

# General Terms and Conditions of ANCA Europe GmbH

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## 1. Definitions

For the purposes of these General Terms and Conditions, the term "Company" shall mean ANCA Europe GmbH, Im Technologiepark 15, 69469 Weinheim and "Customer" shall refer to the party obtaining goods or services from the Company.

## 2. Scope of application

(1) These General Terms and Conditions shall apply exclusively to traders, legal persons under public law or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (BGB). Unless otherwise agreed, these General Terms and Conditions shall apply in the version valid at the time of the Customer's order or, in any event, in the version most recently communicated to the Customer in text form.

(2) Any terms and conditions of the Customer that conflict with or deviate from the Company's General Terms and Conditions shall not be recognised; these shall not become part of the contract even if the order is accepted.

(3) These General Terms and Conditions shall also apply to all future transactions with the Customer, insofar as such transactions constitute transactions of a similar nature.

(4) Individual agreements and information in the Company's order confirmation shall take precedence over these General Terms and Conditions. If trade clauses are agreed, they shall, in case of doubt, be interpreted in accordance with the Incoterms® rules published by the International Chamber of Commerce (ICC) in Paris, in the version valid at the conclusion of contract.

## 3. Offers

(1) All offers of the Company are non-binding and subject to change unless they are expressly designated as binding or contain a specific acceptance period.

(2) The Customer may accept offers of the Company within 14 days, unless expressly stipulated otherwise.

(3) If a Customer order is to be regarded as an offer pursuant to Section 145 of the German Civil Code (BGB), the Company may accept it within (14) days of receipt.

(4) The Company reserves the right of ownership or copyright to all of its offers and cost estimates as well as drawings, illustrations, calculations, models and other documents and aids made available to the Customer. The Customer shall not, without the Company's express consent, make these items accessible to third parties, whether as such or in terms of content, disclose them, use them itself or through third parties, or reproduce them. The Customer shall, at the Company's request, return these items to it in full and destroy any copies made, if no longer required in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. Excluded from this is the storage of data made available electronically for the purpose of customary data backup.

## 4. Prices

(1) Unless otherwise agreed, prices are ex works or ex warehouse, excluding packaging, freight, customs, shipping costs and insurance. In addition, value-added tax (VAT) at the applicable statutory rate shall be added to the prices.

(2) The Company reserves the right to adjust its prices in accordance with the following rules as soon as there is a change in pricing basis between conclusion of contract and the delivery date:

- a. The Company shall, at its reasonable discretion pursuant to Section 315 of the German Civil Code (BGB), adjust the prices agreed in the individual contract to reflect developments in the costs that are material to the price calculation.
- b. The Company shall increase the prices if, for example, the costs of raw materials, intermediate products (e.g. semiconductors, steel or copper), energy, wages or logistics increase, or changes in the legal framework lead to an increase in costs.
- c. Increases in one type of cost shall be taken into account for a price increase only to the extent that they are not offset by any declining costs in other areas.

- d. In the event of cost reductions, the prices shall be reduced only upon the Customer's written request and only insofar as such cost reductions are not wholly or partly offset again by increases in other areas.
- e. In exercising its reasonable discretion, the Company shall choose the time of any adjustment so that cost reductions are not taken into account on criteria less favourable to the Customer than cost increases, i.e. cost reductions shall affect the prices to at least the same extent as cost increases.

## 5. Payment terms

(1) Unless otherwise agreed in the individual case, the Company's standard payment terms shall apply as follows:

30% due immediately upon receipt of the order confirmation,

70% due immediately upon notification of readiness for shipment.

(2) The deduction of a discount shall be permissible only by special written agreement.

(3) During default, the purchase price shall bear interest at the statutory default interest rate applicable at the time. We reserve the right to assert further claims for damages caused by delay. In relation to merchants, the claim to commercial maturity interest (Section 353 of the German Commercial Code (HGB)) shall remain unaffected.

