

## General Terms and Conditions for the Sale of New Vehicles to Entrepreneurs

### - New Vehicle Terms of Sale -

(Rev./ as of: March 2022)

#### GENERAL

- (1.) Any offer, quotation, delivery or service by the Seller to any entrepreneur will, without exception and exclusively, be based on these Terms and Conditions / General Standard Terms and Conditions.
- (2.) No conflicting or deviating general terms and conditions of the Purchaser shall be recognised.
- (3.) These General Terms and Conditions will also be applicable if and when the Seller, without reservation, performs any manufacture, makes any delivery, provides any service, or makes any provision while being aware of any Purchaser or joining third-party terms and conditions conflicting with or diverging from these General Terms and Conditions.
- (4.) Any individual agreement will, nonetheless, always take precedence over these General Terms and Conditions.

#### I. OFFER AND CONCLUSION OF CONTRACT

- (1.) Any offer or quotation made by the Seller shall be non-binding and subject to change without notice.
- (2.) The Purchaser shall not be bound by any purchase order for more than six (6) weeks. A contract shall be deemed concluded if and when the Seller has, in writing and within such a time limit, acknowledged the purchase order acceptance for the object of purchase designated more specifically, or if delivery has been performed. A contract shall be deemed concluded, furthermore, if and when the Purchaser, in writing and within such a time limit, accepts or acknowledges a non-binding offer made by the Seller with regard to an object of purchase designated more specifically. The foregoing will also be applicable to any subsidiary agreement, supplement or amendment to any contract or agreement. In case of any order acknowledgment, the Purchaser will have the option to either object to deviations, if any, from the purchase order or quotation vis-à-vis the Seller within a period of seven (7) days, or to sign and return the order acknowledgement to the Seller. If the order acknowledgement is signed and transmitted, or not signed, or not transmitted to the Seller, or if no objection is communicated within the time limit, the order acknowledgement will prevail even in the event of any deviation from the purchase order. The Seller will advise the Purchaser of the effect an order acknowledgement has if transmitted without making any objection. If any non-conformance is raised, Purchaser and Seller shall reach an agreement about any such objection.
- (3.) Every agreement shall be made in writing. This shall also be applicable to any subsidiary agreement or subsequent contract amendment.
- (4.) The Seller's prior written consent will be required if the Purchaser wishes to transfer any right or obligation resulting from the purchase agreement to any third party after concluding the purchase agreement or before the object of purchase is transferred to the Purchaser. If the Purchaser fails to observe this obligation, the Seller shall be entitled to rescind the contract by written notice without setting any deadline. The right to claim compensation in damages will remain unaffected thereby. No modification or amendment to these General Standard Terms and Conditions shall take effect if due to any transfer of the Purchaser's rights and obligations to any third party (e. g., to any financing and/or leasing company), or due to the entry of any third party even if involving any terms and conditions deviating from these General Terms and Conditions. The provisions set forth in the "General" Section will be applicable mutatis mutandis to any third party in this respect.

#### II. PRICES

- (1.) The prices mentioned in any offer or objection shall be non-binding. The prices agreed as defined in Section I (2.) shall prevail. If and when, between contract conclusion and delivery, the Seller's costs for any raw material, or semifinished product, or any other component, which is material to the manufacture of the object of purchase, increase by more than 10%, the Seller will be entitled to claim a purchase price incremented by such increase from the Purchaser. If occurring in the meantime, any price reduction will be offset against such increment in the Purchaser's favour by the Seller. These price adjustment provisions will apply mutatis mutandis to any increase in any other separable cost incurred by the Seller (e. g., transport costs, energy costs, etc.). A price adjustment shall be excluded if and when any such increase in costs is under the Seller's control.
- (2.) Prices shall be deemed exclusive of any cash discount and other deduction plus the value-added tax as applicable from time to time.
- (3.) The costs for any transport insurance, loading, movement, transfer, customs, and any official fees will be charged to the Purchaser.

