comply with Export Control Regulations, in particular if Schaeffler Goods are ordered for use in connection with
  - a) a country or territory, person or entity subject to restrictions or prohibitions under EU, U.S. or other applicable Export Control Regulations; or
  - b) the design, development, production or use of military or nuclear goods, chemical or biological weapons, missiles, space or aircraft applications and delivery systems therefore.
3. We inform the customer (i) that the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) treats us as a U.S. person for purposes of the sanction regulations relating to Iran (ITSR) and Cuba (CACR) and (ii) that therefore Schaeffler Goods may not be used – directly or indirectly – in any country or territory without the prior consent of the relevant U.S. authorities and in accordance with applicable anti-boycott regulations, supplied, exported, re-exported, sold or otherwise transferred, directly or indirectly, in any country or territory subject to restrictions or sanctions imposed by the U.S. Government or any person or entity on a sanctions list maintained by the U.S. Government.
4. The fulfilment of the contractual obligations by us is subject to the proviso that the applicable Export Control Regulations do not conflict with the fulfilment. In such a case, we will be entitled in particular to refuse or withhold performance of the contractual obligations without any liability being incurred on our part in relation to the customer.

**VII. DELIVERY DATES**

1. Dates for the provision of goods and services undertaken by us (hereinafter referred to as "Delivery Periods") are always only approximate dates. This shall not apply if a fixed Delivery Period has been expressly promised or agreed in writing as such. Where we agree that you shall make payment in advance of delivery, the Delivery Period shall be calculated from the later of (i) the date that we receive payment; and (ii) the date upon which we reach a final agreement with you on any issues prior to the start of production. Where we agree that you shall make payment following delivery, the Delivery Period shall be calculated from the later of (i) the date of our order confirmation; and (ii) the date upon which we reach a final agreement with you on any issues prior to the start of production.
2. If we are unable to perform any of our contractual obligations due to force majeure or other unforeseeable events beyond our control (hereinafter "Force Majeure"), we shall be released from the performance of such obligations for the duration of the Force Majeure and the related Delivery Periods shall be automatically extended by the period of the respective Force Majeure plus any necessary grace period. Force Majeure includes, but is not limited to, wars (including terrorist acts and acts similar to war, even if no formal state of war has been declared), insurrections, popular uprisings, rebellions, civil wars, sabotage, fires, floods, droughts, monsoons, hurricanes, tornadoes, typhoons, cyclones, lightning, thunderstorms, landslides, land erosion, earthquakes, volcanic activity, famines, explosions, scientifically unexplained events or other natural disasters, epidemics, pandemics, quarantine measures due to epidemics or pandemics, governmental actions or measures of any authority/state or prohibitions, changes in applicable laws (including the introduction of new laws and the repeal or amendment of existing laws) or judicial or regulatory interpretation or implementation of the aforementioned laws, made and/or published after the effective date of these T&Cs between the parties (hereinafter referred to as a "change in law") to the extent that the performance of our obligations under any contract is affected by such change in law, disruption of operations of any kind, disruption of supply from normally reliable sources (e.g. electricity, water, fuel and the like), shortages of energy and raw materials, transport delays, defective or delayed deliveries from suppliers for which we have concluded a corresponding agreement with the respective supplier to cover requirements at the time of the conclusion of the contract and for which we are not responsible, or strikes, lockouts or labour shortages. In the event of force majeure, we shall notify the customer as soon as possible, at the same time informing it of the expected new Delivery Period and use reasonable endeavours to limit the effects of the force majeure. However, the legal consequences of force majeure provided for in this section A.VII.2. shall remain unaffected by any failure to give such notice.
3. If we are still unable to deliver or perform as agreed three (3) months after the expiry of the Delivery Period for whatever reason, the customer and we shall be entitled to rescind the contract in whole or in part to the extent of the performance affected by the delay or, to terminate the contract; in this respect we shall immediately refund any consideration already paid by the customer and we shall have no further liability to the customer in respect of any failure to deliver during the Delivery Period.
4. We shall not be liable for a failure to deliver the goods if we are unable to perform our obligations due to (i) the customer's acts or omissions, (ii) the customer's failure to cooperate with us; or (iii) the Customer has either failed to comply with these T&Cs or its

- delayed in complying with these T&Cs. In such cases, we are entitled to demand compensation for any resulting damage, including additional expenses (e.g. storage costs). Our right to claim any other damages and our statutory claims (in particular compensation for additional expenses, reasonable compensation, termination) remain unaffected.
5. Insofar as it has been agreed with the customer that a specific quantity is to be delivered within a fixed period of time (hereinafter referred to as the "Closing Period") and the customer is entitled to determine the delivery date in each case, such are to be called off from us at the latest twelve weeks before the desired delivery date. After expiry of the Closing Period, we may deliver and invoice the customer for the quantity not yet called off.
  6. If the customer requests changes to performance deadlines or other dates, these shall only become legally binding with our consent in writing. The costs incurred by us due to such changes shall be reimbursed to us by the customer.
  7. We are entitled to render partial performance if (a) a partial performance is usable for the customer within the scope of the contractual intended purpose, (b) the provision of the remaining performances is ensured, and (c) the customer does not incur significant additional expenses or costs as a result of the partial performance, unless we agree to bear these costs.
  8. The rights of the customer according to section A.XI. of these T&Cs and our statutory rights, in particular in the event of any exclusion of the duty to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected.

