



Beratung Entwicklung **Verpackung**

## General Terms and Conditions of Sale of Knüppel Verpackung GmbH & Co KG

(as at: June 2023)

Available and storable at: <https://www.knueppel-packaging.com/downloads/gtc>

### 1. Scope of application

- 1.1. These General Terms and Conditions of Sale („GTC“) apply in the present version to all business relationships between Knüppel Verpackung GmbH & Co. KG („Seller“) and its contractual partners („Buyer“). The GTC shall only apply if the Buyer is an entrepreneur (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law. These GTC apply to contracts for the sale and/or delivery of movable goods („Goods“) regardless of whether the Seller manufactures the Goods itself or purchases them from suppliers. These GTC do not apply to contracts concluded via the web portal „shop.Knueppel.de“. The GTC apply in their respective version to all contracts for the sale and/or delivery of movable Goods with the same Buyer, even if the Seller does not expressly mention or refer to them in subsequent contracts.
- 1.2. These GTC apply exclusively. Conflicting, deviating, or supplementary terms and conditions of the Buyer shall not become part of the contract unless the Seller has agreed to them or parts of them in writing. This shall also apply if the Seller carries out a delivery to the Buyer without reservation in the knowledge of conflicting or deviating General Terms and Conditions.
- 1.3. Notwithstanding this, individual agreements made in individual cases that deviate from these GTC shall take precedence over these GTC. Subject to proof to the contrary, a written agreement is decisive for the content of such agreements. Unless more specific provisions are made therein, they shall be supplemented by these Terms and Conditions.
- 1.4. Legal rights beyond these GTC remain unaffected.

### 2. Conclusion of contract

- 2.1. Offers and cost estimates of the Seller are always subject to change and non-binding, unless they are expressly designated as a binding offer.
- 2.2. The order of the Goods by the Buyer, regardless of whether by telephone, post, fax or e-mail, shall be deemed a binding contractual offer. Unless otherwise stated in the order, the Seller shall be entitled to accept this contractual offer within two (2) weeks of receipt of the offer by the Seller.

- 2.3. The Seller may declare acceptance either in writing by means of an order confirmation or by delivering the Goods to the Buyer.
- 2.4. Silence on the part of the Seller in response to offers, orders, requests or other declarations by the Buyer shall not constitute acceptance of the Buyer's offer.

### **3. Customised Goods**

- 3.1. If the Buyer wishes to purchase Goods from the Seller according to individual specifications, the Seller shall submit a non-binding offer to the Buyer. This non-binding offer shall include the Buyer's individual specifications, expected delivery times and the expected purchase price of the Goods. In order to prepare a non-binding offer and to produce a required prototype and/or an industrial sample, the Seller may prepare a drawing of the Goods using CAD according to the Buyer's specifications. The Buyer may order the customised Goods from the Seller after receiving the non-binding offer in accordance with Clause 2.
- 3.2. If the production of the Goods requires the prior production of a prototype and/or an industrial sample, the Seller shall prepare a non-binding offer with the estimated price for the production of the prototype and/or the industrial sample. The Buyer may order the prototype and/or industrial sample from the Seller in accordance with Clause 2. After acceptance of the Buyer's order by the Seller, the Seller shall manufacture the prototype and/or the industrial sample.
- 3.3. If, at the request of the Buyer, the Parties agree on changes after the production of the prototype and/or industrial sample that lead to the production of further prototypes and/or industrially produced samples, the Buyer shall bear the costs incurred by the Seller as a result. This is not the case if the initially produced prototype and/or the industrially produced sample does not correspond to the original drawing of the Seller or if the production of a further prototype and/or an industrially produced sample is necessary for reasons for which the Seller is responsible.
- 3.4. If the Seller has prepared a drawing of the Goods using CAD in accordance with the Buyer's specifications, the Buyer shall approve the production of the Goods in writing on the basis of the drawing. Otherwise, the Buyer shall release the Goods by accepting the Seller's offer. If the production of a prototype and/or an industrial sample is required, the Buyer shall authorise the production of the Goods in writing on the basis of the prototype or the industrial sample.
- 3.5. Once production of the Goods has been approved, the Buyer is obliged to take delivery of the Goods ordered from the Seller in the agreed type and quantity.

