Standard Terms and Conditions of Sale and Delivery
Leiber GmbH

Version 2018

I. Scope of application, future validity, priority, completeness, priority of individual agreements, reservation of confirmation, export

1. The following Terms and Conditions of Sale and Delivery (hereinafter referred to as **Terms and Conditions of Sale**) apply - subject to special agreements - to all contracts concluded between the customer (hereinafter referred to as **Buyer**) and Leiber GmbH (hereinafter referred to as **Seller**, both jointly also referred to as **Parties or Contracting Parties**) for the sale and/or delivery of contractual products, goods and delivery items (hereinafter referred to as **Contractual Products**).

2. These Terms and Conditions of Sale shall only apply to persons who, upon conclusion of the contract, act in the exercise of their commercial or self-employed professional activity (Business, "*Unternehmer*") within the meaning of sec. 310 (1) of the German Civil Code (*Bürgerliches Gesetzbuch*, BGB) as well as to legal entities under public law or special funds under public law. This group of persons is also referred to as **Business Customers**.

3. These Terms and Conditions of Sale, which are customary in the industry, shall also apply to **all future contracts** for the sale and/or delivery of Contractual Products between the Buyer and the Seller, even if they are not expressly agreed again, provided that a permanent business relationship exists with the Buyer, and further provided that the Buyer is a Business conducting commercial transactions or another Business Customer as defined in clause I. no. 2 above.

4. **Only these Terms and Conditions of Sale apply exclusively**. Standard terms and conditions and/or any other deviating (purchasing) conditions of the Buyer shall not apply, in particular if and to the extent that they deviate from or conflict with our Terms and Conditions of Sale. Such different standard terms and/or conditions of the Buyer shall not apply even if they merely supplement our Terms and Conditions of Sale. Different standard terms and conditions and/or deviating purchasing conditions of the Buyer are only valid if they are expressly accepted by the Seller in text form. These Terms and Conditions of Sale shall apply exclusively even if the Seller, being aware that the Buyer's terms and conditions conflict with or deviate from these Terms and Conditions of Sale, executes the Buyer's order without reservation.

5. All agreements made between the Seller and the Buyer for the purpose of concluding and executing contracts for the delivery of Contractual Products are documented in these Terms and Conditions of Sale. In individual cases, they are supplemented by oral agreements and/or agreements in text form, for example in the order confirmation. Such agreements shall take precedence over the corresponding provision in these Terms and Conditions of Sale, even in the event of contradictions. The priority of

individual agreements pursuant to sec. 305 b BGB shall not be affected by this or by these Terms and Conditions of Sale in any other way either.

6. (1) Oral agreements with employees not authorised by the Seller or not authorised to the extent necessary for the conclusion of contracts for the delivery of Contractual Products require written confirmation by the Seller to be effective, as a minimum in text form.

(2) This limitation of authority does not apply in the event of a power of representation based on statute or the status as a corporate body, a power of attorney with the scope prescribed by law or a form of authority by estoppel. In these cases, an effective oral agreement shall also be deemed to have been concluded. This is the case, for example, if a managing director or authorised signatory acts, or if an employee not belonging to the sales department concludes contracts with the knowledge and tolerance of the Seller, or if the Seller should have recognized and prevented this action of the employee.

7. Contractual Products whose export is subject to a legal or official permit requirement may only be resold or exported to countries and states that are subject to such permit requirements if the Seller has given its prior written consent.

II. Offer, acceptance, conclusion of contract

1. The Seller’s offers to the Buyer / Business Customer are always subject to confirmation. They merely constitute an invitation to the Buyer / Business Customer to issue a binding offer, for instance in the form of an order.

2. (1) An order of the Buyer and any other declaration to be qualified as an offer to conclude a contract in accordance with sec. 145 BGB must be accepted immediately by the Seller if an offer is issued among parties who are present within the meaning of sec. 147 (1) BGB.

(2) However, if an offer among parties who are not present was issued, i.e. within the meaning of sec. 147 (2) BGB, the Seller may accept such offer within **four weeks** from receipt of the offer, either by **(1)** transmission and receipt of an **order confirmation**, or **(2)** transmission and receipt of the ordered Contractual Products, or **(3)** making available the Contractual Products for collection by the Buyer or its assignees or its forwarding agent/ carrier, etc., including notification of the readiness for shipment to the Buyer within the same **four week** term from receipt of the offer.

(3) This means that - in the absence of a special agreement or contrary practice - a **contract** is concluded either orally or by means of the order confirmation in text form or notification in text form of the Seller's readiness for shipment or by the sending or collection of the Contractual Product.

III. Scope of the agreed services and supplies, characteristics of the Contractual Products, information on special properties of natural products, risk of breakage, limitation of warranty, sampling, selection of the Contractual Products by the Buyer or advice by the Seller

1. (1) Unless specifically agreed otherwise, the Seller's **order confirmation** together with these Terms and Conditions of Sale within the meaning of clause I. (5) shall be decisive for the Seller's scope of performance (sale and/or delivery of Contractual Products).

   (2) If such an order confirmation has not been issued and a contract has been concluded orally or the contract has already been concluded in accordance with clause II. no. 2 above, the scope of the Seller's performance within the meaning of clause I. no. 5 shall result from the (oral) agreements of the Parties and from these Terms and Conditions of Sale.

2. (1) **Product descriptions,** product specifications, representations of product properties, **data sheets** (e.g. specification of the goods, protein values, pH values, certificates of analysis and sample findings with all important information on the respective product) exist for all Contractual Products.

   (2) Some of them are listed in the category "Products" on the Seller's homepage at www.leibergmbh.de, under the product categories Food, Animal Feed, Health and Fermentation, as applicable.

   (3) These product descriptions / product specifications / data sheets of the Seller document the **essential characteristics** of the Contractual Products and the **information** to be observed by the Buyer when using the Contractual Products.

   (4) The above information provided by the Seller - taking into account and subject to the provisions of this clause III. of the Terms and Conditions, in particular in the following clause III. no. 3 - are properties and thus **characteristics** of the Contractual Products, in particular within the meaning of sec. 434 BGB.

