

## **SCHENCK TERMS AND CONDITIONS FOR DELIVERY AND ASSEMBLY**

Version dated February 18, 2019

### **I. Scope of application and formation of contract**

1. Our Terms and Conditions for Delivery and Assembly in the version applicable at the time of contracting shall govern all our deliveries and other performances. Our rates in the version applicable at the time of contracting shall also apply.
2. Our Terms and Conditions for Delivery and Assembly and our rates in the version applicable at the time of contracting shall also govern any future transactions entered into with the Customer.
3. The business relationship with our Customers shall be governed solely by the provisions set out under section I.1. Conflicting terms and conditions of the Customer shall apply only if and to the extent that we expressly accept these in writing. Our silence in response to any such conflicting terms and conditions shall in particular not constitute acceptance or consent with respect to this or any future agreement. Unless we expressly waive their application, our Terms and Conditions for Delivery and Assembly shall apply and supersede any purchasing terms and conditions of the Customer even where those terms and conditions stipulate that accepting the order constitutes unconditional acceptance of the Customer's purchasing terms and conditions or we render performance after the Customer has advised us that its standard terms and conditions of purchase apply.
4. Our offers are nonbinding and subject to change. A contract shall not be formed until we confirm the order in writing. The scope of our performance shall be conclusively defined by our written order confirmation and the written annexes thereto.
5. Any individual agreements made with the Customer in a given case (including ancillary agreements, supplements and amendments) shall have priority over these Terms and Conditions of Delivery and Assembly. Notwithstanding evidence to the contrary, a written contract or our written confirmation shall be controlling for the terms of any such individual agreements.
6. Any documents or information we provide, such as figures, drawings, weights or dimensions, shall only be binding to the extent that we expressly list these as an integral part of the agreement or incorporate them by reference.
7. The written form may be replaced by fax but not by the electronic form pursuant to section 126a of the German Civil Code (*Bürgerliches Gesetzbuch – BGB*) or text form pursuant to section 126b BGB.
8. Our Terms and Conditions of Delivery and Assembly are not intended for use with consumers pursuant to section 13 BGB.

### **II. Prices and payment**

1. To the extent not otherwise contractually agreed, our prices shall be in Euros and net of applicable VAT.
2. Fee quotes shall only be binding if in writing.
3. To the extent not otherwise agreed, the Customer shall be required to make payments as follows:  
30% down payment upon receipt of order confirmation;

60% after performance or notification that the main parts are ready for delivery/acceptance;

Remaining amount after risk of loss passes.

4. Assembly, repair and other services shall be charged at the applicable rates, which we will provide upon request. Work performed outside normal working hours shall be subject to a surcharge. Travel and waiting time shall be classified as working time.
5. Payments shall be made in full to one of our accounts.
6. The Customer shall only have a right to withhold payment or set-off with respect to those counterclaims which are uncontested or have been held to be final and binding by a court of law.
7. The Customer's payments shall be due and payable upon receipt of our invoice. The Customer shall be in default of payment 10 days after receipt of invoice regardless of whether any payment reminder has been sent.
8. The prices quoted in the offer shall apply only if the full scope of the performance offered is ordered.

### **III. Performance, risk of loss, acceptance**

1. We reserve the right to provide partial performance within reason.
2. Incoterms 2010 are deemed agreed. To the extent not otherwise agreed, deliveries shall be made EXW from the place of production. Prices are exclusive of all ancillary costs, such as the costs of packaging, loading, freight and insurance, which shall be borne by the Customer unless agreed otherwise. The Customer shall also bear all taxes, charges, fees and duties.
3. In the case of deliverables under a contract for work (*Werkleistungen*), the risk of accidental loss or destruction shall pass to the Customer upon acceptance. If the Customer assumes responsibility for transporting deliverables from the place of production to the place of use, the Customer shall bear the risk of loss for the duration of transport.
4. The rules concerning risk of loss shall also apply when we effect partial performance or additional performances are to be provided by us.
5. If performance or acceptance is delayed or omitted due to circumstances not attributable to us, risk of loss shall pass to the Customer on the date of notification that the deliverables are ready for delivery/acceptance. We shall obtain the insurance requested by the Customer at its expense.
6. Notwithstanding its rights under section X, the Customer may not refuse acceptance in the event of nonmaterial defects in performance or deviations in quantity.