#### **VIII. PAYMENTS**

1. Unless otherwise agreed, payments shall be made to a nominated bank account set out on the invoice within the payment period stated on the invoice. The invoice shall be deemed to have been received within three (3) days of dispatch, unless the customer proves otherwise. We are entitled at any time, also within the framework of an ongoing business relationship, to provide a delivery in whole or in part only against advance payment.
2. Upon expiry of the aforementioned payment deadline, the customer shall be in default to the extent payment has not been made in accordance with these T&Cs, unless such payment is not made due to a bona fide dispute in respect of such payment. During the period of default, interest shall be charged on the payment owed at the rate set out in the Late Payment of Commercial Debts (Interest) Act 1998 (as amended from time to time) from the due date to the date we receive payment of the overdue amount. We reserve the right to assert further claims for damage caused by default.
3. In the event of default in payment or if we reasonably consider that we may not receive payment due to the customer's lack of ability to pay, we shall be entitled (i) to unilaterally change the agreed method of payment to advance payment by giving notice in writing, (ii) to withhold the goods or services concerned, (iii) to demand security from a third party (e.g. bank guarantee from a major British bank) for the resumption of the goods or services or (iv) to rescind the contract with immediate effect. All amounts due under or in connection with these T&Cs shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any admitted credit or overpayment, or deduction or withholding of tax as required by law).

**IX. RETENTION OF TITLE**

1. Goods paid for in advance are not subject to retention of title. In all other respects, we will retain our title to all goods delivered by us until payment has been made in full ("Goods Subject to Retention of Title"). Title to the goods shall transfer to the customer upon our receipt of the payment in full in respect of those goods. The retention of title extends to any products resulting from the processing, mixing or combination of our goods at their full value, whereby we are deemed to be the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, third party rights of ownership remain or if the value of the newly created products is greater than the value of the Goods Subject to Retention of Title, we shall acquire a co-ownership proportionate to the value of the Goods Subject to Retention of Title (gross invoice value) in relation to the value of the processed, mixed or combined goods. In the event that, for any reason, no such acquisition of ownership or co-ownership results, the customer hereby assigns to us any ownership or (in the aforementioned proportion) co-ownership of the newly created products as security; we hereby accept this assignment. If the customer's product is to be regarded as the main object as a result of the mixing, we and the customer agree that the customer shall transfer co-ownership of this product to us on a pro rata basis. We hereby accept the transfer. The customer shall keep the title or co-ownership for us free of charge.
2. Until revoked, the customer is entitled to use, process/convert, combine, mix and/or sell the Goods Subject to Retention of Title in the ordinary course of business. The customer hereby assigns to us by way of security – in the event of co-ownership by us of the Goods Subject to Retention of Title on a pro rata basis in accordance with our co-ownership share – the customer's claims for payment against its customers from a resale of the Goods Subject to Retention of Title as well as those claims of the customer in respect of the Goods Subject to Retention of Title which arise for any other legal reason against its customers or third parties (in particular claims in tort and claims for insurance), including all balance claims from the current accounts. We hereby accept these assignments.
3. We hereby revocably authorise the customer to bring any claims assigned to us in its own name on our behalf. This shall not affect our right to bring these claims ourselves. However, we shall not bring such claims ourselves and shall not revoke this authorisation to bring such claims as long as the customer duly fulfils its payment obligations towards us within the specified payment term (and in particular does not fall into arrears), as long as no application has been filed for the opening of insolvency proceedings against the customer's assets and the customer has not suffered any other insolvency-related event, including an inability to pay its debts when they fall due and we do not assert the retention of title by exercising a right in accordance with section A.IX.6. of these T&Cs. If one of the aforementioned cases occurs, we may demand that the customer informs us of the assigned claims and the respective debtors, notifies the respective debtors of the assignment (which we may also undertake ourselves at our discretion) and hands over to us all documents and provides all information that we require to assert such claims.
4. The customer is not entitled to pledge the Goods Subject to Retention of Title or to assign such as security. In the event of any seizure of the Goods Subject to Retention of Title by third parties or any other access to such by third parties, the customer must clearly indicate our ownership and notify us without undue delay so that we can pursue our ownership rights. Insofar as the third party is not able to reimburse the judicial or