### **4. Delivery and delivery times**

- 4.1. Unless expressly agreed otherwise, delivery shall be made EXW (ex works) Incoterms® 2020 from the Seller's factory specified in the order confirmation. At the request, responsibility and expense of the Buyer, the Goods shall be dispatched to another destination within the delivery area („Sale to Destination“). Unless otherwise agreed, the Seller is entitled to determine the type of dispatch (transport company, carrier, dispatch route and packaging) himself. If „Carriage Paid Delivery“ is agreed, this corresponds to CPT Incoterms® 2020. The Seller shall insure the Goods at the request and expense of the Buyer by means of transport insurance against the risks to be specified by the Buyer.

- 4.2. The Seller shall pack the Goods at the Buyer's expense. The return of the packaging shall be agreed separately between the Parties.
- 4.3. The delivery period shall be agreed individually or specified by the Seller upon acceptance of the order. Delivery periods stated by the Seller are non-binding unless they are expressly designated as binding.
- 4.4. The delivery period shall not commence before the complete provision of any documents, approvals and releases to be procured by the Buyer, the receipt of any agreed advance payment and the timely and proper fulfilment of any other acts of cooperation by the Buyer.
- 4.5. Agreed delivery deadlines shall be deemed to have been met if the Seller delivers the Goods by the expiry of the delivery deadline in accordance with Clause 4.1 or if the Buyer has announced its refusal to accept the Goods. In the case of a sale by despatch, the Seller is entitled to dispatch the Goods up to one week before this date.
- 4.6. If non-compliance with the delivery deadlines is due to force majeure and other hindrances for which the Seller is not responsible in accordance with Clause 9.2, the agreed delivery deadlines shall be extended by the duration of the hindrance, including a reasonable start-up period.
- 4.7. The Buyer shall only be entitled to withdraw from the contract due to a delay in delivery if the Seller is responsible for the delay.
- 4.8. The Seller is entitled to provide partial services in the form of partial deliveries and to deviate from the agreed quantities within the quantity and quality tolerances customary in the industry, provided this is reasonable for the Buyer.
- 4.9. Irrespective of his claims for defects, the Buyer must accept delivered Goods even if they have insignificant defects. The Buyer shall also be obliged to accept the delivered Goods if they were delivered insignificantly too early, in particular in the case of Clause 4.5 sentence 2.

## **5. Framework agreements**

- 5.1. If the Buyer has concluded a framework agreement with the Seller (i) for future deliveries with a fixed term or (ii) for which a specific annual purchase quantity of products manufactured individually for the Buyer has been agreed, and the Buyer does not call off the Goods in good time, the Seller shall be entitled, after the fruitless expiry of a reasonable grace period, to deliver and invoice partial deliveries at four-week intervals in such a way that the last partial delivery is made at the end of the contract term or a contract year. The partial deliveries shall be announced to the Buyer by the Seller 14 days before delivery in each case. The due date of partial invoices shall be based on the terms of payment described in Clause 11. In addition, the Seller is entitled to withdraw from the contract after setting a deadline to no avail or, if the Buyer has acted culpably, to demand compensation instead of performance. The other rights of the Parties remain unaffected.

## **6. Condition of the Goods / Assembly**

- 6.1. The quality of the Goods owed shall be conclusively agreed in the order and order confirmation.