3. (1) If specific **characteristics** of the Contractual Product have been **agreed** between the Parties (within the meaning of sec 434 (1) 1 BGB), the following **special features of natural products in clause III. no. 4.** are to be considered and taken into account in order to determine the physical characteristics of the Contractual Products that embody their value, in particular regarding the nature and scope of the properties/characteristics.

   (2) Insofar as the **characteristics** of the Contractual Products have **not been agreed** between the Parties (in particular within the meaning of sec. 434 (1) 1 BGB), the special features of natural products with regard to the determination of the scope of agreed characteristics and suitability for normal use as described below shall also be taken into account in determining the suitability for normal use and the usual characteristics of the Contractual Products.

(3) Where the Seller does not provide information on the characteristics when selling feed, the Seller, when selling feed, guarantees the customary characteristics, purity and unpolluted condition of such feed, in particular that the feed sold meets the requirements referred to in Article 4 (2), first subparagraph, point (a) of Regulation (EC) No 767/2009.

4. As the Contractual Products are **natural products**, variations in colour, structure and texture within the same batch and between different batches are common. In as far as they are natural products, the Contractual Products may insofar show deviations and differences in dimensions, colour, shape, structure, grain size, specific weight, density, dry raw density. All this is normal. However, tolerances prescribed by law are being complied with.

5. Therefore, no **characteristics** of the Contractual Products exceeding the normal characteristics within the meaning of sec. 434 (1) 2 BGB within the meaning of the above information can and will be agreed - subject to expressed deviating agreement. This also applies to the descriptions of the Contractual Products in clause III. no. 2 above. It applies even if Contractual Products come from uniform batches, and also after prior sampling.

6. (1) Unless expressly specified as part of the agreed characteristics of the Contractual Products, **samples** and **specimens** are only **non-binding** and only **exemplary**. **Samples** and **specimens** show only the appearance and properties of a part of the Contractual Product, because samples and specimens of the Contractual Products - like the descriptions of the Contractual Products in clause III. no. 2 above - can never represent all variations within a batch.

   (2) Therefore, samples and specimens are merely considered to be **approximate** illustrations of properties such as quality, colour and weight (see the exemplary list of the variable properties in clause III. no. 4 (2) above). Even if delivery of a sampled Contractual Product is agreed to be made specifically from the sampled batch and takes place accordingly, the Seller cannot guarantee that the delivery is and remains completely identical to the samples provided.

7. (1) As a matter of principle, the Buyer shall be responsible for the correct selection of the Contractual Products and their suitability for the intended purpose of use, in particular whether the Contractual Product is suitable for the expected or customary use pursuant to sec. 434 (1) 2 BGB.

   (2) An exception only applies if the Buyer has expressly utilised the Seller’s **advice services**. In such a case, the Buyer is obligated to provide the Seller with correct information on the purpose and location of use as well as all other data required for a correct selection of the Contractual Products.

   (3) **Advice services** shall be provided by the Seller to the best of the Seller's knowledge - based on the information to be supplied for this by the Buyer.

IV. Prices and terms of payment, delay in payment, risk of non-payment of the purchase price, set-off, right of retention of the Buyer

1. The agreed prices apply to the Contractual Products. The prices do not include the statutory value added tax. If required by law, VAT will be shown separately in the invoice at the statutory rate as applicable on the day of invoicing.

2. Unless specifically agreed otherwise, the **purchase price** is **due for payment** by the Buyer without deduction immediately upon delivery/collection and receipt of the invoice, except if the order confirmation provides for a deviating term of payment. If payment is not made, the Buyer shall be deemed to be in **delay of payment** [*Verzug*] after expiry of 14 days from the due date, without further declarations by the Seller being required.

3. Payment shall only be deemed to have been made once the Seller has final and unrestricted access to the relevant amount.

4. If it becomes apparent after conclusion of the sales contract that there is a **risk** of non-payment of the purchase price due to a lack of financial capacity on the part of the Buyer, the Seller shall be entitled to refuse performance, or to first demand advance payment or provision of security. If the Buyer fails to make such advance payment or provide such security in good time, or only does so incompletely, the Seller shall be entitled to **withdraw** from the contract.

5. The Buyer shall only be entitled to **set-offs,** even if defects or counterclaims are asserted, if the Buyer's set-off claim has been established in a final and conclusive manner, has been acknowledged by the Seller, or is undisputed or ready for a decision. The Buyer's right to sue to assert counterclaims remains unaffected by this provision.

6. (1) The Buyer shall only have a **right of retention** if it is based on the same contractual relationship.

   (2) The Buyer shall only be entitled to exercise a **right of retention** if its counterclaim has been established in a final and conclusive manner, has been acknowledged by the Seller, or is undisputed or ready for a decision. The Buyer's right to sue to assert counterclaims remains unaffected by this provision.

   (3) In the event of a **defect**, the Buyer shall only be entitled to such right of retention (provided that it has been established in a final and conclusive manner, has been acknowledged by the Seller, or is undisputed or ready for a decision) if such retention is reasonable in view of the defect and the anticipated costs of replacement or rectification (in particular an elimination of the relevant defect).

V. Time of delivery and performance, terms of delivery, liability for delay in delivery, lump-sum damages for delay, fixed-term deal, Seller's right of retention, Seller's and Buyer's right of withdrawal, delays in acceptance, storage costs

1. (1) Delivery dates or periods (hereinafter referred to as the **Delivery Period**) shall be agreed between the Parties in each case.

   (2) **Compliance** with the agreed Delivery Periods first of all requires that **(1)** all commercial and technical issues - in as far as they arise from the underlying contract or are required for the performance of the contract - are clarified between the Parties without delay after the conclusion of the contract, and **(2)** the Buyer performs all duties incumbent upon the Buyer - in as far as they are necessary for the performance of the contract -, without delay and properly after the conclusion of the contract, for instance obtaining an official certificate or permit or making an agreed down payment.

   (3) If these two aforementioned conditions are not or not immediately met, the Delivery Period shall be extended appropriately, at least by the period of the delay. Furthermore, the Seller reserves the right to plead non-performance of the contract.

2. Compliance with the Delivery Period shall also be **subject to** the **reservation** of any delay in delivery for which the Seller is not responsible, in particular temporary factual obstacles to performance, such as operational disruptions or interruptions to operations caused by natural disasters or other force majeure, as well as legal obstacles to performance, such as non-foreseeable, temporary restrictions on the import of Contractual Products. The Seller shall inform the Buyer of any impending delays.