- extrajudicial costs incurred by us in this connection, the customer shall be liable to us in this regard.
5. In the event of conduct by the customer in breach of contract, including in the event of non-payment of the purchase price due, we shall be entitled to rescind the contract in accordance with the statutory provisions of law and/or to demand surrender of the goods on the basis of the retention of title. Any demand for return will not simultaneously constitute a notice of rescission; we are entitled to demand only the return of the goods and reserve a right of rescission. If the customer fails to pay the purchase price due, we may assert these rights only if we have previously set the customer a reasonable deadline for payment and this has not been met or, if setting such a deadline is not required by the statutory provisions of law.
  6. Insofar as mandatory legal provisions of the respective state do not allow for a reservation in accordance with these sections A.IX.1. to A.IX.5. of these T&Cs, but allow for other comparable rights to secure the claims based on the invoices of the supplier, we reserve such rights. The customer shall cooperate by supporting any permissible measures to protect our rights of title or any other rights replacing such in respect of the Goods Subject to Retention of Title.

#### **X. LEGAL WARRANTY**

1. Except as expressly stated in these T&Cs, all terms, conditions, warranties and representations whether express or implied by statute, common law, usage or otherwise (including satisfactory quality and fitness for purpose) are excluded to the maximum extent permitted by law.
2. Unless expressly agreed otherwise, (a) our goods and services shall comply exclusively with the legal requirements applicable in the United Kingdom and (b) the customer alone shall be responsible for the integration of the products into the technical, structural and organisational conditions existing at its premises.
3. Our goods and services are not defective if:
  - a) any defect is due to normal wear and tear, improper use, maintenance not carried out or incorrectly carried out, our compliance with the customer's instructions, parts, materials or aids provided by the customer or installed by us at the customer's request, or any other act or omission of the customer other than in accordance with or as provided for under these T&Cs,
  - b) the goods and services we supply are technically comparable or superior to the goods and services ordered by the customer, including where such goods are manufactured by other manufacturers,
  - c) such are based on drawings, techniques, modifications, specifications or other requirements of the customer,
  - d) they are integrated by the customer or a third party into other products, partial products or software or parts thereof, combined with such or modified and therefore become defective,
  - e) any other event, matter, circumstance for which we are not expressly responsible under these T&Cs; or
  - f) such are used for purposes other than those contractually agreed.
4. At our request, goods or services which are defective (purchased goods, work performance, rented goods) shall be returned to us (in respect of goods) and notified to



- use (in respect of services) without undue delay and, as far as possible, initially at the customer's expense. In the event we consider (acting reasonably) that the goods or services are defective, we shall reimburse the customer for the costs of the most inexpensive shipping route (in respect of goods); this shall not apply if the costs increase because the goods are located at a place other than the place of intended use.
5. We shall not be liable to bear the direct costs of any installation or removal if such installation or removal does not take place at the original place of use. Furthermore, there shall be no obligation to bear costs if the costs of installation or removal are disproportionate to the price of the defective good.
  6. Insofar as the customer has any claim against us due to a defect in the goods or services, we shall decide at our reasonable discretion, in which manner such defect is to be repaired or otherwise remedied. This applies in particular if the customer has a claim to subsequent performance in the form of repair (correction of defects) or subsequent delivery or re-performance (delivery of a defect-free replacement or re-performance of services). The remedy set out in this section A.X6 shall be the customer's sole remedy and our entire liability in respect of a breach of the warranty in this section A.X.
  7. Subject to the remainder of this section A.X, we warrant that the goods and services shall be materially free from defects arising as a consequence of using faulty materials or poor workmanship for a period of 24 months after the delivery or handover of the respective performance (e.g. purchased good, work performance, rented good), unless expressly stated otherwise in these T&Cs. Any replacement goods or re-performed services provided pursuant to section A.X6 shall benefit from the residue that remains on the warranty applicable the original goods or services provided.

## **XI. LIABILITY FOR DAMAGES**

1. Nothing in this Agreement shall limit or exclude either party's liability for:
  - a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
  - b) fraud or fraudulent misrepresentation; or
  - c) any other matter in respect of which it would be unlawful to exclude or restrict liability.
2. Subject to section A.XI1,
  - a) we shall under no circumstances whatsoever be liable to the customer under these T&Cs for:
    - i) loss of use of any goods, loss of profit, loss of goodwill, loss of business, loss of business opportunity, loss of product or cargo carried by any good; loss of anticipated saving, loss of or damage to goodwill, loss or corruption of data or information arising under or in connection with these T&Cs; or

- ii) any indirect or consequential loss arising under or in connection with these T&Cs; and
  - b) our total liability arising under or in connection with these T&Cs, whether arising in contract, tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise shall in all circumstances be limited to the repair, reperformance or replacement (at our option) of any defective part, component or service (in accordance with section AX6) and shall not in any event exceed the price paid or payable by the customer for the goods and services.
- 3. Subject to section A.XI1, notwithstanding any responsibility to do so, we shall not be liable for technical information provided by us, nor shall we act in an advisory role, insofar as this information or advice is not part of our contractually agreed scope of performance including ancillary obligations. In such cases, this shall take place as a courtesy only and to the exclusion of any liability.
- 4. The above exclusions and limitations of liability shall also apply if our bodies, legal representatives, employees and other vicarious agents, for whom we are liable according to the statutory provisions of law, act on our behalf. These provisions shall also apply in favour of these persons themselves.