#### III. PAYMENT

- (1.) Unless as otherwise agreed, a down payment equivalent to 20% of the net purchase price agreed will become due and payable as a lump-sum amount for expenses following order acknowledgement.
- (2.) The lump-sum amount for expenses provided for in Section III (1.) will also be due and payable and will not have to be returned if the manufacture or delivery of the object of purchase becomes impossible on any factual or legal grounds. The foregoing shall not apply if such impossibility is under the Seller's control. The parties shall nonetheless reserve the right to provide evidence showing any higher or lower expenditure.
- (3.) In other respects, the Seller's invoices will become due and payable in cash without any deduction upon the delivery of the object of purchase, and not later than upon the receipt of the written notification of readiness for delivery and the handover or transmission of the invoice.
- (4.) No order to pay, cheque and bill of exchange will be accepted unless following a specific agreement and unless on account of performance subject to the invoicing of all collection expenses and discount charges.
- (5.) Any payment made by the Purchaser will, in every case, be offset first against any costs and interests (oldest to most recent), and then against the principal claims (oldest to most recent) the Seller has vis-à-vis the Purchaser. This will also apply if the Purchaser indicates any other terms of amortisation.
- (6.) No payment shall be deemed made unless if and when the Seller can dispose of the total amount or, if partial performance has been agreed, of the corresponding partial amount. Payments by cheque will be deemed made when such cheque has been cashed in.

- (7.) If the contract is for a business-to-business transaction, the Purchaser shall also owe maturity interests; the maturity interest rate will be 8 percentage points above the base interest rate per year. If the Purchaser incurs in any delay, the Seller shall be entitled to require interest in an amount of 9% above the base interest rate applicable from time to time from the corresponding date on; this shall also apply when no business-to-business transaction is concerned.
- (8.) Even when making any complaint, notification of defect or counterclaim, the Purchaser shall not be entitled to offset, retain, or reduce any amount unless such counterclaim is either indisputable or has been recognised by declaratory judgment. No right of retention may be asserted by the Purchaser unless based on any claim arising from the sale and purchase agreement.
- (9.) To provide collateral for the payment of the purchase price, the Seller may, at any time prior to the delivery of the vehicle, request the Purchaser to submit a financing commitment made by a recognised financial institution. If exercising this right, the Seller may subject the delivery of the vehicle to the submission of such written financing commitment. The Seller may rescind the contract if the Purchaser fails to submit the requested financing commitment within a period of three (3) weeks after being requested to do so by the Seller. The assertion of any claim for compensation in damages shall remain unaffected thereby.