3. (1) The **Seller** may **withdraw** from the contract if the Seller is unable to provide the owed performance due to non-availability of the agreed Contractual Product or service, for instance due to impossibility of performance occurring after the conclusion of the contract, force majeure, not merely temporary strikes, natural disasters, failure to receive deliveries or correct deliveries from the Seller's own suppliers (e.g. only partial delivery or defective delivery), provided that the Seller is not responsible for this.

   (2) However, a withdrawal of the Seller declared thereupon shall only be effective if the Seller has informed the Buyer immediately after obtaining knowledge of the non-availability, and if the Seller immediately reimburses the Buyer for any remuneration already paid.

4. Unless otherwise agreed, the **Delivery Period** shall be deemed to **have been met** by the Seller **if**, before the expiry of the Delivery Period, the Contractual Product is held available for collection at the plant or external warehouse specified by the Seller (see in this respect the provisions in clause VI. no. 3 and in clause VI. no. 4 (1), or, if shipment of the Contractual Product is ordered by the Buyer, if the Buyer has been informed of the readiness for shipment

5. (1) If the underlying contract is a **fixed-term transaction** within the meaning of sec. 286 (2) no. 4 BGB or sec. 376 of the German Commercial Code (*Handelsgesetzbuch*, HGB), **the Seller shall be liable** in accordance with the statutory provisions. The same applies if the Buyer, as a result of a delay in delivery for which the Seller is responsible, is entitled to assert that the Buyer's interest in the further fulfilment of the contract has ceased.

(2) In this event, the Seller's **liability for damages** under subclause (1) of clause V. no. 5 above shall be limited to the foreseeable damage that typically occurs in such cases. However, this limitation shall *not* apply if the delay in delivery is due to a *deliberate* breach of contract for which the Seller is responsible, whereby the fault of its representatives or vicarious agents is to be attributed to the Seller.

6. (1) The Seller shall also be **liable** to the Buyer in other respects in the event of a delay in delivery in accordance with the statutory provisions if the delay in delivery is due to a deliberate or grossly negligent breach of contract for which the Seller is responsible, whereby the fault of its representatives or vicarious agents is to be attributed to the Seller.

(2) Liability for **ordinary negligence**, however, is **excluded** in the event of delays in delivery in accordance with clause V. no. 6 (1) above, including liability for ordinary negligence on the part of representatives or vicarious agents.

(3) The above **disclaimer of liability** (clause IV. no. 6 (2)) for liability in case of ordinary negligence, including the exclusion of liability for ordinary negligence on the part of representatives or vicarious agents, shall not apply if a delay in delivery for which the Seller is responsible is due to a culpable breach of a **material contractual obligation**, whereby the fault of its representatives or vicarious agents is to be attributed to the Seller. In this case, the Seller shall be liable in accordance with the statutory provisions.

(4) In this context, an obligation shall be considered to be a **material contractual obligation** if the fulfilment of such obligation is what makes the implementation of the contract possible, and in compliance with which the Buyer is permitted to regularly trust. The disclaimer of liability for ordinary negligence must not undermine the legal positions of the Buyer which are material to the contract, for example because it removes or restricts such rights which the contract has to grant the Buyer according to its content and purpose.

(5) In the event of the Seller's liability for delayed delivery, the **amount** of the Seller's **liability for damages** shall be **limited** to the foreseeable damage that typically occurs in such cases. However, this limitation shall *not* apply if the delay in delivery is due to a *deliberate* breach of contract for which the Seller is responsible, including deliberate breaches of contract by the Seller's *representatives* or *vicarious agents*.

(6) Liability for damages due to a delay in delivery for which the Seller is responsible shall be **further limited** as follows: In the event of a delay in delivery, the Seller shall be liable for a lump-sum compensation payment amounting to **1% of the delivery value** (in terms of the net sales value of the goods) for each full week of delay, limited, irrespective of the duration of the delay in delivery, to a maximum amount of 5% **of the delivery value**. The Parties shall be free to assert and provide proof that higher or lower damages have been caused by such delay.

(7) Corresponding claims pursuant to clause V. no. 5 and no. 6 shall be asserted by the Buyer immediately upon learning of the delay in delivery.

7. **All other** statutory claims and rights of the Buyer to which the Buyer is entitled in addition to the claim for damages due to a delay in delivery for which the Seller is responsible shall remain **unaffected**. For example, the Buyer is nevertheless entitled to set the Seller a reasonable deadline after the occurrence of the delay, after the expiry of which the Buyer is entitled to exercise the right to withdraw from the contract or to claim damages in lieu of performance.

8. (1) If **acceptance** of the Contractual Product by the **Buyer** is **delayed**, or if the shipment ordered by the Buyer is delayed by more than 10 working days for reasons for which the Seller is not responsible, or if the Seller has claims against the Buyer that are due for payment or become due for payment upon performance of the owed services, the Seller shall have a **right of retention**. In such cases, the Seller may in particular refuse further deliveries.

(2) This **right of retention** of the Seller shall cease as soon as the Buyer has fulfilled all obligations with regard to which the Seller has a right of retention.

(3) The Buyer may avert the exercise of the right of retention by **providing** sufficient **security**. The value of the counterclaim is decisive for the amount of the security.

(4) The Buyer's right to sue to assert counterclaims remains unaffected by this provision.

(5) In the event of **delay in acceptance** or culpable breach of other duties to cooperate of the Buyer, the Seller shall be entitled to demand compensation from the Buyer for any damage incurred in this respect, including any additional expenses (e.g. **storage costs**), see the provision in clause VI. no. 7 (2) below. The Seller reserves the right to assert further claims or rights.

VI. Uniform place of performance and delivery, shipment, loading, transport insurance, delivery ex works in the event of dispatch, packaging, transfer of risk, delayed acceptance, storage costs

1. Unless expressly agreed otherwise, the Seller’s registered place of business in **Bramsche**, Germany, shall be the uniform place of performance and delivery within the meaning of sec. 269 BGB (hereinafter generally **referred to as Place of Performance**) for all obligations arising from the contracts concluded between the parties.
2. (1) The Buyer is entitled to **collect** the Contractual Products.