- 6.2. Illustrations, drawings, weights and dimensions, with the exception of the product descriptions provided to the Buyer, of the delivery or service from the documents belonging to the offer are only approximate, unless they are expressly designated as binding by written or electronic confirmation. They do not constitute an agreement or guarantee of a corresponding quality of the delivery or service. In the event that the Parties have agreed on a quality, changes by the Seller shall remain permissible insofar as they are made on the basis of mandatory legal provisions and are reasonable for the Buyer. The Seller reserves the right to make changes to the design and shape of the Goods, provided that the changes are not substantial and are reasonable for the Buyer. In the event of unreasonableness, the Buyer shall be entitled to withdraw from the contract.
- 6.3. Properties or intended uses excluded in the product description, the order or the order confirmation are not part of the subjective or objective requirements for the Goods. This also applies to accessories and instructions.
- 6.4. The Seller is not responsible for the assembly of the Goods.

## **7. Transfer of risk**

- 7.1. The risk of accidental loss or accidental deterioration of the Goods shall pass to the Buyer as soon as the Seller delivers the Goods to the place of delivery in accordance with Clause 4.1. This shall also apply if partial deliveries are made or if the Seller has assumed the transport costs in deviation from Clause 4.1 in individual cases.
- 7.2. In the event of differences in weight or quantity, the weight determined at the time of handover or despatch at the Seller's works shall apply to the determination of the delivery weight.

## **8. Default of acceptance**

- 8.1. If the Buyer does not accept the Goods offered to him in good time („default of acceptance“), the Seller is entitled, after the unsuccessful expiry of a reasonable grace period, to invoice the Goods, to withdraw from the contract and, if the Buyer has acted culpably, to demand compensation instead of performance. In addition, the Seller shall be entitled to demand compensation from the Buyer for all additional costs incurred as a result of the delay in acceptance, e. g. for storage and receipt of the Goods.
- 8.2. If the Buyer is in default of acceptance (Clause 8.1), the Seller may demand compensation for the resulting damage as follows: 0.5 % of the net price of the Goods pursuant to Clauses 10 and 11 per day of delay, but no more than a total of five per cent (5 %) of the net price of the Goods pursuant to Clauses 10 and 11. The contracting Parties reserve the right to claim further damages and to provide evidence of lower damages.
- 8.3. The risk of accidental loss or accidental deterioration of the Goods shall also pass to the Buyer, notwithstanding Clause 7.1, as soon as the Buyer is in default of acceptance.

## **9. Operational disruptions / Force majeure**

- 9.1. If the Seller is prevented by force majeure from fulfilling its contractual obligations, in particular from delivering the Goods on time, the Seller shall be released from the respective obligation to perform for the duration of the hindrance and a reasonable start-up period, without being obliged to pay damages to the Buyer. The same shall apply if the Seller's fulfilment of its obligations is made unreasonably difficult or temporarily impossible due to unforeseeable circumstances for which the Seller is not responsible, in particular due to official measures (regardless of their legality), official orders, measures or restrictions due to an epidemic (e. g. the Covid-19 pandemic), energy shortages, lack of means of transport, power failure, failure of telecommunications connections or significant operational disruptions.
- 9.2. All unusual, unforeseeable events independent of the will and influence of the Parties, such as in particular natural disasters, terrorist attacks, political unrest, epidemics, official measures, blockades, sabotage, embargoes, strikes, lockouts and other industrial action as well as a failure of self-supply in accordance with Clause 9.5 shall be deemed force majeure.
- 9.3. The Seller shall inform the Buyer promptly of the occurrence of an operational disruption or an event of force majeure and at the same time inform the Buyer of the expected new delivery date.
- 9.4. If the delivery is also not available on the new delivery date or if an impediment to performance within the meaning of this Clause 9 lasts for more than three (3) months and the fulfilment of the contract is no longer of interest to the respective party as a result of the impediment or if the fulfilment of the performance obligations of the party affected by the impediment to performance becomes impossible in accordance with Section 275 of the German Civil Code (BGB), the Seller shall be entitled to withdraw from the contract in whole or in part.
- 9.5. A case of force majeure shall also include the failure of the Seller's suppliers to deliver to the Seller on time, provided that the Seller has concluded a congruent hedging transaction, neither the Seller nor the Seller's suppliers are at fault or the Seller is not obliged to procure in the individual case.