#### IV. DELIVERY AND DELAY IN DELIVERY

- (1.) Any delivery date or delivery period may be agreed on a binding or non-binding basis and shall require a written form. Any delivery period shall, in principle, commence upon contract conclusion. If an order acknowledgement is transmitted as provided for in Section I (2.), such period shall, contrary to the foregoing, not commence unless either upon the expiry of seven (7) days, or from the receipt of a signed order acknowledgement within seven (7) days. The Seller will request the Purchaser to return such document within one business day and will inform the Purchaser about the consequences of a later return.
- (2.) Six (6) weeks after the expiry of a non-binding delivery date or a non-binding delivery period, the Purchaser may request the Seller in writing to make delivery within a reasonable period of time. After the unsuccessful expiry of such additional period of time, the Purchaser shall be entitled to rescind the purchase agreement by written notice, or to claim compensation in damages for non-performance. Such claim for compensation in damages shall be excluded in case of any ordinary negligence committed by the Seller. If the Purchaser is a corporate body under public law, or a special fund under public law, or an entrepreneur concluding the contract while exercising his or her commercial or self-employed activity, the Purchaser shall have no claim for compensation in damages unless in case of intention or gross negligence on the Seller's part. Any claim to delivery shall be excluded in any such case. If any fortuitous event makes delivery impossible for the Seller while being in delay, the Seller shall nonetheless be liable in accordance with the foregoing principles unless any such damage or loss would also have occurred in case of on-time delivery.
- (3.) If a binding delivery date or a binding delivery period is exceeded, the Seller shall be deemed in delay already upon the expiry of such delivery date or delivery period.
- (4.) Even if and where agreed to be binding, a delivery date shall be subject to the proper receipt of the Seller's own supplies or upstream deliveries.
- (5.) If the Purchaser refuses acceptance without proper justification or makes any serious and final announcement to such effect, the Seller shall be entitled to rescind the contract. In this event, the Seller shall also be entitled to claim compensation in damages. Such compensation in damages shall amount to 15% of the agreed net purchase price. If the completion of the object of purchase has already been notified by the Seller, such compensation in damages shall, in derogation of the foregoing, amount to 85% of the net purchase price agreed. The right to provide evidence showing any higher or lower damage or loss shall remain reserved.
- (6.) Any event of force majeure will entitle the Seller to suspend delivery for the duration of any such impediment and for a reasonable restart period. Force majeure shall be deemed to exist if and when any delay in delivery is due to any unusual and unforeseeable event which is not under the Seller's influence, and the consequences of which could not have been avoided in spite of exercising due care and diligence. This will also apply if a delay had already been incurred prior to the occurrence of any such event. Force majeure shall include but not be limited to (or such events shall be deemed equivalent to force majeure): Any natural disaster, epidemic, infection control measure, act of State related to monetary, commercial or any other policy, strike, lockout, disruption of operations not due to the Seller's fault (e. g., any fire, power failure, machinery breakdown, shortage of any raw material or energy), act of war at the Seller's place of business or at the place of delivery, any sovereign sanction impeding or rendering performance substantially more difficult including any war sanction, obstruction of transport routes, delay in any import/customs clearance as well as any other circumstance of whatever nature which impedes or renders delivery substantially more difficult without being the Seller's fault. It shall be irrelevant in this context whether any such circumstance occurs with the Seller, with any upstream supplier or prior vendor.  
The Seller will inform the Purchaser about any force majeure event without delay after becoming aware of it. If, due to any of the aforementioned events, the Purchaser cannot be reasonably expected to perform the contract including if due but not limited to any delay of more than six months in any substantial part of contract performance, the Purchaser may rescind the contract by giving notice in text form. In case of any delay of more than six months, the Seller may, furthermore, require the Purchaser to declare whether the Purchaser will rescind the contract due to such delay in performance or whether the Purchaser will insist on delivery. If the Purchaser makes no declaration, the Seller may also rescind the contract.  
An event shall also be considered unforeseeable if the nature, time and/or duration of that event are still uncertain even though the circumstances leading to the event are known (e. g., any infection control measure taken after the conclusion of a contract during a known infection situation or additional sanctions due to any ongoing or expanding armed conflict).

The foregoing provisions on force majeure shall apply mutatis mutandis to any period required in order to overcome any force majeure event (e. g., implementation of official requirements).

In the event of rescission, any service already performed shall be reimbursed without delay. Any down payment made to cover any Seller expense in accordance with Section III. (1.) will be excepted from such reimbursement.

Any Seller liability for compensation in damages based on any delay due to force majeure or on a subsequent rescission of contract shall be excluded.

- (7.) Any change in design or form, or any deviation in colour shade, or any change in the scope of supply on the Seller's part will remain reserved during the delivery period if and where, considering the Seller's interests, any such change or deviation is reasonably acceptable to the Purchaser. If and where the Seller uses any sign or number to designate a purchase order or the object of purchase ordered, no right may be derived merely from any such designation.
- (8.) If the object of purchase is custom-made and manufactured on the request and to the specifications of the Purchaser, or if any change in design or form or any other modification deviating from the vehicles usually manufactured by the Seller is made to the object of purchase on the Purchaser's request, the Seller shall not be liable for any deficiency unless in case of intent or gross negligence. If the vehicle's payload is reduced by less than 10% of the agreed payload in any of the aforementioned cases, the Seller's performance shall nonetheless be deemed conformable to the contract. The Purchaser shall, in this case, be obligated to accept the object of purchase unless the Purchaser is entitled to refuse acceptance on any other legal ground.
- (9.) The Seller shall be entitled to make partial deliveries. The Seller may issue and fix a due date for payment for a prorated interim invoice for any such partial delivery.