(2) **Shipment** of the Contractual Products to a place other than the Place of Performance and method of **delivery** shall only be effected - in each case individually and depending on the type of Contractual Product and the Buyer’s place of business - at the request of the Buyer and as contractually agreed between the parties.

(3) If ordered by the Buyer, the Seller shall also carry out **loading** (in addition to shipment). Unless specifically agreed otherwise, loading and/or shipment (transport) shall take place in these cases **without insurance**, at the Buyer's expense and risk (transport risk).

(4) Upon the Buyer's request, the delivery shall be covered by **transport insurance**. The costs incurred in this respect shall be borne by the Buyer. These costs will be invoiced separately.

3. (1) If the Buyer requests **shipment** of the Contractual Products, **delivery ex works** shall be deemed to have been agreed, unless stipulated otherwise in the contract. This means that the **Place of Performance and Delivery** shall be the Seller's registered place of business in Bramsche or the plant or external warehouse designated by the Seller. The Contractual Products shall then be kept by the Seller ready for collection at the plant designated by the Seller, or at the Seller's external warehouse designated by the Seller.

(2) Unless specifically agreed otherwise, the specific plant or external warehouse shall be designated in the **order confirmation**. In the absence of a corresponding statement or special agreement, the plant at the Seller's headquarters in Bramsche shall be deemed to have been agreed upon.

4. (1) Depending on the type of product, the Contractual Products shall be delivered ex works in bulk, liquid, solid or pasty form and accordingly with or without (transport) **packaging**. The type of packaging varies depending on the Contractual Product and on the specific agreement, for example in bags, big bags, buckets, etc.

(2) As a matter of principle, and subject to separate deviating agreement, the Seller will not take back transport and other packaging. Subject to a separate deviating agreement, the Buyer is therefore responsible for the disposal of the packaging at the Buyer's own expense.

(3) Subject to a specific deviating agreement, the Seller reserves the right to make changes or improvements to the packaging and means of transport, provided that this does not impair the usability of the Contractual Product and provided that the changes are reasonable for the Buyer.

5. (1) The risk of accidental destruction and accidental deterioration of the Contractual Product (**transfer of risk**) shall pass to the Buyer as soon as the Contractual Products are held ready for collection at the plant, either **(1)** by **(i)** granting direct possession in the goods to the collecting Buyer by transferring the Contractual Products that are being held available for collection to the plant's loading bay and/or by **(ii)** holding any loose, liquid, etc. Contractual Products available in a silo for the collecting Buyer, or **(2)** by notifying the Buyer of the readiness for shipment, or **(3)** upon expiry of an agreed Delivery Period. Finally, the risk shall also pass in the event of a delay in acceptance by the Buyer (sec. 446 sentence 3 BGB, sec. 300 (2) BGB).

(2) If loose or liquid etc. Contractual Products are to be delivered ex works, the Buyer or the forwarding agent or carrier used by the Buyer shall obtain in advance a notification from the Seller stating in which warehouse, for example in which silo at the Seller's plant, the agreed or ordered loose Contractual Product is held ready for collection. If this notification is not obtained from the Seller, the Buyer bears the risks regarding the collecting of the correct and ordered/agreed Contractual Product.

6. (1) If shipment ordered by the Buyer is not carried out at the Buyer's request or due to the Buyer's fault, the Seller shall store the Contractual Products at the Buyer's expense and risk. In this case, notification of readiness for shipment is equivalent to shipment. The time of transfer of risk remains unaffected by this.

(2) **Storage costs** after transfer of risk shall be borne by the Buyer. If goods are stored by the Seller, the storage costs amount to **0.25% of the delivery value (in terms of the net sales value of the goods)** of the Contractual Products to be stored per full week (7 days) or **0.036% of the delivery value** per calendar day, beginning at the time of the transfer of risk. The Parties shall be free to assert and provide proof of higher or lower storage costs.

(3) The Buyer shall also be liable to the Seller in the event of delay in acceptance for which the Buyer is responsible, for a lump-sum compensation payment amounting to of **1% of the delivery value** (in terms of the net sales value of the goods) for each full week of delay, however, not exceeding **5% of the delivery value**. The Parties shall be free to assert and provide proof that higher or lower damages have been caused by such delay.

VII. Buyer's rights in the event of default, breaches of duty, in particular Buyer's rights in the event of defects = warranty claims (including damages)

1. (1) The Buyer’s claims on account of default or breaches of duty by the Seller, in particular the Buyer’s rights in the event of defects in the Contractual Products (**warranty claims**) or on account of *culpa in contrahendo*, on account of other breaches of duty such as delay or impossibility of performance, or on account of tort committed by the Seller, etc., shall be governed by the **statutory provisions, unless** provided for otherwise hereinafter, and subject to separate agreement (for instance with regard to the Seller’s liability for delays in delivery pursuant to clause V. above).

(2) **Warranty claims** are the Buyer’s rights in the event of defects in the Contractual Products as provided for in sec. 437 BGB.
(3) In order to determine whether a **Contractual Product** is considered to be **defective** in this sense (sec. 437, 434, 435 BGB), in particular with regard to the agreement and existence of **characteristics**, reference is hereby additionally made to the provisions in clause III. above.

2. (1) The Buyer's warranty claims require that the Buyer has duly fulfilled the **examination and reporting obligations** incumbent upon the Buyer pursuant to sec. 377 HGB, including the fulfilment of these obligations in a timely manner.

(2) In this context, the Buyer shall in particular be obligated to inspect the Contractual Products/supplied goods without delay "after delivery" for material defects and properties of the goods, to control the delivery notes, **completeness and correct specification**, i.e. whether the Contractual Products correspond to the ordered quantity and the ordered type, and to examine the Contractual Products for obvious other **defects** and **transport damage**. In particular, the Buyer shall, as far as possible, carry out a simple examination by means of sensory inspection regarding appearance, odour and taste. This applies in particular if the Contractual Products are intended to be processed or installed. The examination owed according to § 377 HGB is to be carried out in such a case before further processing or installation.

(3) In accordance with the statutory provisions of § 377 HGB, the Buyer shall ***notify*** the Seller ***without delay*** if a defect becomes apparent. The Seller should be notified of the defects in this respect in text form, and the defects should be described in as much detail as the Buyer is able to provide.

(4) Only if the goods have obvious defects or defects that are recognisable after the examination, these shall be *notified* to the Seller no later than 2 weeks after delivery.