(4) In the event of default by the Customer, the Company shall also be entitled to suspend the delivery of further products ordered by the Customer until all claims due from the entire business relationship with the Customer, irrespective of the legal grounds, have been settled by the Customer.

(5) If, after the conclusion of the contract, circumstances become known to the Company (e.g. an application for the opening of insolvency proceedings) which are likely to significantly reduce the Customer's creditworthiness and which jeopardise the payment by the Customer of the Company's outstanding receivables under the relevant contractual relationship, the Company shall be entitled to perform any deliveries or services still outstanding only against advance payment or the provision of security.

(6) The Customer shall reimburse the Company for any bank charges incurred in respect of chargebacks, provided that the Customer is responsible for the chargebacks.

(7) If the agreement entered into with the Customer permits or requires the use of a letter of credit, this must be transferable, irrevocable, confirmed by the Company's bank in Germany and payable in instalments. Payment shall be made to the Company upon presentation of the Company's invoice and the consignment note. The Customer shall pay all expenses associated with the letter of credit.

## 6. Retention of title

(1) The Company retains title to the delivery item until all claims to which it is entitled under the contract of sale and an ongoing business relationship, whether existing now or arising in the future, have been satisfied in full.

(2) For as long as title has not yet passed to the Customer, the Customer shall handle the delivery item with due care. In particular, the Customer shall, at its own expense, insure the delivery item adequately at replacement value against theft, fire, water and other damage. If maintenance and inspection work are required, the Customer shall carry them out in good time at its own expense. For as long as title has not yet passed, the Customer shall notify the Company in writing without undue delay if the delivery item is subject to attachment or other intervention by a third party. To the extent that the third party is unable to reimburse the Company for the court and out-of-court costs of an action pursuant to Section 771 of the German Code of Civil Procedure (ZPO), the Customer shall be liable for the loss incurred by the Company.

(3) The Customer may neither sell, pledge nor transfer the delivery item by way of security. In the event of attachments as well as seizure or other dispositions by third parties, the Customer shall notify the Company thereof without undue delay.

(4) In the event of a breach of contract by the Customer, in particular non-payment of the purchase price when due, the Company shall be entitled, in accordance with the statutory provisions, to withdraw from the contract or/and to demand surrender of the delivery item on the basis of the retention of title. The demand for surrender does not simultaneously include the declaration of withdrawal; rather, the Company shall be entitled merely to demand surrender of the goods and to reserve the right of withdrawal. If the Customer does not pay the purchase price when due, the Company may exercise these rights only if it has previously, without success, set the Customer a reasonable period for payment or if the setting of such a period is not required under the statutory provisions.

(5) Until revocation pursuant to (c) below, the Customer shall be authorised to resell and/or process the goods subject to retention of title in the ordinary course of business. In this case, the following provisions shall additionally apply.

- a. The retention of title shall extend to the products resulting from the processing, mixing or combining of the items delivered by the Company, to their full value, with the Company being deemed the manufacturer. If, in the event of processing, mixing or combining with goods of third parties, their ownership remains, the Company shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined goods. Otherwise, the same shall apply to the resulting product as to the goods delivered under retention of title.
- b. The Customer hereby assigns to the Company, by way of security, the receivables against third parties arising from the resale of the delivery item or product, in its entirety or, as the case may be, up to the amount of any co-ownership share of the Company pursuant to the above paragraph. The Company accepts the assignment. The obligations of the Customer referred to in para. 2 shall also apply in respect of the assigned receivables.
- c. The Customer shall remain authorised, alongside the Company, to collect the receivables. The Company undertakes not to collect the receivables as long as the Customer meets its payment obligations towards the Company, there is no impairment of its ability to perform and the Company does not assert the retention of title by exercising a right pursuant to paragraph 4. If, however, this is the case, the Company may require that the Customer discloses to the Company the assigned receivables and their debtors, provides all information required for collection, hands over the relevant documents and notifies the debtors (third parties) of the assignment. In addition, in this case the Company shall be entitled to revoke the Customer's authority to further sell and process the goods subject to retention of title.
- d. If the realisable value of the collateral exceeds the Company's receivables by more than 10%, the Company shall, at the Customer's request, release collateral of its choice.