### **IV. Duties of cooperation**

1. The Customer shall at its expense provide us with any and all information and documents required to render contractual performance fully and in a timely fashion and shall at its expense perform all its contractual duties of cooperation fully and in a timely fashion.
2. In the event that simulation software is provided, the Customer shall be required to verify the simulation results on its real system in advance in a test environment, taking

into account the applicable security or other relevant provisions. In this respect, the Customer shall perform an independent risk assessment of the systems and components.

3. The Customer shall prepare its work environment accordingly for deployment of the software and shall cooperate in performing the contract for no consideration, in particular by providing employees, IT systems, data and telecommunications equipment.

#### **V. Export control**

1. Should the deliverables be subject to government export control provisions, our performance shall be contingent on our obtaining the requisite permits.
2. The Customer shall comply with the relevant national and international regulations regarding the (re)export control of our deliverables. The Customer shall not (insofar as it is entitled to do so) export or re-export our deliverables or any part thereof nor pass on or transfer same unless it complies with the applicable regulations in each case. The Customer shall indemnify us against any and all loss or damage resulting from the culpable breach of the duties set forth in V.2. above. Insofar as this is necessary for compliance with export control regulations, the Customer shall provide us without undue delay upon request all information about the recipient, the whereabouts and intended use of the deliverables or the individual parts thereof.

#### **VI. Retention of title (ROT)**

1. Title in deliverables shall not pass to the Customer until they have been paid in full.

To the extent that special requirements or formalities must be complied with in the country of destination in order for the retention of title to be valid, the Customer shall ensure that these are met.

2. The Customer may not pledge or sell the deliverables nor transfer title therein as security. If the deliverables are attached or seized or otherwise disposed over by third parties, the Customer shall advise them of our title and notify us without undue delay.
3. If the Customer is in breach of contract, specifically where the Customer is in default of payment, we may rescind the agreement and recover all ROT goods. In such case, the Customer shall be required to return the goods and shall bear the transport costs required for their return.
4. If it becomes apparent after contracting that our claim to the purchase price is at risk due to the Customer's inability to pay, we shall be entitled to repudiate performance in accordance with the statutory provisions and – where applicable after setting a deadline – to rescind the agreement. In the case of contracts for the manufacture of non-fungible goods (goods made to specification), we have the right to immediate rescission; the statutory provisions on dispensing with setting a deadline shall remain unaffected.
5. For Customers domiciled within the Federal Republic of Germany, the following shall also apply:
  - a. Contrary to section VI.1., we shall retain title in the deliverables until all our receivables against the Customer arising out of the current business relationship have been satisfied.
  - b. Contrary to section VI.2., the Customer may resell or process the ROT goods in the ordinary course of business on the following condition: it must resell the

goods subject to retention of title if the goods are not immediately paid in full by the third party purchaser. The right to resale shall not apply if the Customer is in default of payment. Upon contracting, the Customer shall assign to us all receivables arising as a result of any resale or on any other legal grounds. If co-ownership rights arise, the assignment shall include only that portion of the receivable corresponding to our co-ownership interest.

- c. The Customer shall continue to be authorized to collect the receivables assigned to us as long as it meets its payment obligations owed to us in accordance with the contract. We may at any time request that the Customer notify us of the assigned receivables and their obligors. In such cases, the Customer shall provide all the information and documentation necessary for collection and notify the obligor of the assignment.
- d. Any processing of the ROT goods by the Customer shall in all cases be performed on our behalf. If the ROT goods are co-mingled, combined, processed with or attached to other objects not owned by us, we shall acquire a (co-)ownership interest in the resulting object corresponding to the invoice value of the ROT goods in proportion to the other processed object at the time of processing. If our goods are co-mingled, combined, processed with or attached to other movable objects to form a single object and if the other object is to be regarded as the main object, it is deemed agreed that the Customer shall transfer a pro rata ownership interest therein to us to the extent that it owns the main object. The Customer shall store the (co-)owned goods on our behalf. Otherwise, that which applies to the ROT goods shall also apply to the object created by virtue of co-mingling, combining, attaching or processing.
- e. At the Customer's request, we shall release the security to which we are entitled at our option and to the extent that the invoice value of the security permanently exceeds our still outstanding (residual) receivables by more than 10%.
- f. Where our deliverables are attached to land or installed in a building they may only be attached or installed for temporary purposes.