3. (1) The Buyer shall **only have warranty claims** if the Buyer has duly and in a timely manner fulfilled its **examination and reporting obligations** owed under sec. 377 HGB. The timely dispatch of the notification shall suffice in order to secure the Buyer's rights.

(2) Warranty claims are also **excluded** in case of only minor deviations from the agreed characteristics or only minor impairment of usability.

4. (1) Furthermore, **warranty claims** shall **not exist** if a defect was not present at the time of transfer of risk but was only caused afterwards, for example by unsuitable or improper use, use not in accordance with the agreed or customary purpose, or if the defect was due to external use of force, incorrect storage or utilisation, or incorrect nor negligent treatment or maintenance.

(2) In all cases, the statutory special provisions that apply if the unprocessed goods are delivered directly to a consumer shall remain unaffected, even if the latter has processed them (**recourse against supplier** in accordance with sec. 478 BGB).

(3) Claims on account of recourse against the supplier are excluded, however, if the defective goods have been further processed by the Buyer or another business, e.g. by installation into another product.

(4) In the event of claims on account of a recourse against the supplier, the Buyer is obligated to obtain from the Seller as the supplier any item used within the scope of the

Buyer's redelivery obligation towards its client pursuant to sec 439 (1) BGB (replacement or rectification).

5. (1) If the **Contractual Product is defective**, the Seller has the right to choose subsequent performance in the form of either rectification of the defect or delivery of a new product which is free of defects. In any case, the Buyer must first grant the Seller a reasonable period of time for such replacement or rectification.

(2) In the event of replacement or rectification, the Seller is generally (with the following exceptions) obligated to bear all expenses (in particular labour and material costs) required for the purpose of such replacement or rectification, insofar as this does not impose a disproportionate burden on the Seller.

(2.1) However, **testing costs** shall not be borne by the Seller, unless the Buyer is insofar entitled to fault-based damages pursuant to sec. 437 no. 3 BGB in conjunction with sec. 280 BGB.

(2.2) In the event of **replacement or rectification**, the Seller shall furthermore not bear the travel costs and/or the costs of transport. These are to be borne by the Buyer and are to be reimbursed to the Seller. This applies in particular if and in as far as replacement or rectification takes place outside the Federal Republic of Germany. However, these costs to be borne by the Buyer are limited as a maximum to the amount incurred by the Buyer for the delivery.

(2.3) The provision in clause VII no. 5 (2.2) above shall apply *mutatis mutandis* to a replacement delivery of a new defect-free product. Since the Seller's registered place of business is the uniform Place of Performance, this new defect-free item shall only be held available for collection by the Seller in accordance with the agreements in clause VI. above.

(2.4) If the Buyer has installed the defective item into another item or attached it to another item in accordance with its nature and intended use, the Seller is obligated, within the scope of replacement or rectification, to reimburse the Buyer for the necessary expenses for removing the defective item and for installing or attaching the repaired or delivered defect-free item.

(3) The Seller's right to refuse replacement or rectification under the statutory requirements remains unaffected by the aforesaid.

6. If the Buyer claims a defect which is not objectively present after inspection, the Seller is entitled to charge the Buyer for the costs incurred in connection with the inspection, including any transport costs. The same applies in as far as the defect notified by the Buyer is not a warranty defect or the defect is not attributable to the Seller. However, the Buyer is entitled to provide proof that the notified defect exists.

7. If replacement or rectification fails, the Buyer is entitled, at its discretion, to assert the other statutory rights relating to defects according to sec. 437 BGB, such as withdrawal

or reduction of the purchase price and/or damages or reimbursement of expenses. In the event of minor defects, however, the right to withdraw from the contract shall be excluded. Rectification shall be deemed to have failed upon the second unsuccessful attempt, unless further attempts at rectification are adequate and reasonable for the Buyer in view of the object of the contract.

8. (1) If the Buyer asserts **claims for damages** as a statutory warranty claim, the Seller shall be liable in accordance with the statutory provisions in as far as the Buyer's claims for damages are based on intent or gross negligence, including intent or gross negligence on the part of the Seller's representatives or vicarious agents, as well as in the event of strict liability.

(2) However, fault-based liability is excluded in the event of **ordinary negligence**, including liability for ordinary negligence on the part of the Seller's representatives or agents.

(3) The above **disclaimer of liability** (clause VII. no. 8 (2)) for liability in the event of ordinary negligence, including the exclusion of liability for ordinary negligence by representatives or vicarious agents, shall **not apply** if the Seller has culpably breached a **material contractual obligation**, including culpable breaches of such obligations by the Seller's representatives or vicarious agents. In this case, the Seller shall be liable in accordance with the statutory provisions.

(4) In this context, an obligation shall be considered to be a **material contractual obligation** if the fulfilment of such obligation is what makes the implementation of the contract possible, and in compliance with which the Buyer is permitted to regularly trust. The disclaimer of liability for ordinary negligence must not undermine the legal positions of the Buyer which are material to the contract, for example because it removes or restricts such rights which the contract has to grant the Buyer according to its content and purpose.

(5) In the event of the Seller's fault-based liability, the **amount** of the Seller's **liability for damages** shall be **limited** to the foreseeable damage that typically occurs in such cases. However, this limitation shall **not** apply in the event of a *deliberate* breach of contract for which the Seller is responsible, including deliberate breaches of contract by the Seller's *representatives* or *vicarious agents*.

(6.1) In the event of the Seller's fault-based liability, this foreseeable damage that typically occurs in such cases shall furthermore be limited to an amount of **EUR 2 million** per event of damage.

(6.2) However, these two limitations under subclauses (5) and (6.1) above shall **not** apply in the event of a *deliberate* breach of contract for which the Seller is responsible, including a *deliberate* breach of contract by an *agent* or *vicarious agent* of the Seller. *Personal injury* is also excluded from this further limitation of liability to the above maximum amounts.

(6.3) These **limitations** under subclauses (5) and (6.1) shall **furthermore not** apply if and to the extent that the Seller's **commercial third party liability insurance and/or product liability insurance** covers the Buyer's loss or damage regarding the existence and amount of the claim, if the Seller insofar has a corresponding justified claim against its insurance company for indemnification from such damage claims, provided that the relevant insured sum covers the Buyer's loss or damage.