## **10. Prices / Price adjustment**

- 10.1. Unless otherwise agreed in writing, the agreed price in EURO, which results from the order confirmation or invoice plus VAT, shall be deemed EXW Incoterms® 2020 ex works of the Seller specified in the order confirmation. In deviation from EXW Incoterms 2020® ex works of the Seller specified in the order confirmation, the costs for packaging the Goods are not included in the price and shall be borne by the Buyer.
- 10.2. Statutory VAT is not included in the price and, if applicable, will be shown separately on the invoice at the statutory rate applicable on the date of invoicing.
- 10.3. If delivery takes place more than four (4) months after conclusion of the contract, each of the Parties shall be entitled to demand an adjustment of the prices if and to the extent that it proves to the other party that the circumstances essential for the calculation of the prices have increased or decreased cumulatively by more than ten per cent (10 %) since the beginning of the contract. Significant factors for the calculation of prices are, in particular, personnel, material, energy, freight, exchange and credit costs as well as taxes, fees and other public charges and the manufacturer's list prices.

If the other party objects to the requested price adjustment or does not agree to it within a period of two (2) weeks from receipt of the price adjustment request, the Parties shall immediately enter into negotiations with the aim of reaching an agreement on the amount of the prices applicable in the future. If the Parties fail to reach an agreement on the amount of the prices applicable in the future – for whatever reason – within a period of four (4) weeks from the objection of the other party or the expiry of the approval period, whichever occurs earlier, the party requesting the price adjustment may withdraw from the contract within two (2) weeks with a notice period of two weeks.

## **11. Terms of payment / Securities / Default of payment**

- 11.1. The purchase price („Price“) shall be payable without any deduction within thirty (30) days of invoicing and provision of the Goods at the distribution centre specified in the order confirmation or – if agreed – delivery of the Goods.
- 11.2. If payment is received within 14 days of the invoice date, the Seller shall grant the Buyer a two per cent (2 %) discount on the Price.
- 11.3. The Buyer shall be in default upon expiry of the payment period specified in Clause 11.1. During the period of default, interest shall be charged on the Price at the applicable statutory default interest rate of nine (9) percentage points above the respective base interest rate (Section 247 of the German Civil Code (BGB)). The Seller reserves the right to claim further damages caused by default. In addition, the Seller shall be entitled to a lump-sum compensation of EUR 40.00 in the event of a claim for payment against the Buyer to cover its costs of providing the Goods. The lump-sum compensation shall be offset against any claim for damages asserted against the Buyer.
- 11.4. If the Buyer defaults on payment, the Seller shall be entitled to demand immediate payment of all claims arising from the business relationship, even if these are not yet due.
- 11.5. The Seller shall not accept bills of exchange with debt-discharging effect.
- 11.6. The Seller shall be entitled to execute or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, circumstances become known which are likely to significantly reduce the creditworthiness or economic capacity of the Buyer and which jeopardise the payment of outstanding claims of the Seller by the Buyer from the respective contractual relationship. This shall apply accordingly if the Buyer refuses or fails to pay outstanding claims of the Seller and there are no undisputed or legally established objections to the Seller's claims.
- 11.7. In the case of deliveries abroad, the Seller reserves the right to require security for the order amount in the form of a letter of credit in its contractual offer. In this case, the Buyer shall open a confirmed, irrevocable letter of credit at least one (1) week before the delivery date. The Seller shall inform the Buyer of the terms and conditions of the letter of credit when confirming the order. Unless otherwise agreed, the „Uniform Customs and Practice for Documentary Credits (UCP)“ issued by the International Chamber of Commerce in Paris (ICC), in their respective current version, shall apply in addition.