#### **VII. Performance period**

1. An agreed performance period shall be deemed complied with provided that all commercial and technical questions between us and the Customer have been clarified and the Customer has fulfilled all obligations incumbent upon it. If this is not the case, the performance period shall be reasonably extended. The foregoing shall not apply if we are at fault for the delay.
2. Performance periods may be reasonably extended in those cases where the failure to comply with the agreed period is due to
  - a. failure to receive proper or timely delivery from suppliers;
  - b. virus and other attacks on our IT system, to the extent that these occurred despite having exercised the due care customary for protective measures;
  - c. obstacles arising due to relevant national and internationally applicable provisions of foreign trade and payments law; or

- d. *force majeure*, industrial disputes, delayed receipt of government permits or other events outside our sphere of control.

The foregoing shall also apply in those cases where our performance is overdue. We shall notify the Customer of any foreseeable delays.

3. The performance period shall be deemed complied with if notification that performance can be effected has been given before it expires. If formal acceptance is required, the date of acceptance shall be controlling, or in the alternative our notification that the deliverables are ready for acceptance.
4. If performance or acceptance is delayed for reasons for which the Customer is responsible, it shall be charged for the costs arising as a result of the delay. The right to assert further loss or damage shall remain unaffected.
5. We reserve the right, after having set a reasonable period for performance or acceptance that expires without result, to otherwise dispose of the deliverables and render performance to the Customer within a reasonably extended period.

### VIII. Delays in performance, impossibility

1. If we are in default and the Customer incurs damage as a result, it may claim compensation for such default in a fixed amount equivalent to 0.5%, but in any case not more than 5% in total, of the value of that part of the total performance, which, due to the default, the Customer is unable to use in a timely fashion or as contractually agreed, for each complete week by which performance is overdue, to be calculated from the date on which we receive the claim in writing.

The Customer shall have a right of rescission within the scope of statutory provisions if, taking into account the statutory exceptions, a reasonable period for performance set for us while we are in default expires without result. Should we so request, the Customer shall within a reasonable period state whether or not it intends to exercise its right of rescission.

Further claims arising from default in performance shall be governed solely by section XI.

2. The Customer may rescind the agreement without setting a deadline if performance as a whole becomes ultimately impossible for us before the risk of loss passes. The Customer may also rescind the agreement if the performance of part of an order becomes impossible and the Customer has a legitimate interest in rejecting partial performance. If this is not the case, the Customer shall be required to pay that portion of the contract price attributable to the partial performance. The same shall apply in the event that performance becomes unfeasible (impracticability).

If performance becomes impossible or impracticable during default in acceptance or if the Customer is solely or predominantly responsible for the circumstances giving rise thereto, it shall still be obligated to render counterperformance.

### IX. Acceptance

1. Our deliverables under a contract for work shall be deemed accepted two weeks after notification that they are ready for acceptance, unless the Customer gives written notice of material defects within this period.
2. The Customer may only refuse acceptance if the defect eliminates or substantially reduces the ordinary and/or contractually agreed use of the work and/or its value. If

there are defects in the work that do not entitle the Customer to refuse acceptance, the Customer must accept the work on the condition that the defect(s) be remedied.

3. Refusal of acceptance or contingent acceptance must be effected without undue delay in writing, stating and describing the relevant defect.
4. If the Customer uses the deliverables, they shall be deemed accepted by the Customer.

### X. Claims for defects

1. The Customer shall have the following claims in the event of defects in quality or defects in title:

- a. The Customer's claims for defects shall be contingent on it duly satisfying the obligations incumbent on it to inspect and report defects pursuant to section 377 of the German Commercial Code (*Handelsgesetzbuch – HGB*).
- b. We may at our discretion opt to deliver deliverables free of defects or to remedy defects, insofar as the deliverables already had proven defects before the risk of loss passed pursuant to section III.