#### V. PASSAGE OF RISK

- (1.) Risk shall pass to the Purchaser upon the delivery of the object of purchase to the Purchaser. Risk shall also pass to the Purchaser as soon as the object of purchase has been handed over to the person performing transport on the Purchaser's behalf, or as soon as the object of purchase has been delivered to the transport contractor or freight forwarder. Section 447 II of the German Civil Code (BGB) shall remain unaffected.
- (2.) If shipment becomes impossible without any fault of the Seller, risk shall pass to the Purchaser upon the notification of readiness for dispatch. The foregoing shall also apply in the event of any culpable delay in acceptance if and where under the Purchaser's control.

#### VI. ACCEPTANCE

- (1.) The Purchaser shall agree to take delivery of the object of purchase at the agreed place of acceptance within a period of fourteen (14) days after having received a notice of readiness to make delivery or a notice of completion. In the event of non-acceptance, the Seller may avail itself of its statutory rights.
- (2.) If claimed by the Seller, compensation in damages shall amount to 15% of the net purchase price. Compensation in damages may be higher or lower if either the Seller provides evidence for higher or the Purchaser provides evidence for lower damages.

#### VII. RETENTION OF TITLE

- (1.) The object of purchase will remain the Seller's property until every claim due to the Seller under the purchase contract has been satisfied in full. This retention of title shall cover all current or subsequent claims acquired by the Seller against the Purchaser in relation with the object of purchase, e. g., arising from any repair, the delivery of any spare part, accessory or consumable, setup costs and insurance expenses as well as miscellaneous services).
- (2.) If the Purchaser is a corporate body under public law, or a special fund under public law, or an entrepreneur concluding the contract while exercising his or her commercial or self-employed activity, retention of title shall also cover any claim due to the Seller from the Purchaser on any legal grounds whatsoever whether now or in the future. In this case, retention of title shall not expire unless if and when the Purchaser has satisfied every claim arising from the business relationship, including but not limited to settling the account balance (current account reservation).
- (3.) For the duration of retention of title, the Seller shall have the right to possess part II of the vehicle registration certificate. The Purchaser shall agree to request the registration office in writing to deliver part II of the vehicle registration certificate to the Seller. Irrespectively of any retention of title, the Purchaser shall furthermore remain permanently responsible for providing part II of the vehicle registration certificate to any financing and/or leasing company in good time. Any infringement committed by the Purchaser in this regard shall not be at the Seller's expense.
- (4.) If the Purchaser is in breach of the contract, including but not limited to any delay in payment or any failure of the Purchaser to meet its obligations under the retention of title, the Seller shall be entitled to take back the reserved item or require the assignment of any right to recover possession the Purchaser may have against any third party. The recovery of possession or attachment of the reserved item by the Purchaser shall not constitute a rescission of contract. This shall apply if the Purchaser is a corporate body under public law, or a special fund under public law, or an entrepreneur concluding the contract while exercising his or her commercial or self-employed activity.
- (5.) Any Purchaser right of retention shall be excluded unless arising from the purchase contract.
- (6.) For as long as retention of title is in effect, no disposal, pledge, transfer for security purposes, processing or transformation, letting or renting, or other permission of use or modification of the object of purchase causing any prejudice to security for the Seller shall be admissible unless with the Seller's prior written consent.
- (7.) If any third party attempts to take hold of any goods subject to retention of title including by but not limited to attachment, the Purchaser shall agree to immediately notify such third party of the reservation of title, and to immediately inform the Seller in writing or by telephone so as to enable the Seller to enforce its ownership rights. The Purchaser shall agree to indemnify the Seller against any cost if incurred by the Seller in this context.
- (8.) To cover the object of purchase for the duration of the retention of title, the Purchaser shall take out a separate fully comprehensive insurance or a similar insurance providing coverage for the same risks with a reasonable deductible. Such insurance shall be taken out with the proviso that the Seller shall be entitled to the rights arising from the insurance contract. The Purchaser shall herewith authorise the Seller to request a risk coverage certificate for the comprehensive insurance for the Seller, and to obtain information about the aforementioned insurance agreement. If the Purchaser feeds to meet this obligation, the Seller may take out such separate fully comprehensive insurance or similar insurance itself at the Purchaser's request, advance the insurance premiums, and recover such premiums from the Purchaser as part of the claim resulting from the purchase contract.

