



- (3) If we find evidence of possible defects, e.g. within the scope of our quality control in the sampling procedure, we are entitled to subject all delivered goods that are likely to have the defect in question to a comprehensive inspection. The Contracting Party shall bear the expenses required for the purposes of the inspection even if it turns out that there was actually no defect. Our liability to pay damages in the case of unjustified requests to remedy a defect shall remain unaffected; we shall only be liable if we recognised or were grossly negligent in failing to recognise that there was no defect. We expressly reserve the right to assert further claims.
- (4) In the case of the delivery of hazardous substances, the Contracting Party shall be obliged to ensure proper transport in accordance with the statutory provisions. A complete safety data sheet must be sent before the first delivery (as well as for any subsequent change).
- (5) The Contracting Party shall undertake to grant us access to its business premises and works in connection with previously announced quality and environmental audits and to provide all the necessary information.
- (6) At our request, suitable proof of the material tests and/or quality controls carried out at the premises of the Contracting Party shall be submitted without delay.

#### **§9 Recourse against supplier**

- (1) In addition to the claims for defects, we shall be fully and unrestrictedly entitled to our statutory right of recourse within the supply chain (supplier recourse in accordance with sections 445a, 445b, 478 BGB). In particular, we shall be entitled to demand from the Contracting Party exactly the type of subsequent performance (remedy of defects or replacement) that we owe to our customer in the individual case. This shall not restrict our statutory option (section 439 (1) BGB).
- (2) Before we accept or meet a claim for defects made by our customer (including reimbursement of expenses in accordance with sections 445a, 439 (2) and (3) BGB), we shall contact the Contracting Party with a brief description of the circumstances of the case and ask for a written statement. If no such statement is received within a reasonable period of time and no mutually acceptable solution is found, the claim for defects actually granted by us shall be deemed owed to our customer, in which case it shall be incumbent upon the Contracting Party to furnish proof to the contrary.
- (3) Our claims from recourse against the supplier shall apply even if the Goods have been processed by us or by one of our customers, e.g. by way of incorporation into another product, prior to their sale to a consumer.

#### **§10 Producer's liability**

- (1) If the Contracting Party is responsible for a product defect, the Contracting Party shall indemnify us against all third-party claims insofar as the cause is within the Contracting Party's sphere of control and/or organisation and the Contracting Party itself is liable to third parties.
- (2) As part of its obligation to indemnify, the Contracting Party shall reimburse any expenses in accordance with sections 683, 670 BGB that arise from or in connection with a third-party claim, including any product recall carried out by us. We shall notify the Contracting Party of the content and scope of any recall measures – as far as this is possible and reasonable – and give the Contracting Party the opportunity to comment. Any additional statutory claims shall remain unaffected.
- (3) The Contracting Party shall take out and maintain product liability insurance with a lump-sum amount insured of at least € 10 million per person/property damage.

#### **§11 Limitation period**

- (1) The mutual claims of the parties to the contract shall become time-barred in accordance with the statutory provisions unless otherwise specified below.
- (2) Notwithstanding section 438 (1) no. 3 BGB, the general limitation period for claims for defects shall be five (5) years as from passing of risk. The five-year limitation period shall also apply accordingly to any claims for defects in title without affecting the statutory limitation period for material claims for the restitution of property of third parties (section 438 (1) no.1 BGB); claims on the grounds of defects in title shall not become statute-barred as long as the third party is still entitled to assert the right against us, in particular in the absence of limitation.
- (3) The limitation periods of the German sales law, including the aforementioned extension, shall apply to the extent permitted by law to all contractual claims for defects. Insofar as we are also entitled to non-contractual compensation due to a defect, the regular statutory limitation period (sections 195, 199 BGB) shall apply unless the application of the limitation periods of the German sales law results in a longer period of limitation in any individual case.

#### **§12 Applicable law and place of jurisdiction**

- (1) These GTCP and all the legal relationships between us and the Contracting Party shall be governed by the law of the Federal Republic of Germany, to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods (CISG). The prerequisites for and the effects of retention of title shall be governed by the law in force at the place where the Goods are stored if, under that law, the choice of German law would be inadmissible or invalid.
- (2) The exclusive – also international – place of jurisdiction for all disputes arising from the contractual relationship is our registered office in Rödinghausen. However, we shall always be entitled to bring an action at the place of performance of the delivery obligation or at the Contracting Party's general place of jurisdiction. Overriding statutory provisions, in particular in respect of exclusive judicial competence, shall remain unaffected.
- (3) Only the German language version shall be authoritative for the interpretation of these General Terms and Conditions of Purchase.