The Customer shall notify defects without undue delay in writing, stating and describing the relevant defect. Parts replaced in the context of a replacement procedure shall become our property.

- c. Claims for defects shall not arise if they are caused by circumstances for which we are not at fault, such as:

ordinary wear and tear, overuse, improper alterations or repair work by the Customer or third parties, incomplete or incorrect information from the Customer, incorrect or improper use, incorrect operation, assembly or commissioning, incorrect or careless handling, improper servicing, use of unsuitable supplies/replacement materials, defective construction work, unsuitable building ground, harmful environmental conditions unknown to us, chemical, electrochemical or electrical effects, alterations made to the deliverables without our consent.

Furthermore, claims for defects shall not arise in cases where the Customer connects the software provided to third-party software which is incompatible with it, nor shall claims arise in cases where the defects are due to the Customer's non-conforming use or improper operation of the software. Claims for defects shall also not arise in cases where the Customer fails to use the required system configuration, in particular infrastructure, hardware, operating system and database.

- d. The Customer shall give us sufficient time and opportunity to cure performance. If we are not given this opportunity, we shall not be liable for the resulting consequences. Only in urgent cases of which we must be immediately informed where operational safety is at risk or in order to prevent disproportionately extensive damage shall the Customer be entitled to remedy the defect itself or to have it remedied by third parties and claim reimbursement of the necessary expenses. The Customer's right to remedy the defect itself shall not exist if we would have been entitled by law to refuse cure.
- e. To the extent that claims for defects are legitimate and we effect cure, we shall reimburse the costs as required by law and only insofar as such costs are not

increased as a result of the deliverable having been moved to a location other than the place of performance. Our obligation to cure performance shall not include disassembly of the defective objects or re-installation if we were not originally obligated to install them.

- f. In cases of culpable contributory action by the Customer to cause the defects, in particular due to any failure by the Customer to meet its duty to avoid and mitigate damages, we shall have a claim, after effecting cure, for damages proportionate to the Customer's contribution to the cause.
- g. If the Customer sets a reasonable deadline for us to cure a defect and that deadline expires without result, the Customer shall have the right, taking into account the statutory exceptions, to rescind the agreement. In the case of non-material defects, the Customer's rights shall be limited to a reduction of the contract price. The right to a reduction of the contract price shall otherwise be excluded.
- h. Assembly, repair and other services shall be governed by section XV.9 instead of section X.1.g.
- i. If use of the deliverables results in an infringement of intellectual property rights or copyrights during the periods specified in section XIV., we shall generally procure for the Customer the rights required for it to continue using the deliverables or modify the deliverables such that they are no longer infringing any intellectual property rights or copyrights.

If it is not possible to procure those rights on commercially reasonable terms or within a reasonable period, the parties may rescind the agreement.

Within these periods, we shall indemnify the Customer against claims of the relevant holders of intellectual property rights which are uncontested or have been held final and binding by a court of law.

- j. Notwithstanding the provisions of section XI., our obligations set out in section X.1.i. in the case of infringements of intellectual property rights or copyrights shall be exhaustive.
- k. Claims to cure performance based on infringements of intellectual property rights or copyrights shall exist only if
  - the Customer notifies us without undue delay in writing, stating and describing the infringements of intellectual property rights or copyrights being asserted;
  - the Customer provides us reasonable assistance with defending against the claims asserted or implementing the modification measures pursuant to section X.1.i.;
  - we retain the right to take any and all defensive action, including out-of-court settlements;
  - the infringement of intellectual property rights or copyrights is not based on any instruction or specification of the Customer;
  - the infringement of intellectual property rights or copyrights was not caused by any unauthorized alteration or non-conforming use of the deliverables by the Customer.

2. All other claims for defects (in particular claims for compensation of damage not incurred on the deliverables

themselves) shall be governed solely by sections XI. and XV.9.

3. In the case of the sale of used products, all claims for defects shall be excluded unless mandatory liability is set forth under law.