(9.) The Purchaser shall agree to keep the object of purchase in a proper condition for the duration of the retention of title. The Purchaser shall have all maintenance work provided for and any repair required performed by the Seller or by a workshop which has been recognised or authorised by the Seller.

(10.) If reserved ownership expires due to any combination or processing, the Seller shall acquire co-ownership prorated in terms of value in any new object thus created. In any such case, the aforementioned obligations with regard to reserved ownership shall also apply to the Seller's co-ownership.

(11.) Any pledge or transfer for security purposes of any object subject to retention of title shall be inadmissible. The Purchaser shall hereby assign to the Seller, by way of security and to the full extent, any claim (including but not limited to any balance claim from current account) arising with regard to any object subject to retention of title based on resale or on any other legal ground (insurance, wrongful act). The Seller shall authorise the Purchaser on a revocable basis to collect any claim assigned to the Seller for the Seller's account in the Purchaser's own name. Such collection authorisation cannot be revoked unless the Purchaser fails to properly meet its obligations to pay. Upon the Seller's request, the Purchaser shall, as necessary for collection, provide information on the Seller's assigned claims, and inform the debtors about such assignment.

#### VIII. MATERIAL DEFECTS

- (1.) Any claim made by the Purchaser for any material defect shall be subject to the condition that the Purchaser has fulfilled its duties to examine and object to defects as provided for in Section 377 of the German Commercial Code (HGB) and has observed the provisions indicated below.
- (2.) The Purchaser may require replacement or defect remedy if a delivery item or object of purchase is defective at the time of the passage of risks. Repeated defect remedy shall be considered admissible.
- (3.) The Purchaser's warranty claims shall become time-barred one year after the transfer of risk for the goods. Section 438 I No. 2 and Section 634 a I No. 2 of the German Civil Code (BGB) shall remain unaffected. Any Purchaser claim to compensation in damages due to any material defect based on any injury to life, body or health, or on any gross fault committed by the Seller, the Seller's legal representative or performing agent shall be excepted from any reduction in or exclusion of the period of limitation. The foregoing shall be subject to the statutory periods of limitation.
- (4.) Any warranty granted by the Seller shall become null and void if any operating or maintenance instruction given by the Seller is not observed by the Purchaser or by any third party entrusted by the Purchaser, or if any part is replaced or any consumable is used which do not correspond to the original specifications. The Purchaser must have the maintenance or servicing intervals (= maintenance recommendations) performed as prescribed by the manufacturer in an authorised service workshop of the Seller or manufacturer.
- (5.) The Purchaser must notify the Seller of any defect in writing without any delay and not later than one week after their occurrence. Any defect, which cannot be detected in spite of careful examination during that period, shall be notified to the Seller in writing without any delay after being discovered. The object of purchase shall be kept ready for inspection by the Seller in its condition as existing at the time of detecting any such error.
- (6.) If defect remedies or replacements fail, the Purchaser may request, at the Purchaser's option, either a reduction in the purchase price, or the cancellation of the contract.
- (7.) Liability for normal wear and tear shall be excluded.
- (8.) Any warranty claims against the Seller shall be notified exclusively to the Seller. The Seller shall reserve the right to designate another specialist company which will be entrusted with performing defect remedy after defect notification.
- (9.) If and when the Purchaser determines the design, or defines any detail of the design, or specifies any material or manufacturing process, no warranty claim shall be applicable to any defect resulting therefrom.
- (10.) The Purchaser shall be aware and acknowledge that, in case of galvanisation of any kind whatsoever, deformations, dimensional and weight deviations, surface alterations (changes in colour), changes in sliding or friction coefficients, structural changes or changes in forces may occur at or in the material used or in any galvanised or non-galvanised part, thus creating a surface which may be altered, dull and/or rough, smooth or variable in colour. No claim for any defect or compensation in damages may be based merely on any such alteration as it does not impair neither function nor quality.