(6.4) Damage claims are justified if the Seller is obligated to pay compensation by law, final judgment, acknowledgement or settlement, and if the insurer is bound by the aforesaid.

(6.5) The Seller has taken out a **commercial third party liability insurance** in this respect, which covers, among other things, both the statutory **liability** under private law arising from its **business activities** and the **product liability risk**.

(7.1) Due to the extensive insurance terms and conditions of this **commercial third party liability insurance,** including product liability insurance, and the numerous extensions and exclusions also in the cases in which insurance cover exists in principle, the following list of insured or uninsured claims is only **exemplary.**

(7.2) In the specific event of damage, the Seller must, at the request of the Buyer, lodge a corresponding coverage request with its liability insurer and immediately inform the Buyer of the result.

(7.3) Upon request, the Seller shall also prove to the Buyer whether and, if so, to what extent a justified claim of the Seller against its liability insurer for indemnification against damage claims exists.

(8.1) With regard to damages based on **commercial third party liability**, the Seller has insured a maximum liability sum of **EUR 10 million per event of damage,** corresponding to the current sum insured under its "commercial third party liability insurance". Insured in this respect is the legal liability under private law on account of the Seller's business, on the basis of the General Insurance Conditions for Liability Insurance (*Allgemeine Versicherungsbedingungen für die Haftpflichtversicherung*, AHB). It is limited to personal injury and property damage and - if expressly agreed - financial loss. Exceptions to this are damage events in the USA and Canada that originate from the performance of work in these countries.

(8.2) The commercial third party liability insurance including product liability insurance primarily covers claims of a third party (i.e. also of the Buyer) for damages within the scope of business activities on the basis of statutory liability provisions.
(8.3) The statutory liability under private law **only** covers **claims for damages**, but **not** contractual performance claims or performance surrogates and the resulting claims for damages, in particular claims for loss of use or earnings and warranty claims. The Buyer's claims for performance as well as damage to manufactured or delivered works or objects of the Seller are generally excluded from the insurance cover in this respect.

On the other hand, the insurance covers **consequential damages,** i.e. consequential losses arising from the performance of the contract.

(8.4) Claims for performance of contracts, replacement or rectification, self-remedy of defects, withdrawal, reduction of the purchase price and compensation in lieu of performance are *not insured*. Also not insured are losses caused in order to be able to carry out a rectification of defects, losses due to the non-availability for use of the contractual object, losses due to the non-materialisation of the result owed with the contractual performance, claims for reimbursement of futile expenses made relying on the proper contractual performance, as well as claims for reimbursement of financial losses due to delays in performance.

(8.5) The Seller's commercial third party liability insurance (including product liability) covers in particular **claims of third parties, including the Buyer,** based on (1) tort liability, in particular in respect of property damage in the form of a violation of property rights pursuant to sec. 241 (2), 823 (1) BGB, (2) a breach of ancillary contractual obligations pursuant to sec. 280 BGB and (3) damage covered by the insured product liability risks, (4) harm to animals, (5) damage claims on account of a reduction in performance and yield in animal husbandry caused by defective feeds supplied by the Seller and (6) costs of product recalls.

(8.6) Costs are insured as **product recall costs** in as far as they result from a recall being necessary due to established defects in the products delivered by the Seller, due to objective facts that indicate that a defect may exist, due to an official order or due to a statutory obligation to recall a product in order to prevent damage to persons or property. Insured in this respect are only **pure financial losses** as defined in sec. 1 no. 3 AHB, but not persons or property as defined in sec. 1 no. 1 AHB.

(8.7) With regard to damage relating to **product liability risks**, the Seller has extended the insured sum with the commercial third party liability insurance to a maximum liability sum of **EUR 10 million per event of damage,** corresponding to the current sum insured under its "commercial third party liability insurance".

(8.8) The insured **product liability risk** is an insurance cover for personal injury, property damage and any other damage arising therefrom due to the manufacture and sale of products, the performance of work or other services (product liability risk), from the date on which the products are placed on the market, the work is finalised or the services are fully performed.

(8.9) *The relevant insurance cover also includes* **claims for damages** by third parties **based on defects in material,** to the statutory extent, on account of personal injury, damage to property and other damages resulting therefrom if the Seller, on the basis of an agreement with the Buyer, is subject to *strict liability* (i.e. irrespective of whether or not the Seller is at fault) for certain characteristics of its products, work and services being present at the time of transfer of risk.

(8.10) Also *covered* is damage caused by compounding, mixing and processing, damage resulting from a reduction in performance and yield, damage resulting from defective feed and damage due to crop failure caused by defective seeds or plants.

(8.11) Also covered are defects/damages with regard to yeast (in cases of subcontracting or processing) and the resulting financial losses.

(8.12) Also *covered* are financial losses resulting from defects in the overall products of third parties caused by the installation, incorporation, laying or application of products manufactured or supplied in a defective condition. In this respect, insurance cover also exists if such losses are incurred by the Seller or the Buyer in order to fulfil a statutory obligation to make a new delivery or to rectify a defect in the Seller's product.

(8.13) *Excluded* from the insurance cover are, however - with exceptions - liability claims on account of damage to work or objects manufactured or delivered by the Seller, if such damage is due to a cause inherent in the manufacture or delivery, and all resulting financial losses.

(8.14) Furthermore, insurance cover does not include liability claims on account of damage to third-party property and all resulting financial losses caused by processing, repair, transport, inspection, etc., so-called activity and processing damage to third-party property and the resulting financial losses.

9. The above provisions shall apply to all of the Buyer’s claims for damages on account of defects, in particular for damages in addition to performance and damages in lieu of performance, irrespective of their basis in law, in particular for defects, the breach of obligations arising from the contractual relationship or from tort. They also apply to the claim for reimbursement of futile expenses.

10. The above provisions do not result in a change of the burden of proof to the Buyer’s disadvantage.

11. On the other hand, the liability of the Seller, its legal representatives or vicarious agents for intentional or negligent injury to life, body or health remains unaffected by the aforementioned agreed restrictions; this also applies to the mandatory liability under to the Product Liability Act (*Produkthaftungsgesetz*, ProdHaftG) if a statutory provision prescribes a stricter liability within the meaning of sec. 276 (1) BGB, in the event of the assumption of a guarantee, and in the event of a fraudulent concealment of a defect.