## **XI. Liability**

1. Our liability, including in the case of loss or damage for breaches of duty during contractual negotiations (*culpa in contrahendo*), regardless of the legal grounds (in particular claims for compensation of damage not incurred on the deliverables themselves) shall be limited to:
  - willful conduct;
  - culpable breach of material contractual obligations; "material contractual obligations" are obligations that go to the essence of the contract and must be performed to protect the legal interests of the Customer granted by the terms and purpose thereunder; material obligations are furthermore those contractual obligations, the satisfaction of which is essential to the due and proper performance of the contract and on which the Customer may and does legitimately rely;
  - grossly negligent conduct by the governing bodies or executive staff;
  - culpable injury to life, limb or health;
  - defects that we have fraudulently concealed;
  - breach of guarantees of quality and/or durability;
  - personal injury or property damage to the extent that we are liable under German product liability law (*Produkthaftungsgesetz*) for objects used for private purposes.
2. In the case of a culpable breach of material contractual obligations, our liability shall also extend to grossly negligent conduct by non-executive staff and to ordinary negligence; in the latter case, liability shall be limited to reasonably foreseeable damages.
3. The Customer shall back-up data appropriately and regularly, in particular by making backup copies that are available and restorable at all times. We shall only be liable for the loss of data and the recovery thereof if such data loss would have been unavoidable even if the Customer had taken appropriate measures to back-up data. The Customer shall bear the burden of proof to show that such data back-up measures were carried out on a regular basis. Our liability for data loss or damage for which we are responsible shall be limited to the expenses that would be required to recover the data from the data backup material assuming that the Customer properly backed up the data.
4. Compensation for financial losses shall be limited by general principles of good faith, such as in cases where the amount of damage is not proportionate to the contract value.
5. Any further liability, on whatever legal grounds, in particular for compensation of damage not incurred on the deliverables themselves, is hereby excluded.
6. We shall not be liable for the consequences of defects that do not give rise to claims for defects pursuant to section X.1.c.

## **XII. Claims under insurance contracts**

Insofar as we have direct claims against the Customer's insurer with regard to our deliverables as a co-insured,

the Customer hereby grants us its consent to assert such claims.

### **XIII. Software: scope of delivery, licenses and rights to information**

1. If software is included in the scope of delivery of a system or machine, the following licenses shall be granted to the Customer. We are under no obligation to provide any training, support, maintenance, updates or upgrades. Such services may be contractually agreed on a separate basis.

The following rights of use are granted to the Customer:

- a. Programs from third-party producers are subject to the licensing terms and conditions of such producers. This also applies to open source licenses if a software component is subject to an open source license. Unless the obligation to provide license terms and conditions and other mandatory disclosures arises from the license in any event, we shall make terms and conditions of third-party producers available to the Customer if requested by the latter.
- b. The Customer receives the simple, non-transferable, unrestricted and non-exclusive right in terms of time and location to use the software and the relevant documentation from the time when made available. Except as otherwise agreed, the type of license is stated in the Agreement. In this context, the respective license type comprises the following scope of use:
  - aa) In the case of hardware-related licenses, the Customer is entitled to install and use the software on the computer for which he or she received the license key.
  - bb) In the case of a user-related license, the right of use is restricted to the number of full client concurrent users specified in the Agreement, i.e. the right of use may only be exercised by the maximum number of users specified at the same time.
  - cc) In the case of a named user license, only the persons listed by name in the Agreement shall be entitled to simultaneous use of the Software.
  - dd) In the case of a group license, the Customer may use the Software in all companies with which it is affiliated as contemplated by Sections 15 ff. of the German Stock Corporation Act (AktG) ("Group companies"). This includes the right that all Group employees may use the Software without any restriction regarding their number. It may be determined that additional location-related licenses must be purchased in the event of a sizeable increase in the number of employees.
2. Any copyright notices and trademarks and other legal reservations, serial numbers or other features may not be deleted, altered, rendered illegible or suppressed and must always be assumed and included when making backup copies.
3. In particular, the license to use the Software does not extend to include the right to edit, translate, lease and lend or disseminate it, the right to playbacks (in public) and online availability to third parties outside the Customer's organization; in addition, the license does not extend to include the right to copy the Software unless this is necessary for agreed purposes or for the creation of backup

copies. The use of the Software in outsourcing, service bureau or application service provider (ASP) operation and the like is not permissible. The transfer of the rights of use to third parties is not permissible unless such third parties are business associates of the Customer commissioned by the latter who need access to the Software in order to carry out their mandate and for operating purposes of the Customer, with such use being exclusively confined to screen access and only in connection with the use by the Customer.