#### IX. DEFECT IN TITLE

- (1.) Subject to the provisions indicated below, the Seller shall warrant that, in order to allow its use as agreed or foreseeable, the delivery item is either free from any third-party industrial property rights or third-party copyrights, or that the rights required have been granted by their holders. Each contracting party shall forthwith notify the other contracting party in writing in the event that any claim for an infringement of any such right is asserted against that party.
- (2.) Any claim of the Purchaser shall be excluded if any industrial property right or copyright infringement is under the Purchaser's control. This shall apply including in but not limited to the event that the object of purchase has been manufactured to the Purchaser's specifications, that the Purchaser itself holds the corresponding rights, or that the Purchaser makes any use of the object of purchase or of any part thereof which differs from the use agreed in the contract or from what is foreseeable by the Purchaser.
- (3.) In case the delivery item infringes any industrial property right or copyright of a third party, the Seller will, at the Seller's option and expense, either modify or replace such delivery item so as to cease infringing any such third-party right while ensuring that the delivery item continues to comply with the functions as agreed in the contract, or procure a right of use for the Purchaser by signing a licence agreement with such third party. If the Seller fails to achieve the foregoing within a reasonable period of time, the Purchaser shall be entitled to reasonably reduce the purchase price. Any Purchaser claim for compensation in damages shall be subject to the limitations as set forth in Section X. of these General Terms and Conditions.
- (4.) In the event of any infringement of rights by any product made by other manufacturers and supplied by the Seller, the Seller will, at its option, either assert claims against any such manufacturer and upstream supplier for the Purchaser's account or assign any such claim to the Purchaser. No claim against the Seller shall be deemed to exist in these cases.

## **X. LIABILITY**

- (1.) The Seller's liability for any claim, regardless of its legal basis, including for but not limited to material defects and defects in title under this law, shall be limited in accordance with the following provisions.
- (2.) If the Seller is obligated under any statutory provision to compensate any loss or damage caused by ordinary negligence, the Seller's liability shall be limited:  
No liability shall apply unless in case of any failure to observe an essential duty under a contract, as, e. g., any duty specifically intended to be imposed on the Seller under the purchase contract according to its content and purpose, or if compliance with any such duty constitutes a pre-requisite for the proper performance of the purchase contract, and if the Purchaser regularly relies and may rely on its observation. This liability shall be limited to the typical loss or damage foreseeable at the time of concluding the contract if and where a loss or damage is covered by any insurance taken out by the Purchaser for the damage event concerned (excepting any capital-sum insurance), the Seller shall not be liable unless for any prejudice to the Purchaser which may be related thereto, if any, including but not limited to any higher insurance premium or interest-rate disadvantage suffered before the claim is adjusted by the insurance.  
If the Purchaser is a corporate body under public law, or a special fund under public law, or an entrepreneur concluding the contract while exercising his or her commercial or self-employed activity, the following shall apply if any claim for compensation in damages is asserted due to any material defect after one year has expired since the delivery of the object of purchase:  
The aforesaid limitation of liability shall also be applicable to any loss or damage caused by gross negligence unless caused by any gross negligence committed by any legal representative or managerial employee of the Seller, and furthermore, unless for any loss or damage caused by gross negligence and covered by any insurance taken out by the Seller for the claim concerned.
- (3.) Irrespectively of any fault by the Seller, any liability of the Seller shall remain unaffected in case of fraudulent concealment of a defect, if arising from the assumption of any warranty or any procurement risk, and pursuant to the German Product Liability Act.
- (4.) Liability for delay in delivery is exhaustively provided for in Section IV.
- (5.) In any event subject to Section IV (8) of these GT&C, liability shall be limited to intent and gross negligence.
- (6.) The personal liability of any legal representative, performing agent or company personnel of the Seller shall be excluded for any loss or damage they may cause by ordinary negligence. Any damage caused by any gross negligence committed by the latter shall, except for legal representatives and managerial employees, be subject to the limitation of liability provided for the Seller in this regard on a mutatis mutandis basis.
- (7.) The limitations of liability set forth in this section shall not be applicable to any injury to life, body or health.