## 7. Delivery

(1) The delivery period shall be determined by the agreements of the contracting parties. The Company's compliance with this period is subject to the condition that all commercial and technical questions between the contracting parties have been clarified and that the Customer has fulfilled all obligations incumbent upon it, such as the complete provision of documents to be provided, approvals, payment of a deposit, etc. If this is not the case, the delivery period shall be extended appropriately. This shall not apply insofar as the Company is responsible for the delay.

(2) Compliance with the delivery period shall be subject to correct and timely delivery by the Company's suppliers. The Company shall notify any impending delays as soon as possible.

(3) The delivery period shall be deemed complied with if, by its expiry, the delivery item has left the Company's works or readiness for shipment has been notified. Where acceptance is to take place, the acceptance date shall be decisive - except in the case of justified refusal of acceptance - or failing that, the notification of readiness for acceptance.

(4) The Company shall not be liable for the impossibility of delivery or for delays in delivery insofar as these have been caused by force majeure or other events not foreseeable at the time of conclusion of contract (e.g. operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortage of labour, energy or raw materials, difficulties in obtaining necessary official authorisations, pandemics or epidemics, measures taken by authorities or the failure, incorrect or untimely supply by suppliers despite a matching cover transaction concluded by the Company) for which the Company is not responsible. If such events substantially impede or render impossible the Company's delivery or service and the impediment is not merely temporary, the Company shall be entitled to rescind the contract. In the case of impediments of a temporary duration, the delivery or service deadlines shall be extended or the delivery or service dates postponed by the duration of the impediment plus a reasonable start-up period. Insofar as, as a result of the delay, acceptance of the delivery or service cannot reasonably be expected of the Customer, the Customer may rescind the contract by giving the Company immediate written notice.

(5) If the Customer is in default of acceptance or fails to perform a required act of co-operation, or if delivery is delayed for other reasons for which the Customer is responsible, the Company shall be entitled to claim compensation for the resulting loss, including additional expenses (e.g. storage costs). Lump-sum compensation shall be payable for this in the amount of EUR 200.00 per calendar day, commencing with the delivery deadline or - in the absence of a delivery deadline - with notification of the readiness for shipment of the delivery item or the acceptance date or notification of readiness for acceptance.

Proof of greater loss and the Company's statutory claims (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected; however, the lump sum shall be credited against any further monetary claims. The Customer shall be permitted to prove that the Company has incurred no loss at all or only a substantially lower loss than the lump sum stated above.

(6) If the Company is in default and the Customer incurs a loss as a result, the Customer shall be entitled to claim lump-sum compensation for delay. This shall amount to 0.5% for each full week of delay, but in total no more than 5% of the value of that part of the total delivery which, as a result of the delay, cannot be used in due time or in accordance with the contract. We reserve the right to provide evidence of a lower loss.

If, after the due date, the Customer sets the Company – taking into account the statutory exceptions – a reasonable period for performance and the period is not met, the Customer shall be entitled to rescind the contract in accordance with the statutory provisions. The Customer undertakes, at the Company's request, to state within a reasonable period whether it will exercise its right of rescission.

For further claims of the Customer arising from delay in delivery, Clause 11 of these Terms and Conditions shall apply.

(7) The Company shall only be entitled to make partial deliveries if

- a. the partial delivery can be used by the Customer for the purpose intended under the contract,
- b. the delivery of the remaining ordered goods is assured and
- c. the Customer does not thereby incur any substantial additional effort or costs (unless the Company agrees to assume these costs).

## 8. Transfer of risk, acceptance and shipment

(1) Unless otherwise agreed, delivery shall be carriage paid and insured to the place of destination specified in the offer ("CIP" in Incoterms 2020).