**XII. STATUTE OF LIMITATIONS**

- 1. The limitation period for all claims of the customer arising from and in connection with the contractual relationship between the customer and us is 24 months. The commencement of the limitation period is determined in accordance with the statutory provisions.

**XIII. SOFTWARE USE**

- 1. Insofar as software provided to the customer under these T&Cs, the customer shall receive the non-exclusive, non-transferable right, limited in time in accordance with the provisions of the T&Cs and not sub-licensable without our written consent, to use the software exclusively in connection with the goods intended for the software.
- 2. The customer may not duplicate, edit or decompile the software unless we give our prior written consent and only if such actions are required by mandatory law. Any changes to the source code are not permitted. The customer undertakes not to remove the manufacturer's details – in particular copyright notices – or to change such without our prior express written consent. We reserve all other rights to the software, including any copies thereof.

**XIV. OBLIGATION TO NOTIFY IN THE CASE OF PRODUCT SAFETY LAW MEASURES**

- 1. If product safety measures are taken at the customer's premises or against the customer in connection with our products (e.g. official measures of market surveillance, such as the order of a withdrawal or a recall) or if the customer intends to take such measures itself (e.g. notifications to market surveillance authorities), the customer shall inform us without undue delay after becoming aware of the same.

**XV. COMPLIANCE**

- 1. The customer shall not commit any acts or omissions which, irrespective of the form of its involvement, may lead to a regulatory or criminal penalty, in particular for corruption or infringements of anti-trust or competition law, by the customer, by persons employed by

the customer or by third parties commissioned by the customer (hereinafter referred to as "Infringement" or "Infringements"). The Customer shall be responsible for taking the appropriate measures to avoid Infringements. To this end, the customer shall in particular oblige the persons employed by it and third parties commissioned by it accordingly and train them comprehensively with regard to the avoidance of Infringements.

2. The customer undertakes to provide information about the aforementioned measures at our request, in particular about their content and implementation status. For this purpose, the customer shall, upon request, fully and truthfully answer a questionnaire provided by us for the purpose of self-disclosure and provide us with related documents.
3. The customer shall inform us without undue delay of any initiation of official investigation proceedings due to an Infringement. Furthermore, in the event of indications of an Infringement by the customer, we shall be entitled to demand information concerning the Infringement and the measures taken to remedy it and prevent it in the future.
4. In the event of an Infringement, we shall be entitled to demand that the customer immediately cease and desist and indemnify us against all third-party claims and reimburse us for all damage incurred by us as a result of the Infringement. Without prejudice to any other legal or contractual rights, in such a case we shall furthermore have an extraordinary right of rescission or termination of all existing legal transactions with the customer.
5. In addition, the customer acknowledges the Schaeffler Group's Code of Conduct in the version in force at the time of conclusion of a legal transaction; the Code of Conduct can be accessed at [www.schaeffler.de](http://www.schaeffler.de) (and can be found using the search function) or will be sent to the customer upon request. The customer warrants that it has introduced and implemented the principles of responsible business conduct set out therein in its company. The customer shall commit any third parties used within the framework of the contractual performance in a similar manner.

#### **XVI. COOPERATION OBLIGATIONS OF CUSTOMER**

1. If we are obliged by law, by these T&Cs or by contract to provide goods or services within the scope of the performance of the contract, the customer shall support us in doing so. Unless mandatory legal provisions provide otherwise, the customer shall in particular carry out the following measures:
  - a) The customer shall transport the necessary items within its business premises to the place of performance.
  - b) The customer shall prepare the place of performance in such a way (e.g. clean, cordon off, remove harmful influences) that it is possible and reasonable for us to duly provide full and proper service and shall grant us access to such place.
  - c) The customer shall ensure the availability of necessary basic supplies and utilities (e.g. electricity, water, heating, lighting, compressed air).
  - d) The customer shall provide the equipment, tools (e.g. crane, means of transport, compressors) and supplies (e.g. chocks, lubricants, sealing materials) necessary for the due provision of the performance.
  - e) The customer shall make available to us rooms or containers in which we can store our tools. These rooms or containers must be lockable, clean and dry.
  - f) The customer shall make available a properly temperature-controlled recreation room for our employees.