12. In case of doubt, the Seller’s declarations in connection with the supply contract (e.g. product descriptions, information in the data sheets, pH values, certificates of analysis, sample findings, instructions for use and maintenance, oral information and notes etc.) are **not** to be interpreted as an assumption of a **guarantee**. In case of doubt, only explicit declarations of the Seller in text form regarding the assumption of a guarantee shall be decisive.

VIII. Restrictions on the limitation period (warranty claims and other limitation periods)

1. The statutory provisions shall apply to the **limitation period** of claims and rights of the Buyer, unless these are restricted or excluded below.

2. The **Buyer's rights in the event of defects in title** pursuant to sec. 435 BGB shall expire **one year** after transfer of risk, thus deviating from the statutory provisions in sec. 438 BGB (limitation of warranty claims).

3. The **Buyer's rights in the event of defects** pursuant to the preceding clause VII. shall be become time-barred as follows, thus deviating from the statutory provisions in sec. 438 BGB (limitation of warranty claims):

3.1. The Buyer's warranty claims for contractual products that are subject to the regulations of the Food and Feed Code (*Lebensmittel- und Futtermittelgesetzbuch*, **LFGB**), and which are foodstuffs within the meaning of said Code shall expire at the end of the maximum **shelf life** as specified by the Seller for the relevant Contractual Product in accordance with sec. 7 of the Decree on the Identification of Foodstuffs (*Verordnung über die Kennzeichnung von Lebensmitteln*, LMKV), for instance in the delivery notes for the relevant batches of the Contractual Products and/or in the certificates of analysis prepared for the relevant batches of the Contractual Products, subject to deviating agreement. In this respect, the Seller must ensure that the Contractual Products still have an appropriate and customary shelf life after the transfer of risk.

3.2 (1) The Buyer's warranty claims for Contractual Products which are subject to the regulations of the **LFGB** and which are **animal feed** shall expire **12 months** after the transfer of risk.

(2) The Buyer's warranty claims for **other Contractual Products** which are not subject to the provisions of the LFGB shall expire 12 months after the transfer of risk.

3.3 (1) The above restrictions of the period of limitation in nos. 3.1 and 3.2 shall also apply to all other (pre-)contractual or non-contractual claims (for damages) or claims for reimbursement of futile expenses of the Buyer **which arise due to a defect in the Contractual Product** or are directly related to the defect – irrespective of the basis in law of such claims.

(2) This shall also apply to the Buyer's claims on account of a validly declared withdrawal or a valid declaration to **reduce the purchase price**.

4. The provisions in **clause VII.** of these Terms and Conditions regarding the restriction of the limitation of liability **shall apply *mutatis mutandis*** to the restriction of the **limitation period**. Accordingly, the limitation period shall not be shortened for claims held by the Buyer which are not excluded or limited under clause VII.

5. (1) The restriction of the limitation period pursuant to nos. 2 - 4 above shall insofar in particular not apply to the cases listed in **sec. 438 (1) no. 1 BGB** (if the defect consists

in a real right or a right registered in the land registry), if the Seller has **fraudulently concealed** the damage or assumed a **guarantee** or a voluntary warranty of characteristics, or to the extent to which a statutory provision contains a stricter liability within the meaning of sec. 276 (1) BGB, in the event of the Seller's liability under the **ProdHaftG**, or if the relevant product is a Contractual Product which, in accordance with its usual type of use, was used for a **building** and has caused this building to be defective.

(2) Furthermore, this does not apply if the Buyer validly refuses acceptance of the Contractual Product and no transfer of risk has taken place or if the Seller has breached an ancillary obligation vis-à-vis the Buyer (an issue from an assumed consultation service) which does not fall within the scope of sec. 434-442 BGB.

(3) This also does not apply within the meaning of sec. 309 no. 7a and 7b BGB in the event of liability on the part of the Seller for culpable injury to life, body or health resulting from a negligent breach of duty by the Seller or a deliberate or negligent breach of duty by a legal representative or vicarious agent of the Seller. It also applies to the liability for other damage incurred due to a **grossly negligent** breach of duties by the Seller, or due to a deliberate or grossly negligent breach of duties on the part of one of the Seller's legal representatives or vicarious agents.

(4) The restriction of the limitation period shall furthermore **not** apply to claims for damages in the event of a **deliberate or grossly negligent** breach of duty and in the event of a culpable breach of **material contractual obligations**.

(5) The Buyer's claims under sec. 438 no. 2 (for buildings and in the case of customary use for a building) shall become time-barred **three years** after the transfer of risk.

6. In the event of **replacement or rectification**, the limitation periods agreed in no. 3 above shall apply accordingly with regard to the parts of the contractual product affected by the replacement or rectification, calculated from the date of replacement or rectification, unless the Seller has fraudulently concealed the defect or assumed a guarantee for characteristics, or if the relevant product is a Contractual Product which, in accordance with its usual type of use, was used for a **building** and has caused this building to be defective. In this case, the statutory provisions apply.

7. The limitation period pursuant to sec. 445 b BGB from transfer of risk in case of **recourse against the supplier** pursuant to sec. 478, 445 a BGB remains unaffected.

8. Unless agreed otherwise, the statutory provisions on the commencement of the limitation period, suspension of expiry, suspension and recommencement of periods shall remain unaffected.

IX. Further liability, competing claims in addition to warranty claims, general rules in the event of disruptions of performance, other limitation periods

1. Any liability for damages going beyond the provisions in clause VII. and in clause VIII. shall be excluded, irrespective of the legal nature of the asserted claim. The above shall in particular apply to claims for damages on account of *culpa in contrahendo*, impossibility of performance, delays (except for delays in delivery pursuant to clause V. above), other breaches of duties, or claims in tort for compensation for property damage pursuant to section 823 BGB.

2. The provisions in clause VII. and in clause VIII. on damages, reimbursement of futile expenses, the limitation period and reversal of the burden of proof shall apply *mutatis mutandis* to such further liability.

3. (1) In particular, the provisions in clauses VII. and VIII. of these Terms and Conditions with regard to the restriction of the limitation of **liability** and of the limitation period **shall apply *mutatis mutandis*** to the restriction of the further **liability** for damages. If and in as far as such further claims held by the Buyer **compete** with the Buyer's contractual claims under clause VII., such further liability and the period of limitation shall also be excluded or restricted.