(2) The risk of accidental loss and accidental deterioration of the delivery item shall, under the conditions referred to in paragraph 1 ("CIP" in Incoterms 2020), pass to the Customer upon handover of the goods to the first independent carrier (first carrier). If the Customer is in default of acceptance, the risk shall pass to the Customer from the day on which the delivery item is ready for shipment and the Company has notified the Customer thereof.

(3) Where acceptance is required, it shall be determinative for the transfer of risk. It shall be carried out without undue delay on the acceptance date or, alternatively, after the Company's notification of readiness for acceptance. If the Customer does not declare acceptance without undue delay, the Company may set the Customer a period of 4 weeks in writing for submission of such declaration. Acceptance shall be deemed to have taken place if the Customer does not specify in writing within this period the reasons for refusing acceptance. If acceptance does not take place due to a circumstance attributable to the Company, the risk shall pass to the Customer from the day of the notification of readiness for acceptance.

(4) 2/3 of the charged value shall be reimbursed if cases, crates, barrels and wooden drums are returned carriage paid and free of charges in good condition within four weeks. Disposable packaging shall not be taken back and shall not be reimbursed.

## 9. Installation

The Company must provide the Customer with written installation and assembly instructions prior to delivery of the delivery item to the Customer. The Customer shall be responsible for preparing the site with regard to substructure, connections and other prerequisites.

## 10. Claims for defects

The Company shall be liable for material and legal defects of the delivery item to the exclusion of further claims – subject to Clause 11 – as follows:

### **I. Material defects**

(1) The Customer's claims for defects require that, in accordance with Section 377 of the German Commercial Code (HGB), the Customer examines the delivery item without undue delay after its delivery and duly gives notice of defects. Notices of defects must be made in writing specifying the defect. Obvious defects must be notified to the Company within 7 working days from delivery and defects not identifiable upon examination within the same period from discovery. If the Customer fails to carry out a proper inspection and/or to provide a defect notice, the Company's liability for any defect not notified, not notified in due time or not notified properly is excluded in accordance with the statutory provisions. In the case of delivery items intended for installation/assembly, this also applies if the defect only became apparent after the relevant processing as a result of a breach of one of these obligations; in this case, in particular, the Customer shall have no claims for reimbursement of corresponding costs ("costs of removal and installation").

(2) If the item delivered is defective, the Company may, in the first instance, choose whether it renders subsequent performance by remedying the defect (repair) or by delivering a defect-free item (replacement delivery). If, in the individual case, the type of subsequent performance chosen by the Company is unreasonable for the Customer, the Customer may reject it. The Company's right to refuse subsequent performance under the statutory requirements remains unaffected.

(3) The Company is entitled to make the subsequent performance owed conditional upon the Customer paying the purchase price due. The Customer is, however, entitled to withhold a part of the purchase price that is reasonable in relation to the defect.

(4) After consultation with the Company, the Customer shall give the Company the necessary time and opportunity to carry out all repairs and replacement deliveries which the Company deems necessary and shall allow unhindered access to the delivery item; otherwise the Company shall be released from liability for the resulting consequences. Subsequent performance includes neither the detachment, removal, dismantling or deinstallation of the defective item nor the assembly or the installation of a defect-free item, if the Company was not originally obliged to provide those services; the Customer's claims for reimbursement of corresponding costs ("costs of removal and installation") remain unaffected.

(5) The expenses required for the purpose of inspection and subsequent performance, in particular transport-, travel-, labour- and material costs as well as, where applicable, costs of removal and installation, shall be borne or reimbursed by the Company in accordance with the statutory provisions and these General Terms and Conditions, if a defect actually exists. Otherwise, the Company may demand from the Customer reimbursement of the costs incurred as a result of the unjustified request to remedy defects, if the Customer knew or could have recognised that no defect actually existed.

(6) In urgent cases, e.g. where operational safety is jeopardised or to avert disproportionate damage, the Customer has the right to remedy the defect itself or have it remedied by third parties and to demand from the Company reimbursement of the expenses objectively required for this purpose. The Company shall be notified of any such self-remedy without undue delay, if possible, beforehand. The right of self-remedy does not apply if the Company would be entitled to refuse corresponding subsequent performance in accordance with the statutory provisions.