- 11.8. The term and expiry date of the letter of credit shall be such that they end at the earliest two (2) months after the agreed delivery date. Should the letter of credit expire or lapse at an earlier date, the Buyer shall be obliged to effect the extension of the letter of credit by a further month one month prior to the expiry of the letter of credit and to notify the Seller of this extension. This shall apply accordingly to further extensions. If the Buyer culpably fails to effect an extension of the letter of credit or if the Buyer culpably fails to notify the Seller of an effected extension of the letter of credit, the Seller shall be entitled to satisfy the contractual claims directly from the letter of credit.
- 11.9. The letter of credit shall be structured in such a way that the advising and/or confirming bank is a banking institution authorised to conduct banking business in the Federal Republic of Germany. All costs of the letter of credit shall be borne by the Buyer.

## **12. Warranty / Obligation to inspect and give notice of defects / Guarantees**

- 12.1. The Seller delivers the Goods in accordance with Clause 4. The Seller accepts no liability for public statements made by the manufacturer or other third Parties.
- 12.2. Deviations in quality, material purity, colour and other properties are not deemed to be defects if they are unavoidable. With regard to the properties of the Goods, the norms, standards and regulations customary in the industry in the Federal Republic of Germany (in particular ISO norms, colour standards and DIN) shall apply in their currently valid version. For imported materials, the relevant provisions of the respective country of manufacture shall apply.
- 12.3. In the event of defects in the Goods, the Seller is entitled, at his own discretion, to subsequent fulfilment by remedying the defect or delivering defect-free Goods.
- 12.4. The Buyer's rights in respect of defects presuppose that he has duly fulfilled his statutory obligation to inspect and give notice of defects (Sections 377, 381 Para. 2 German Commercial Code (HGB)). The Buyer must inspect the delivered Goods immediately upon receipt and, if an obvious defect (type, quantity, quality, including incorrect or short deliveries) becomes apparent, notify the Seller immediately in writing. The notification shall be deemed immediate if it is made within eight (8) working days of delivery, whereby receipt of the notification by the Seller shall be decisive for compliance with the deadline. If a defect becomes apparent later, the Seller must be notified in writing within eight (8) working days of discovery, whereby the timely receipt of the notification by the Seller shall also be decisive for compliance with the deadline. The Buyer must describe the respective reported defect in the written notification to the Seller.
- 12.5. If the delivery is made to a third party named by the Buyer, the Buyer shall ensure that this third party fulfils the inspection obligations to the extent and within the period specified in Clause 12.4 and informs the Seller or Buyer of the defects found.
- 12.6. Claims for subsequent fulfilment are excluded in the case of minor deviations that are reasonable for the Buyer.

- 12.7 Warranty rights do not exist
- a) for natural wear and tear;
  - b) in the event of defects arising after the transfer of risk as a result of improper handling (e.g. deviating from the operating instructions), improper storage or care or excessive strain or use;
  - c) in the event of defects caused by force majeure, special external influences which are not assumed under the contract, or due to the use of the Goods outside the use assumed or customary under the contract.
  - d) in cases of Section 442 of the German Civil Code (BGB).
- 12.8 The Seller shall not be liable for defects that are due to the fact that the Buyer requests a processing or choice of material that deviates from the Seller's specifications.
- 12.9 If the Goods are not at the place of delivery in accordance with Clause 4.1, the Buyer shall bear all additional costs incurred by the Seller in remedying defects, unless the transfer to another location is in accordance with the contractual use of the Goods.
- 12.10. If a notice of defects is unjustified by the Buyer, the Seller shall be entitled to demand reimbursement of the expenses incurred from the Buyer, unless the Buyer proves that he is not at fault with regard to the unjustified notice of defects.