## **XI. CHANGES IN DESIGN**

The Seller shall reserve the right to make changes in design at any time; but shall have no obligation to also implement any such change in any object already delivered.

## **XII. RESELLER CLAUSE**

- (1.) The Purchaser shall warrant and assure that the Purchaser is no dealer and shall agree to register the object of purchase under his or her name and use it exclusively for his or her own purposes and in his or her company. Subject to any other agreement or subsequent consent by the Seller, the transfer to any third party of the Purchaser's right to dispose of any of the Seller's ex-works new vehicles or of any object of purchase shall be deemed a failure to observe an essential duty under the contract if made within a period of four months after handing over or after delivering the new vehicle unless further ownership of such vehicle or object of purchase cannot be reasonably expected from the Purchaser during that period (e. g., in case of actual total loss due to an accident), or unless with the prior express written consent of the Seller to any such resale or subsequent disposal.
- (2.) The Seller shall have the right to obtain an injunction restraining the Purchaser from making any resale. If failing to observe such prohibition on reselling in spite of this, the Purchaser shall be obligated to pay a contract penalty equivalent to 15% of the net purchase price (without value-added tax). As an alternative, the Seller shall be entitled to rescind the contract within a period of four (4) weeks after becoming aware of such contravention (infringing event), and claim compensation in damages instead of performance. Compensation in damages shall amount to 15% of the net purchase price. The Seller shall reserve the right to provide evidence for higher damages, and the Purchaser shall reserve the right to demonstrate that no damage has occurred or that its amount is lower.
- (3.) The Seller may require the Purchaser to furnish information about reselling, if any. This shall include but shall not be limited to information on whether any resale has taken place, on the date and contents of the agreement on any resale (including the purchase price), and on any grounds for making such resale.

## **XIII. PLACE OF PERFORMANCE, PLACE OF JURISDICTION, CHOICE OF LAW, SAVING CLAUSE**

- (1.) The place of performance shall be the Seller's principal place of business. The Seller's principal place of business is located in D-07819 Triptis, Thuringia, Germany.
- (2.) If and where the Purchaser is an entrepreneur and has concluded the contract while exercising his or her commercial or self-employed activity, the exclusive place of jurisdiction for any claim arising from the business relationship, its termination including any bills or cheques receivable shall be the court of law having jurisdiction *ratione loci* and *ratione materiae* at the Seller's registered office in D-07819 Triptis, Thuringia, Germany.
- (3.) The same place of jurisdiction shall apply when the Purchaser does not have any common place of jurisdiction inside Germany, moves its place of residence or habitual place of abode outside Germany after concluding the contract, or when its place of residence or habitual place of abode is not known at the time of bringing action.
- (4.) Every legal relationship between Seller and Purchaser shall be subject exclusively to the laws of the Federal Republic of Germany, excluding its conflicts of laws provisions, CISG, private international law, and the UN Sales Convention. The applicability of the United Nations Convention on Contracts for the International Sale of Goods shall be expressly excluded herewith as provided for in Article 6 of that Convention. The controlling language or business language shall be German.
- (5.) If any provision in these General Terms and Conditions or any provision in the framework of any other agreement should be or become ineffective or invalid, such ineffectiveness or invalidity shall not affect the effectiveness of any other provision of these General Terms and Conditions or of any other agreement. The parties hereto shall agree to close any gap in accordance with the meaning and the presumed intention of the contracting parties.