(7) If a reasonable period to be set by the Customer for subsequent performance has expired unsuccessfully or is unnecessary under the statutory provisions, the Customer may, in accordance with the statutory provisions, withdraw from the contract of sale or reduce the purchase price. However, in the case of a minor defect there is no right of withdrawal.

(8) Claims of the Customer for damages or reimbursement of futile expenses (Section 284 of the German Civil Code (BGB)) shall, even in the event of defects in the delivery item, exist only in accordance with the following Clause 11 of these General Terms and Conditions.

(9) The Company shall not be liable for defects that have arisen through natural wear and tear or the occurrence of which was caused by the Customer (e.g. through unsuitable and improper use, faulty assembly or commissioning by the Customer or third parties, faulty or negligent handling, improper maintenance or unsuitable operating materials).

(10) If the Customer or a third party carries out a repair improperly, the Company shall have no liability for the consequences arising therefrom. The same applies to changes to the delivery item made without the Company's prior consent if the remedying of defects is thereby rendered impossible or unreasonably difficult.

## **II. Legal defects**

(1) Unless otherwise agreed, the Company is only obliged to provide the delivered items free from third-party rights in the country of the delivery address. In the event of an infringement of third-party intellectual property rights for which the Company is responsible, the Company may, at its option, either at its own expense obtain and transfer to the Customer a right of use sufficient for the agreed or assumed use, or amend or replace the delivered goods in a manner reasonably acceptable to the Customer such that the intellectual property right is no longer infringed. If this is not possible on commercially reasonable terms or within a reasonable period, the Customer shall be entitled to withdraw from the contract or to reduce the purchase price appropriately. Any claims for damages of the Customer shall be subject to the limitations established in Clause 11 of these General Terms and Conditions. The Company reserves the right to take the measures optionally available to it under this Paragraph even if the infringement of intellectual property rights has not yet been legally finally established or acknowledged by the Company.

(2) The Customer shall inform the Company without undue delay of (alleged) infringements of intellectual property rights or related risks becoming known and, at its request – insofar as possible – leave the conduct of legal disputes (including out of court) to it.

(3) Claims by the Customer shall be excluded if the Customer is responsible for the infringement of intellectual property rights or does not support the Company to an appropriate extent in defending against third-party claims.

(4) Claims of the Customer shall also be excluded if the delivery item is manufactured in accordance with the Customer's specification or instructions, or if the (alleged) infringement of the intellectual property right results from use in combination with another item not originating from the Company, or if the delivery item is used in a manner that the Company could not have foreseen.

(5) For the limitation period of claims based on the infringement of intellectual property rights, Clause 14 of these General Terms and Conditions shall apply accordingly.

(6) Any further or other claims of the Customer due to the infringement of third-party intellectual property rights, other than those set out in this Clause 10, are excluded.

## **11. Liability**

(1) The Company's liability for damages, irrespective of the legal basis, in particular arising from impossibility, default, defective or incorrect delivery, breach of contract, breach of duties in contract negotiations and tort, shall, to the extent that fault is relevant in each case, be limited in accordance with this Clause 11.

(2) The Company shall not be liable in the event of simple negligence by its corporate bodies, legal representatives, employees or other vicarious agents, unless this constitutes a breach of essential contractual obligations. Essential contractual obligations are the obligation to deliver and install the delivery item in due time, their freedom from legal defects and from such material defects as impair their functionality or fitness for use to more than an insignificant extent, and duties of advice, protection and care intended to enable the Customer to use the delivery item in accordance with the contract or to protect the life or limb of the Customer's personnel or to protect its property from significant damage.