## **13. Liability**

- 13.1. The Seller shall be liable without limitation – irrespective of the legal grounds – in the event of breach of a guarantee, under the Product Liability Act or injury to life, limb or health. The same applies to intent and gross negligence on the part of the Seller, its executive bodies and senior executives. Liability for simple vicarious agents (Section 278 of the German Civil Code (BGB)) is excluded to the extent permitted by law.
- 13.2. In the event of simple negligence, the Seller shall only be liable subject to Clause 13.1 for damages due to the breach of a cardinal obligation. Cardinal obligations are those whose fulfilment is essential for the proper execution of the contract and on whose compliance the contractual partner regularly relies and may rely. In the event of a breach of a cardinal obligation, the Seller's liability shall be limited to the foreseeable damage typical for the contract.
- 13.3. The limitations of liability stated in Clauses 13.1 and 13.2 do not apply if the Seller can be accused of malice or if he has assumed a guarantee for the quality of the Goods.
- 13.4. Subject to the exceptions set out in this Clause 13, the Seller's liability for damages incurred by the Buyer as a result of the delay shall be limited to a maximum of five per cent (5 %) of the agreed net purchase price in the event of non-compliance with a delivery period. The contracting Parties reserve the right to claim further damages and to provide evidence of lower damages.

## **14. Statute of limitations**

- 14.1. The general limitation period for claims arising from material defects and defects of title is one (1) year from delivery of the Goods. If acceptance has been agreed, the limitation period shall commence upon acceptance. The limitation period shall also commence if the Buyer is in default of acceptance.



- 14.2. However, if the Goods are a building or an item that has been used for a building in accordance with its normal use and has caused its defectiveness (building material), the limitation period shall be five (5) years from delivery in deviation from Clause 14.1 in accordance with the statutory provisions. Special statutory provisions for third-party claims in rem for restitution, in the event of fraudulent intent on the part of the Seller and for claims in supplier recourse in the event of final delivery to a consumer shall also remain unaffected.
- 14.3. The above limitation periods shall also apply to contractual and non-contractual claims for damages by the Buyer which are based on a defect in the Goods, unless the application of the regular statutory limitation period would lead to a shorter limitation period in individual cases. The limitation periods of the Product Liability Act remain unaffected in any case.
- 14.4. The limitation period shall not recommence as a result of subsequent fulfilment. The unconditional subsequent fulfilment by the Seller does not constitute an acknowledgement of any warranty claims of the Buyer on the part of the Seller.
- 14.5. In the cases of Clauses 13.1 to 13.3, the statutory limitation period shall apply.

## **15. Cancellation by the Seller**

- 15.1. In the event of breach of contract by the Buyer, in particular default in payment, the Seller shall be entitled, without prejudice to other contractual and statutory rights, to withdraw from the contract after the expiry of a reasonable grace period.
- 15.2. Further cancellation rights of the Parties arise in accordance with the provisions of the contract and these GTC. In particular, the Seller is entitled to withdraw from the contract if the service owed is not available for more than three (3) months due to late delivery by the Seller's suppliers, the Seller has concluded a congruent hedging transaction and the Seller is not responsible for the non-delivery.
- 15.3. The Buyer shall grant the Seller or its authorised representative immediate access to the Goods subject to retention of title after declaration of withdrawal and surrender them. After giving appropriate notice in good time, the Seller may realise the Goods subject to retention of title elsewhere in order to satisfy the claims due against the buyer. The realisation proceeds shall be credited against the Buyer's liabilities – less reasonable realisation costs.
- 15.4. Statutory rights and claims remain unaffected by the provisions contained in this Clause 15 and other provisions of these GTC.

## **16. Rights of retention / Offsetting**

- 16.1. Counterclaims of the Buyer shall only entitle him to offset and to assert a right of retention if they have been legally established or are undisputed. The Buyer may only assert a right of retention if his counterclaim is based on the same legal relationship.