- g) The customer shall provide – if necessary at short notice or if such is unforeseen – suitable auxiliary workers or skilled workers, in particular suitable personnel to operate its devices and tools. Such personnel shall act on behalf of and on the instructions of the customer.
  - h) The customer shall provide technical assistance, in particular it shall provide us with the necessary drawings, drafts, plans, models, calculations and other information, documents and data. The customer is responsible for the correctness and completeness as well as for ensuring that such are not encumbered by any third-party rights that prevent us from duly carrying out or completing the performance.
  - i) The customer shall fulfil its duties to cooperate in such a way that we can commence our services without undue delay after arrival at the place of performance and shall carry out duties without delay up to the time of acceptance by the customer. Should there be any delays on the part of the customer, it shall inform us of such without undue delay and pay for any standby waiting times of our personnel at the same hourly rates as for the performance of the contract itself. Insofar as no hourly rates have been agreed, the customary hourly rates shall apply.
  - j) The customer shall take the necessary measures to protect persons and property at the place of performance. If necessary, it shall provide special protective clothing free of charge. The customer shall inform our employees of existing safety regulations insofar as these are relevant to our employees and the performance to be provided by us. In the event of any violations of such safety regulations by our employees, the customer shall notify us without undue delay. If any performance cannot be undertaken without risk to the life and health of the employees due to non-compliance with work safety regulations, either sufficient protective countermeasures shall be put in place or the work shall be suspended until such time as work safety is guaranteed. If the guarantee of occupational health and safety falls within the customer's area of responsibility, the corresponding delays shall have the effect of extending any deadline.
  - k) The customer shall confirm to us with a signature the actual periods of the working time of the personnel deployed by us by no later than the end of the assignment, but at least on a weekly basis.
2. Insofar as our employees require residence and/or work permits in order to provide the goods or services, the customer shall, subject to agreement in each individual case, provide free of charge the necessary degree of support to us vis-à-vis the local authorities in applying for, extending or amending the permits required for the contract performance.
  3. The customer shall fulfil its obligations to cooperate arising at law, under these T&Cs or the contract itself in a timely and complete manner and shall support us in the provision of the contract performance.
  4. If the customer does not comply with an obligation to cooperate or only does so incorrectly, we may set a reasonable deadline for the customer to provide the necessary support. If the customer fails to perform the required support within the deadline so set, we shall be entitled to undertake the respective work ourselves or have it performed by a third party. We are also entitled to terminate the contract in the event of failure to perform any cooperation within the set period. The customer shall be informed of these

possible consequences at the time of the setting and notification of the deadline. If the customer fails to perform any duty to cooperate, fails to perform it on time or performs it incorrectly, the customer shall also be obliged to bear the costs incurred by us as a result (e.g. delays, additional expenses). Further rights according to contract or at law remain unaffected hereby.

#### **XVII. TERMINATION**

1. Without prejudice to any other rights and remedies, we may terminate these T&Cs immediately upon written notice to the customer in the event:
  - a) (i) the customer suspends, or threatens to suspend payment of its debts or is deemed unable to pay its debts within the meaning of section 123(1), Insolvency Act 1986; (ii) a moratorium is declared in respect of any indebtedness of the customer; (iii) the customer suspends or ceases or threatens to suspend or cease, to carry on all or a substantial part of its business; or (iv) a petition is presented, or a resolution is passed, or an order is made, for the winding up, provisional winding up, of the customer, other than for the sole purpose of a solvent amalgamation or solvent reconstruction of the customer; or (v) a receiver, administrative receiver, administrator, compulsory manager or any similar officer is appointed in respect of the customer or any of its assets; (vi) the customer commences negotiations in relation to, or enters into, any arrangement, compromise, assignment or composition with its creditors or any class of them (with or without first having sought or obtained a moratorium); (vii) enforcement of any security over any assets of the customer; or (vi) any event occurs, or proceeding is taken in any jurisdiction to which the customer is subject that has an effect equivalent of similar to any of the aforementioned events;
  - b) a significant change occurs in the customer's ownership or management;
  - c) the customer commits a material breach of the T&Cs, including but not limited to a breach of the confidentiality agreement under section A.V. of these T&Cs, which is not capable of remedy, or which is capable of remedy, but which is not remedied within fourteen (14) days of notice of such breach.

#### **XVIII. MISCELLANEOUS**

1. These T&Cs and any dispute or claim (whether contractual or non-contractual) arising out of or in connection with them, their subject matter or formation shall be governed by and construed in accordance with the law of England and Wales.
2. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (whether contractual or non-contractual) arising out of or in connection with these T&Cs, their subject matter or formation.
3. Any failure or delay in enforcing any right under these T&Cs, in whole or in part, shall not constitute a waiver of such right or any other right.
4. Should any provisions of these T&Cs be or become void or ineffective in whole or in part, this shall not affect the validity of the remaining provisions. Insofar as provisions have not become part of the contract or are invalid, they shall be replaced by valid provisions which come as close as possible to the commercial intention.
5. In the case of any contract combining several types of agreements regulated separately below (so-called mixed-type contracts), all elements of these T&Cs shall apply in general. Which provisions of these T&Cs applies to the contractual relationship in detail is

determined by the type of contract to which the affected part of the contract is assigned and not its area of focus.