(3) Insofar as the Company is liable for damages in principle pursuant to Clause 11 paragraph 2, such liability shall be limited to losses which the Company foresaw upon conclusion of the contract as a possible consequence of a breach of contract or which it ought to have foreseen by exercising customary due care. Indirect losses and consequential losses resulting from defects in the delivery item shall furthermore only be recoverable to the extent that such losses are typically to be expected when the delivery item is used as intended. The foregoing provisions of this paragraph 3 shall not apply in the event of intentional or grossly negligent conduct by members of the Company's corporate bodies or senior employees.

(4) In the event of liability for simple negligence, the Company's obligation to compensate for damage to property and any further financial losses resulting therefrom shall be limited to an amount of EUR 800,000.00 per loss event, even if this constitutes a breach of essential contractual obligations.

(5) The foregoing exclusions and limitations of liability shall apply to the same extent in favour of the Company's corporate bodies, legal representatives, employees and other vicarious agents.

(6) Insofar as the Company provides technical information or acts in an advisory capacity and such information or advice does not form part of the contractually agreed scope of services owed by it, this shall be done free of charge and to the exclusion of any liability.

(7) The limitations of this Clause 11 shall not apply to the Company's liability for intentional conduct, for guaranteed characteristics, for injury to life, body or health or under the Product Liability Act.

## **12. Customer's right of termination under Section 648 of the German Civil Code (BGB)**

Where the delivery item constitutes a non-fungible movable item to be manufactured or produced within the meaning of Section 650 of the German Civil Code (BGB), the Customer may terminate the contract at any time under Section 648 of German Civil Code (BGB) prior to completion of the work only if there is good cause. In this case, the Company shall be entitled to the agreed remuneration. However, the Company must allow to be deducted what it saves in expenses as a result of the termination of the contract or what it earns, or wilfully fails to earn, through other use of its labour and its business operations.

## **13. Foreign trade law, export control and "No Russia / No Belarus clause"**

(1) Performance of the contract by the Company shall be subject to the proviso that no impediments to performance arise from national or international provisions of foreign trade law, in particular the EU Dual-Use Regulation, the German Foreign Trade Act and Foreign Trade and Payments Ordinance, US export control law, embargoes, import restrictions and/or other sanctions, and, in particular, with regard to military and dual-use goods, hereinafter collectively "foreign trade law". As foreign trade law is subject to constant changes and adjustments, the version valid in each case shall apply to the contract and its performance.

(2) The Customer undertakes to provide all information and documents required under the applicable foreign trade law for export or transfer and, where import or export licences contain restrictions imposed by public authorities, e.g. a re-export requirement, to comply with them. The Customer further undertakes not to sell, export, re-export, deliver, pass on or otherwise make available the deliveries to persons, companies, institutions or organisations or to countries, whether directly or indirectly, whether through intermediaries or otherwise, where this would violate applicable foreign trade law. The Customer is obliged, upon request, to provide appropriate and complete information on the end use of the deliveries and services, in particular to issue "end-use documents" and to send them to the Company in the original as evidence vis-à-vis the competent public authorities.

(3) If the Company is prevented from timely delivery or service due to the duration of the proper conduct of a customs or foreign-trade-law-related application, authorisation or review procedure, an agreed performance period shall be extended by the duration of the delay caused by this administrative procedure as well as by the time required to resume performance of the contract.

(4) In the event that the Customer culpably breaches Foreign Trade Law, the Customer undertakes to compensate the Company for the loss incurred and to indemnify the Company against claims for damages and necessary expenses arising therefrom.

(5) If the authorisations or clearances required for performance of the contract under foreign trade law are not granted or are revoked by the competent authorities, or if other legal impediments under foreign trade law permanently prevent performance of the contract, the Company shall be entitled to withdraw from the contract in whole or in part. This shall also apply if such an obstacle to performance arises only after the conclusion of contract. The Customer shall likewise have a corresponding right of withdrawal. If the obstacle to performance affects only a partial performance, the Customer may withdraw from the entire contract only if acceptance of the possible partial performance cannot reasonably be expected of the Customer. Any claims for damages by the Customer based on the right of withdrawal – exercised by the Customer or by the Company – shall be excluded.