## 17. Retention of title

- 17.1. All deliveries by the Seller are subject to retention of title. The Seller shall retain title to the Goods sold („Goods subject to retention of title“) until full payment of all present and future claims of the Seller against the Buyer arising from the purchase contract or contract for work and materials and the ongoing business relationship.
- 17.2. The Buyer undertakes to treat the Goods subject to retention of title with care for the duration of the retention of title. In particular, the Buyer must carry out all necessary inspection and maintenance work on the reserved Goods at his own expense and in good time.
- The Buyer is obliged to insure the Goods at his own expense against fire, water damage 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 is not permissible, the Buyer hereby irrevocably instructs its insurer to make any payments only to the Seller. 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.
- 17.3.
- 17.4. If the Goods subject to retention of title are processed, mixed, combined, blended or remodelled („further processing“), this shall always be done in the name of and on behalf of the Seller as manufacturer. The Seller acquires direct ownership of the new item. The existing expectant right of the Buyer remains in force. If, in the event of further processing with Goods of third Parties, their right of ownership remains in force, the Seller shall acquire co-ownership of the new item in the ratio of the objective value of the reserved Goods to the other processed items at the time of processing.
- 17.5. If the Seller acquires ownership of the new item by processing, combining or mixing the reserved Goods with other goods, the Seller shall transfer to the Buyer a co-ownership share in the main item corresponding to the value of the Goods subject to retention of title, subject to the condition precedent of full payment of the purchase price.
- 17.6. The Buyer is revocably authorised to sell the reserved Goods in the ordinary course of business. In the event of resale, the Buyer hereby assigns to the Seller the resulting claims against the purchaser in the amount of the invoice amount including VAT and any transport costs with all ancillary rights to secure the purchase price claim. The Seller hereby accepts the assignment. If the Goods subject to retention of title are sold together with other goods not supplied by the seller, the claim arising from the resale shall be assigned in the ratio of the value of the Goods subject to retention of title (final invoice amount including VAT) to the other goods sold. If an assignment is not permissible, the Buyer hereby irrevocably instructs the third party debtor to make any payments only to the Seller. The Seller authorises the Buyer to collect the claims assigned to the Seller in its own name and for the Seller's account. If the Buyer does not properly fulfil his payment obligations to the Seller, the Seller is entitled to revoke the authorisation to collect the claim and to assert the claim against the third party himself. If the realisable value of the securities exceeds the Seller's claims by more than ten percent (10 %), the Seller shall be obliged to release the excess part of the securities to which it is entitled to the Buyer at the latter's request. The selection of the securities to be released shall be at the discretion of the Seller.
- 17.7. The Buyer shall notify the Seller immediately if enforcement is levied against Goods subject to retention of title, Goods co-owned by the Seller or claims assigned to the Seller. The Buyer must inform the enforcement body and the enforcement creditor without delay that the Goods are still the property of the Seller or co-owned by the Seller or that the claim has been assigned to the Seller.

17.8. The Buyer is not authorised to pledge the Goods subject to retention of title to third Parties, to assign them to third Parties as security or to make other dispositions that jeopardise the Seller's title. In the event of seizure or other interventions by third Parties, the Buyer must notify the Seller immediately in writing and provide all necessary information, inform the third party of the Seller's ownership rights and co-operate in the measures taken by the Seller to protect the Goods subject to retention of title if and to the extent that the Goods subject to retention of title owned by the Seller are seized, confiscated or otherwise exposed to access by third Parties. If the third party is not in a position to reimburse the Seller for the court and out-of-court costs of an action pursuant to Section 771 of the German Code of Civil Procedure (ZPO), the Buyer shall be liable for the loss incurred by the Seller.