6. Unless expressly provided in these T&Cs, no term of these T&Cs is enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999 by any person who is not a party to it.
7. These T&Cs constitute the entire agreement and understanding of the parties with respect to the subject matter and supersedes any prior agreements, representations, understandings or arrangements between the parties (oral or written) in relation to such subject matter. Each party acknowledges that: (i) upon entering into these T&Cs, it does not rely, and has not relied, upon any representation (whether negligent or innocent), statement or warranty made or agreed to by any person (whether a party to these T&Cs or not) except those expressly set out in these T&Cs; and (ii) the only remedy available in respect of any misrepresentation or untrue statement made to it shall be a claim for breach of contract under these T&Cs. Nothing in this Section A.XVIII5 shall limit or exclude any liability for fraud.

## **B. SPECIAL PROVISIONS FOR INDIVIDUAL TYPES OF CONTRACTS**

The following provisions shall supplement the General Provisions from Part A in each case for the respective type of contract. In the event of any conflict between the General Provisions from Part A and the Special Provisions for a contract type from Part B, the Special Provisions shall prevail.

### **I. PURCHASE CONTRACT AND CONTRACT FOR WORK AND MATERIALS**

#### **1. Duty to give notice of defects in the case of defective goods**

The customer is obliged to inspect the type, quantity and quality of the delivered products immediately after receipt of the goods. Obvious defects must be reported without undue delay in writing, and at the latest within a period of five calendar days. If a defect later becomes apparent which was not recognisable upon the receipt of the goods (hidden defect), the customer shall give written notice of the hidden defect within seven calendar days of becoming aware of it. In all cases, the date of receipt of the notice of defect by us shall be decisive. Products in relation to which no notice of defect is provided in time shall be deemed to have been accepted unless we have fraudulently concealed a defect.

#### **2. Legal warranty**

- a) We shall consider any potential warranty claim issued to us and notify you within a reasonable period of time whether we consider (acting reasonably) that the potential warranty claim relates to a breach of the warranty in section A.X7.
- b) In the event the customer intends to use the products in a way which is not provided for in our product descriptions/specifications, the customer must seek our prior written consent to such use. Except to the extent required by law, no warranty shall apply to the extent the customer uses any product sold by us in a manner which is not provided for in our product descriptions/specifications.
- c) Unless expressly agreed otherwise, the customer alone shall be responsible for the integration of the products into the technical, structural and

organisational conditions existing on its premises. This applies to both software and hardware and also includes any interfaces.

- d) We are in agreement with the customer that signs of wear and tear and damage to the products typical for the use and age of such do not constitute material defects.
- e) In the case of a product with digital content, we shall provide and update the digital content to ensure compliance with the specification in respect of the digital content. In this respect, we have no liability for public statements made by the manufacturer and other third parties.

## **II. CONTRACT FOR WORK**

### **1. Deadlines and delay**

- a) Contractually agreed Delivery Periods shall be deemed to have been met if the product is ready for acceptance by the customer within the respective period. The same shall apply in the case of a contractually provided trial if such can be carried out.
- b) Insofar as the customer has not fulfilled its contractual or statutory duties to cooperate, deadlines and dates for (partial) acceptance shall be extended accordingly. This shall also apply if the customer's order description or other information, data or documents provided by the customer for the execution of the order are insufficient, incorrect or incomplete or were not provided to us in time.
- c) Notwithstanding section A.VII.3., the deadline set forth therein is six (6) months.

### **2. Acceptance**

- a) As soon as the work has been completed and we have notified the customer of this, the customer shall accept the work produced. We will request the customer to do so in writing, setting a reasonable deadline. Upon our request, the customer shall confirm acceptance in an acceptance report. This shall also apply if any performance date has been agreed and has not yet been reached or before the expiry of an agreed performance period (hereinafter: "early acceptance"). Any objection to early acceptance must be presented and proven by the customer to our reasonable satisfaction.
- b) The customer shall ensure that a person authorised to issue a declaration of acceptance is available in good time for acceptance at the agreed place of acceptance or at the place of assembly after completion of our performance. The person provided by the customer for this purpose shall be deemed to be authorised by the customer to make the declaration to us
- c) The customer or its representative must indicate during the acceptance procedure any damage which, in the customer's opinion, has been caused by our performance and such must be recorded in an acceptance report.
- d) The acceptance report must be in writing. Any subsequent objections or complaints by the customer not recorded in the acceptance report are not valid.