(6) Where the Company is responsible for preparing the required export documents, it warrants that it will prepare them for the Customer to the best of its knowledge and belief. In doing so, the Company shall determine the relevant customs tariff numbers for export. Where any (country-) specific requirements relating to the shipping documents apply, these must be communicated by the Customer in writing in advance. Unless expressly agreed otherwise in writing, the Customer shall be solely responsible for the accuracy of the customs tariff numbers for import. On the basis of the customs tariff numbers stated by the Company to the best of its knowledge, the Customer may not assert any claims whatsoever against the Company.

**(7) "No Russia / No Belarus clause":**

- a) The Customer may neither directly nor indirectly (re-)sell, (re-)export or otherwise supply or transfer goods delivered to it by the Company which fall within the scope of Article 12g of Regulation (EU) No. 833/2014 (Russian Federation) or Article 8g of Regulation (EC) No. 765/2006 (Belarus) into the Russian Federation or for use in the Russian Federation.
- b) If the goods obtained from the Company are (re-)sold, (re-)exported or otherwise supplied or transferred to third parties, the Customer shall oblige those third parties likewise to comply with the obligation under Clause 13. para. 7 a) and to pass this obligation on to their customers as well.
- c) In the event of a breach by the Customer of Clause 13 para. 7 a) or b), the Company may terminate the contract with immediate effect by written notice to the Customer; any claims for damages by the Customer against the Company arising out of or in connection with the termination of this contract pursuant to this Clause shall be excluded. In addition, in the event of a breach by the Customer of Clause 13. Para. 7 a) or b), the Company may demand from the Customer a contractual penalty in an amount equal to 5% of the purchase price, and the Customer shall indemnify the Company against all costs or other losses (in particular claims by third parties, fines, non-material damage) arising from non-compliance by the Customer with Clause 13. para. 7 a) and b), unless the Customer proves that it is not responsible for the breach. The contractual penalty shall be set off against claims for damages.

## **14. Statute of limitations**

(1) The limitation period for claims arising from material and legal defects shall be one year from the transfer of risk. In the event of repair, the remaining part of the original limitation period shall begin to run upon the return of the repaired delivery item. The same shall apply in the event of replacement delivery.

(2) The above limitation periods shall also apply to the Customer's contractual and non-contractual claims for damages, insofar as they are based on a defect in the delivery item, unless the application of the regular statutory limitation period (Sections 195 and 199 German Civil Code (BGB)) would lead to a shorter limitation period in an individual case. The Customer's claims for damages in the event of injury to life, body and health, in cases of

intent and gross negligence by corporate bodies or executive employees of the Company, as well as claims under the Product Liability Act, shall be subject exclusively to the statutory limitation periods.

## **15. Software use**

(1) Insofar as software is included in the scope of delivery, the Customer shall be granted a non-exclusive right to use the delivered software, including its documentation. It shall be made available for use on the delivery item designated for that purpose. Use of the software on more than one system is prohibited.

(2) The Customer may reproduce, modify, translate or convert the software from object code into source code only to the extent permitted by law (Section 69 a et seq. of the German Copyright Act). The Customer undertakes not to remove manufacturer information – in particular copyright notices – or to modify it without the prior express consent of the Company.

(3) All other rights to the software and the documentation, including copies, shall remain with the Company or the software supplier, as the case may be. The granting of sublicences is not permitted.

## **16. Governing law and place of jurisdiction**

(1) These General Terms and Conditions and the contractual relationship between the Company and the Customer 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).

(2) If the Customer is a merchant within the meaning of the German Commercial Code, a legal person under public law or a special fund under public law, our place of business in Weinheim shall be the exclusive – including international - place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. The same shall apply if the Customer is a trader within the meaning of Section 14 of the German Civil Code (BGB). However, in all cases the Company shall also be entitled to bring an action at the Customer's general place of jurisdiction. Statutory provisions taking precedence, in particular those on exclusive jurisdiction, shall remain unaffected.