4. The Software may be made available to third parties only in a uniform manner and against indication of such use being granted in writing. The Customer must fully and finally abandon its use of the Software and also surrender all copies to the third party or destroy them. In addition, these Licensing Terms and Conditions must also be imposed on any such third party.
5. The Customer is not entitled to delivery and use of the source code of the Software and the source code documentation. The Customer is not allowed to decompile or disassemble the Software or to obtain or redevelop the source code in some other manner by reverse engineering; Section 69e of the German Copyright Act shall remain unaffected in this regard.
6. The Customer shall duly keep a track record of Software use, in particular of the authorized users and installation sites as well as the hardware and software environment, and shall provide us with the relevant information upon request.

The Customer hereby agrees to us being entitled to commission own employees or independent third parties, each of whom is committed to secrecy, with the review (including a manual audit and/or electronic methods) of recordings, systems and plant & equipment of the Customer for the purpose of confirming that the installation and use of the Software by the Customer is in conformity with the provisions concerning valid licenses from us. The Customer shall make all records and information requested by us available within 30 days following receipt of a corresponding request. We shall assume the costs of such review unless the latter reveals a substantial contractual violation.

### **XIV. Limitation of actions**

1. The Customer's claims for defects shall become time-barred 12 months from the date on which risk of loss passes.
2. The Customer's claims for defects in the case of a building and in the case of a work whose result consists in the rendering of planning or monitoring services for buildings shall become time-barred five years from the date on which risk of loss passes.
3. With the exception of section XIV.4., all other claims of the Customer, on whatever legal grounds, shall become time-barred 12 months from the date on which risk of loss passes.
4. Claims involving injury to life, limb or health; grossly negligent conduct by governing bodies or executive staff; willful or fraudulent conduct; culpable breach of material contractual obligations; guarantees and claims under German product liability law shall instead be governed by the statutory provisions on the limitation of actions.
5. The limitation period shall commence in accordance with statutory provisions.

## **XV. Assembly, repair and other services**

In the case of assembly, repair and other services, the following shall also apply:

1. The Customer shall at its expense inform our staff about existing safety regulations and risks and take all measures necessary to protect persons and property at the workplace.
2. The Customer shall at its expense support our staff in carrying out the work to the extent necessary and provide the necessary assistance, such as preparing the construction site, providing tools and hoists, water and electricity, etc.
3. The Customer must provide assistance so as to ensure that our workers can begin their work immediately upon arrival and carry out their work without delay until acceptance can be effected.
4. If the Customer fails to meet its obligations in this regard, we shall be entitled but not obligated to take action ourselves and charge this to the Customer.
5. If we are unable to render a given service for reasons for which we are not responsible, the Customer shall remunerate the services already rendered by us and reimburse the expenses incurred.
6. Parts replaced in the context of a replacement procedure shall become our property.
7. If deliverables are destroyed or damaged prior to acceptance through no fault of ours, the Customer shall reimburse us the price less saved expenses.
8. Repair or assembly dates shall only be binding if we have confirmed them in writing.
9. In the case of assembly, repair and other services, the Customer shall be entitled to a reduction of the contract price within the scope of statutory provisions if, taking into account the statutory exceptions, a reasonable deadline for performance set for us while we are in default expires without result. The right to a reduction of the contract price shall also exist in other cases where defects are unable to be remedied. The Customer shall only have a right of rescission in those cases where it can show that the assembly, repair and other services are of no interest to the Customer despite the reduction of the contract price.
10. If the devices or tools provided by us are damaged on the assembly site through no fault of our own or if they are lost through no fault of our own, the Customer shall reimburse us for such loss or damage. This shall not include damage occurring due to ordinary wear and tear.