- e) Acceptance may not be refused due to minor defects. If the customer refuses acceptance due to material defects, it must inform us in writing of the material defects together with the declaration of refusal.
- f) The performance shall be deemed to have been accepted in particular (“Deemed Acceptance”) if
  - i. the assembly is completed or the work is finished,
  - ii. we have notified the customer of this and requested it, setting a reasonable deadline, to accept the work and
  - iii. the customer has not refused acceptance within the set period identifying at least one material defect

### 3. Additional/special performance

- a) Any additional or special performance not listed in the contract for work and services shall be invoiced separately. Unless otherwise agreed, invoicing shall be based on time and material expenditure in accordance with our currently applicable hourly rates plus material costs (the current hourly rates shall be communicated without undue delay on request). Travel time shall be invoiced as working time. Unless otherwise agreed, travel costs shall be invoiced according to the respective current maximum commuter flat rate, flights on an economy class basis, additional catering expenses according to the flat rates under tax law and accommodation costs on the basis of medium category hotels. The customer may request appropriate evidence of such.
- b) Additional or special performance shall be deemed to exist in particular if the expenses and/or performance are required as a result of the following circumstances:
  - i. the customer subsequently changes or subsequently submits drawings, drafts, plans, models, calculations, other information, documents, data or other specifications or
  - ii. the customer requests post-contractual changes to the work performance.
- c) We will inform the customer about any additional or special performance that have become necessary.
- d) If the additional and special performance which has become necessary and is attributable to the customer has an impact on compliance with contractually agreed Delivery Periods, such Delivery Periods shall be extended by a reasonable amount, taking account of the additional and special performance. The customer shall bear the costs caused by any extension of the Delivery Periods pursuant to this Section B.II3.

### 4. Payments

Unless otherwise agreed, payment shall be due and invoiced as follows:

- a) when an acceptance test is to take place:
  - i. 40% of the total price upon conclusion of the contract;
  - ii. 50% of the total price after completion of the work or service;
  - iii. 10% of the total price upon acceptance of the work or service
- b) if no acceptance is to take place:

- i. 40% of the total price upon conclusion of the contract
- ii. 60% of the total price after delivery of the work or completion of the service.

**5. Transferability**

We are entitled to appoint a subcontractor in respect of any part of the performance.

**6. Legal warranty**

Only in urgent cases of danger to operational safety or to prevent disproportionately large damage or if we are in default with any repair, does the customer have the right to carry out the repair itself or have it carried out by a third party and demand reimbursement of the necessary and reasonable costs from us. In such a case, we must be notified immediately. We do not take responsibility for any repair carried out or any act or omission of any third party pursuant to the foregoing.

**III. SERVICE CONTRACT**

**1. Prices**

Only in urgent cases of danger to operational safety or to prevent disproportionately large damage or if we are in default with any repair, does the customer have the right to carry out the repair itself or have it carried out by a third party and demand reimbursement of the necessary and reasonable costs from us. In such a case, we must be notified immediately. We do not take responsibility for any repair carried out or any act or omission of any third party pursuant to the foregoing.

**2. Term and termination of the contract**

- a) If the term of the contract is not contractually agreed and cannot be inferred from the nature or purpose of the services owed, it may be terminated by either party with one month's notice to the end of a calendar month, but no earlier than the end of a contractually agreed minimum term. A notice period deviating from this may be agreed in the contract.
- b) Any right to terminate without a notice period for good cause as set out in Section A remains unaffected.
- c) In the event of termination for good cause, we shall be entitled to remuneration for the services rendered under the contract until the termination takes effect if the circumstance leading to the termination is based on the conduct of the customer.
- d) If the termination is caused by the customer's conduct in breach of the contract, the customer shall be obliged to compensate the damage resulting from the termination of the contractual relationship.

**3. Transferability**

- I. These T&Cs are personal to the customer and the customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under these T&Cs.

- II. We may at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights and obligations under these T&Cs, provided that we give prior written notice of any such dealing to the customer.

### III. RENTAL AGREEMENT

#### 1. Rental period

- a) The rental period shall be agreed individually between the parties. This also applies to the start of the rental period. Unless expressly agreed, the rental relationship shall commence on the day of delivery of the rental object. If collection of the rental object by the customer has been agreed, the rental relationship shall commence upon collection from the warehouse; if the rental object is to be shipped by us to the customer at the customer's request, the rental relationship shall commence upon shipment from the warehouse. Unless otherwise agreed between the parties, the rental relationship shall end at the latest on the day of the return delivery of the rented object to us. This shall also apply in the event of dispatch of the rented object back to us. If collection of the rental object by us has been agreed, the rental relationship shall end at the latest upon collection of the rental object from the customer.
- b) The rental agreement may in any case be terminated in writing with 14 days' notice. Our right to terminate as set out in Section A is reserved.