## **18. Due diligence obligations in the supply chain**

- 18.1 The Seller is committed to ecologically and socially responsible corporate governance. By entering into contractual relationships, the Buyer's contractual partners in the direct supply chain also commit to ecologically and socially responsible corporate governance. The Seller obliges its employees to observe the principles of ecological, social and ethical behaviour and to integrate them into the corporate culture. The Seller continuously optimises its business activities and its own products in terms of sustainability.
- 18.2 The contracting Parties agree that the following provisions shall apply to future co-operation. The contractual partner undertakes to fulfil the principles and requirements of the regulations and to place its subcontractors under the same contractual obligation.
- 18.3 The contracting Parties undertake to observe and fulfil the human rights and environmental due diligence obligations set out in division 2 of the German Act on Corporate Due Diligence in Supply Chains („LkSG“) in their supply chains in an appropriate manner in accordance with Section 3 Para. 2 of the German Act on Corporate Due Diligence in Supply Chains (LkSG). The Buyer is obliged to duly fulfil the obligations incumbent upon it and to support the Seller in the fulfilment of its obligations to the best of its ability, in particular the Buyer must provide the Seller with all information and documents required for the fulfilment of the Seller's obligations under the LkSG without delay at the Seller's request.
- 18.4 In particular, the contracting Parties shall take the following preventive measures:
- a) The contracting Parties shall take into account the human rights and environmental expectations of the second division of the LkSG when selecting their respective contractual partners in the direct supply chain.
  - b) The contracting Parties hereby contractually assure and obtain contractual assurances from the respective contractual partners in the direct supply chain that they will comply with the human rights and environmental expectations of the second division of the German Act on Corporate Due Diligence in Supply Chains (LkSG) as required by the company's management and address them appropriately along the supply chain.
  - c) The contracting Parties regularly conduct training and further education to enforce the contractual assurances of the contracting Parties in the direct supply chain within their own organisation.
- 18.5 The due diligence obligations to be observed include in particular, although not exhaustively, social responsibility through the exclusion of forced labour, prohibition of child labour, fair remuneration, fair working hours and freedom of association for employees, prohibition of discrimination, health protection, safety at work, preservation of natural resources, remedial measures and grievance mechanisms.

- 18.6 The Seller shall grant the Buyer the opportunity to verify at any time that the Seller fulfils the requirements of this Clause 18 („Audit Measures“). The Seller may object to individual Audit Measures of the Buyer if these would violate mandatory data protection regulations. The Seller shall identify risks within its supply chain and take appropriate Measures. In the event of suspected violations and to secure supply chains with increased suppliers, the Seller shall inform the Buyer promptly and regularly about the violations and risks identified and the measures taken in response.
- 18.7 If the Buyer discovers a breach by the Seller of a human rights-related or environmental obligation within the meaning of the LkSG, the Buyer undertakes to notify the Seller of this in writing within one month and to set the Seller a reasonable deadline for remedying the breach. If a remedy is not possible in the foreseeable future, the Seller shall notify the Buyer immediately. The contracting Parties undertake to jointly draw up a concept within the meaning of Section 7 Para. 2 of the German Act on Corporate Due Diligence in Supply Chains (LkSG) and a timetable for ending the infringement. The termination of a business relationship is only required if the violation of a protected legal position or an environmental obligation is deemed to be very serious, the implementation of the Measures developed in the concept does not bring about a remedy after the expiry of the time specified in the concept or no other milder means are available to the Buyer and an increase in influence does not appear to be promising.
- 18.8 The contracting Parties undertake to inform each other about the implementation of the preventive Measures described in Clause 18.

## **19. Applicable law / Place of jurisdiction / Place of fulfilment**

- 19.1 These GTC and the legal relationship between the Buyer and the Seller shall be governed by the substantive law of the Federal Republic of Germany. The applicability of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is excluded.
- 19.2 The exclusive – also international – place of jurisdiction for all disputes arising directly or indirectly from or in connection with the contractual relationship is the court responsible for the Buyer’s registered office. This does not apply if the Buyer is not a registered trader, unless he has no general place of jurisdiction in Germany.
- 19.3 The place of fulfilment for all services of the Parties is the registered office of the Seller in Hann. Münden, Germany.

## **20. Written form/ Severability Clause**

- 20.1 Amendments and supplements to these GTC must be made in writing. This also applies to this written form requirement. The validity of post-contractual, verbal ancillary agreements that do not concern the provisions of these GTC shall not be affected by this requirement. Should one of the above provisions or a provision within the framework of other agreements between the Buyer and Seller be or become invalid or unenforceable in whole or in part, this shall not affect the validity of the GTC and the contract as a whole. The Parties are obliged to replace the ineffective or unenforceable provision with a provision that is as similar as possible in economic terms from the time it becomes ineffective or unenforceable, taking into account the interests of both Parties. The same applies to loopholes.