## **XVI. Proprietary information and confidentiality**

1. We reserve all proprietary rights and copyrights in the information and documents we provide (e.g., samples, cost estimates, drawings, documentation) be it in hardcopy or electronic form. They must be returned to us in full without undue delay upon request.
2. Any and all information received from us shall be treated as confidential and shall not be disclosed to third parties unless or until it can be shown to have entered the public domain and may only be made available internally to those employees who require it in order to perform their obligations and who themselves are bound to a duty of confidentiality.
3. Information within the meaning of section XVI. 2 shall include specifically, but without limitation, any document, software, including the source code, any business secret,

any information and any data or other information not in the public domain relating to products, processes, knowhow, designs, formulas, algorithms, drafts, developments, research, computer programs or parts thereof (including the source code), interfaces, databases and other copyright-protected works or any other information relating to our business or employees, advisors, licensors and licensees communicated or provided in written, electronic, tangible, oral or other form.

## **XVII. Governing law, jurisdiction**

1. For Customers domiciled within the Federal Republic of Germany, the place of jurisdiction shall be our registered office. We reserve the right to bring suit at the Customer's statutory place of jurisdiction.
2. For Customers domiciled outside the Federal Republic of Germany arbitration proceedings shall be conducted at the International Chamber of Commerce in Paris in accordance with the ICC Arbitration Rules. The decision shall be final and binding. It shall be made by a tribunal of three arbitrators and include the grounds therefor. Our insurer may become involved to the extent permitted by law. We reserve the right to bring suit at a statutory place of jurisdiction.
3. The laws of the Federal Republic of Germany, excluding all conflict of law rules and the provisions of the United Nations Convention on the International Sale of Goods (CISG) shall apply.

## **XVIII. Disposal of deliverables, miscellaneous**

1. The Customer agrees to properly dispose of the deliverables after use is discontinued at its own expense in accordance with the applicable statutory provisions. The Customer shall release us from any existing obligations to take return and/or dispose of the deliverables and indemnify us against any third-party claims in that connection.

Within the regulatory scope of the Electrical and Electronic Machinery Act (Elektro- und Elektronikgerätengesetz (ElektroG)), the Customer shall hold us harmless for any and all obligations under Sec. 19 ElektroG, particularly for the obligations of the manufacturer to take back and dispose of products and for any claims by third parties in this respect.

Customer shall impose contractual obligations on third party merchants to whom it provides the deliverables stipulating that, once those third parties discontinue using the deliverables, they shall properly dispose of them at their own expense in accordance with applicable statutory provisions and that this obligation shall be imposed on any subsequent parties receiving the deliverables. If the customer fails to impose contractual obligations on third parties to whom it provides the deliverables stipulating that they shall properly dispose of them and that this obligation shall be imposed on any subsequent parties receiving the deliverables, the customer shall be obligated to take return of the deliverables once it discontinues using them at its own expense and shall dispose of them in accordance with applicable legal statutory provisions. We shall be released from any claims of third parties.

Because of their classification as being exclusively for commercial use, in no event may the Customer provide the delivered goods to private third parties. Our claim to the assumption of duties/release by the Customer shall not become statute-barred before the expiration of two

years from the final end of the use of the delivered good. The two year period of the suspension of the expiration date shall not begin, at the earliest, until we have received a written notice by the Customer of the end of use. The Customer is obliged to send this written notification to us immediately after termination of use. We are entitled to demand proof of proper disposal by the Customer.

2. All taxes, fees and charges in connection with rendering performance outside the Federal Republic of Germany shall be borne by the Customer and refunded to us, where applicable.
3. All packaging, in particular transport packaging, shall not be taken back. The customer is obliged to ensure that the packaging is disposed of properly at his own expense.
4. The Customer shall at its own expense procure the permits and/or export and import documents required for its use of the products.
5. We comply with the statutory provisions for the protection of personal customer data. Further information can be found in the data protection declaration at <http://schenck.net/en/data-protection/>
6. Place of performance and fulfillment for obligations the Customer owes to us shall be our registered office.
7. Should any provision of these Terms and Conditions or the agreement be or become invalid, either in whole or in part, this shall not affect the validity of the remaining provisions hereof.