#### 2. Shipping

- a) Upon termination of the rental relationship, the customer shall return the rented object to us at its own risk, unless otherwise agreed.
- b) The return shipment of the rental object shall be DDP (Incoterms 2020) to the place named in the order confirmation.
- c) The return of the rental object by us is always subject to a reservation of rights, as damage or soiling can be determined only after exact inspection. In particular, the mere receipt of the rental object does not constitute an acknowledgement of the return of the rental object as being in accordance with the rental agreement.
- d) We shall inspect the rented object for any defects after the customer has returned it.

#### 3. Transfer of the use to third parties

- a) The customer may not establish any rights of third parties to the rental object or assign any rights under this contract.
- b) The customer is prohibited from making the rental object available to third parties – both for payment or free of charge, without our prior written consent. If we give our consent to such further rental, this shall always be subject to the customer disclosing these T&Cs to the party so taking possession on a rental basis and the customer contractually imposing on that party the same obligations as were imposed on the customer by these T&Cs.
- c) In the event of a transfer of use to third parties in breach of the contract, this shall be considered a material breach incapable of remedy for the

purposes of Section A.XVII and we shall be entitled to immediate repossession of the rental object.

- d) In the event that the rented object is made available to a third party, the customer shall always be responsible for any fault on the part of the third party in the use of the rented object, i.e. even if we have granted permission in advance. In the event of unauthorised transfer of use to third parties, the customer shall be liable for all damages arising therefrom, insofar as he is only responsible for the unauthorised transfer of use.
- e) The customer hereby assigns its claims against third parties arising from a permissible or impermissible transfer of use to us on account of performance. We accept this assignment.

#### **4. Ownership and alterations to the rented object**

- a) The rental object remains our property for the duration of the rental agreement.
- b) Any alterations to the rental object, in particular additions and installations, as well as any connection with other objects may be undertaken only by way of a separate agreement. After the expiry of the rental period, we may demand that the original condition of the rental object be restored at the customer's expense.

#### **5. Rights of inspection**

Upon request, the customer shall grant us or our representatives access to the installation site of the rented object at any time during normal business hours, subject to prior agreement. We shall bear the costs of any such inspection.

#### **6. Special obligations of the customer**

- a) The customer shall inspect the rental object immediately upon receipt. The rented object shall be deemed to have been accepted in perfect condition unless an express written notice of defects is given after receipt. All costs of repairs that become necessary during the rental period for recognisable defects not expressly notified at the time of takeover shall be borne by the customer.
- b) The customer shall always use the rental object in such a way that there is no danger to the health and life of persons, as well as any damage to the rental object or to the property of third parties. In particular, the customer is obliged after delivery of the rental object,
  - i. to protect the rented object from overuse in every way,
  - ii. ensure proper use, in particular by trained specialist personnel,
  - iii. to maintain the rented object in a professional manner or arrange for such to be done at its own expense, and
  - iv. to follow care or use instructions, to observe and comply with all legal and administrative regulations connected with the possession, use or maintenance of the rented object.
- c) We may charge the customer for damage that we repair due to improper use by the customer.
- d) The customer is obliged to notify us without undue delay in writing, stating the time, cause and extent of any damage, if a defect in the rented object

becomes apparent during the rental period, if the rented object is damaged or lost or if measures become necessary to protect the rented object against an unforeseen danger. The same applies if a third party claims a right to the object (in particular by seizure, attachment) or if the external or internal operating conditions change. If the customer fails to duly provide any such notification as set out herein, it shall compensate us for any resulting damage.

- e) The customer is obliged to provide us with information about the location of the rental object in writing.

#### **7. Defects of rented object**

- a) If the customer accepts the rented object with knowledge of a defect or damage, it can only complain about this defect if the defect or damage is recorded in writing in the handover/acceptance record or delivery note.
- b) If we are obliged to repair any damage or defect in relation to the rental object, we are also entitled to provide the customer with a replacement of equal value. If the customer is not provided with a replacement during the period we are repairing the rental object, the customer's payment obligation shall be postponed for the period of the necessary repair time.
- c) If only one individual part of the rented object is to be replaced, we may require the customer itself to replace this individual part to be provided by us, in circumstances where the costs of sending our specialist personnel would be disproportionately high and insofar as such is reasonable for the customer.
- d) The customer shall not be entitled to a reduction in rental payments in the event the customer is unable to use the rental object (or such use is impaired) due circumstances for which we are not responsible.

#### **8. Liability of customer**

Save to the extent we are otherwise liable for the same as a matter of law or regulation, the customer shall indemnify us against all costs, losses, expenses and other charges properly incurred by us arising as a result of the customer's use or operation of the rental object. In the event of loss or damage to the rented object, the customer shall bear the replacement or repair costs; in the event of irreparable damage, the customer shall also bear the replacement costs. For the duration of the repair or replacement, the customer shall be liable for the agreed rent.