   (2) **Competing claims** are all other claims of the Buyer which are applicable in addition to, or replace, the Buyer's contractual claims under clause VII.

X. Reservation of title

The Seller **reserves title to the Contractual Products** until the purchase price has been paid in full. If the Buyer is in default of payment of the (remaining) purchase price, the Seller is entitled to withdraw from the sales contract and to request that the Buyer return the Contractual Product, subject to the statutory conditions.

XI. Place of jurisdiction, arbitration agreement, applicable law, headings

1. (1) For all contractual and non-contractual disputes between the Seller and the Business Customer, the courts at the Seller's registered office in Bramsche shall have exclusive territorial and international jurisdiction, provided that the Buyer has its registered place of business in the Federal Republic of Germany or in a country of the European Union (EU). However, the Seller is also entitled to sue the Buyer at the Buyer's registered place of business. The Buyer's registered place of business is the Buyer's place of business according to its articles of association, or the place of its head office or principal place of business.

   (2) This agreement shall not affect the general jurisdiction of the courts for judicial dunning proceedings.

2. If the Buyer does not have its registered place of business in the Federal Republic of Germany or in a country of the European Union (EU), the following **arbitration agreement** shall apply:

All disputes arising in connection with this contract or with regard to its validity shall be finally and bindingly decided in accordance with the Rules of Arbitration of the Deutsche Institut für Schiedsgerichtsbarkeit e.V. (German institution for arbitration - DIS) in the version valid at the time the proceedings are initiated; the conduction of court proceedings before state courts shall be excluded. The place of arbitration shall be Bramsche. The language of the arbitration proceedings shall be German. The arbitral tribunal shall make its decision on the basis of the agreed substantive law, not only at its reasonable discretion (except in the case of a settlement, provided that the Seller's insurer has been allowed to participate in the proceedings). Decisions shall be taken by three arbitrators, the presiding arbitrator being qualified to hold the office of a judge. The presiding arbitrator may not belong to one of the parties' countries. The arbitral award and its grounds shall be set out in writing. The grounds of the arbitral award shall state the rules of law on which the decision is based.

3. The relations between the Parties are governed exclusively by the law applicable in the Federal Republic of Germany. The **UN Convention on Contracts for the International Sale of Goods** therefore applies if and to the extent that its requirements are met. If the UN Convention on Contracts for the International Sale of Goods is applicable, it shall, as a component of German law and special regulation for the international sale of goods, prevail over the non-uniform German law of obligations. Therefore, if the UN Convention on Contracts for the International Sale of Goods is applied, the following provisions in clause XIV shall take priority over, or supplement, these Terms and Conditions.

4. The **contractual language** is German. If these Terms and Conditions are available as a translation in another language, the German version shall apply in the event of deviations between the two versions, and shall also apply to the interpretation of these Terms and Conditions. German understanding of the law therefore applies to the will of the parties and its determination.

5. The headings to the individual provisions of these Terms and Conditions serve only for better orientation and have no independent regulatory content and no legal significance.

XII. Severability clause, duty to re-negotiate, appraiser and appraisal proceedings, dispute resolution

1. Should one of the provisions or clauses of these Terms and Conditions of Sale be or become invalid, void or unenforceable in whole or in part, for example due to changes in legal conditions, whether due to changes in the law or changes in supreme court rulings, this shall not affect the effectiveness of the remainder of the Terms and Conditions or the validity of the other provisions.

2. (1) The Parties are obligated, as far as possible, to renegotiate the clause(s) concerned and to bring about an amicable amendment of the contract.

(2) The Parties therefore undertake to enter into negotiations in such a case, and to agree on a provision which economically corresponds to the invalid or void provision or comes as close as possible to it.

(3) The Parties are obligated to negotiate immediately, at the latest within a period of 3 weeks from receipt of the request for adjustment, with the party requesting the adjustment about the adjustment of the clause(s).

3. If the parties fail to agree on an adjustment within one month from the commencement of negotiations, such adjustment shall be determined by an independent expert acting as an **appraiser**. This shall apply accordingly after the expiry of 3 weeks from receipt of the request for adjustment, i.e. in as far as negotiations have not commenced during this period.

4. The corresponding **appraisal proceedings** pursuant to clause XII. no. 3 above shall be governed by the provisions in clause XIII.

XIII. Appraisal agreement, costs, legal recourse, binding character

If a decision has to be made by an **appraiser** according to these Terms and Conditions, the following applies:

1. The Parties shall mutually agree on an expert within a period of two weeks. The period begins upon receipt of the request of one Party to the other Party for the corresponding appointment of an expert.

2. (1) If the Parties fail to agree on an expert within the specified time period, a publicly appointed and sworn expert with the corresponding specialist appointment for the area of expertise to which the dispute relates shall be named by the IHK Osnabrück - Emsland - Grafschaft Bentheim zu Osnabrück at the request of one or both Parties, and shall then be jointly assigned by the Parties.

(2) The expert shall be independent of the Parties and impartial.

(3) Should the expert be unable to act, or should reasons for refusal exist due to concerns that the expert may be biased, a substitute expert shall be appointed by the IHK Osnabrück - Emsland - Grafschaft Bentheim zu Osnabrück.

3. The Parties shall be heard before the decision is taken. They are to be granted the right to be heard by the assigned or by the IHK nominated appraiser before the decision is taken. The decision of the appraiser shall be made at his or her reasonable discretion, subject to mandatory compliance with the following provisions.

4. (1) The decision must be based on complete and correct findings and true assumptions or bases, and must fully incorporate and take into account the required documents that were submitted or are to be submitted.

   (2) The decision and its grounds shall be prepared in an objectively verifiable manner, giving details of standards or recognised rules in accordance with the tips and recommendations issued by the DIHK on the correct execution of a judicial appraisal order in civil proceedings (Der Gerichtliche Gutachtenauftrag). The version applicable at the time of the assignment shall apply.

5. The Parties shall each bear one half of the costs of the appraisal.

6. (1) This appraisal agreement does not preclude recourse to the ordinary courts. Prior to this, however, a decision by an appraiser must be obtained, if provided for in the contract.

   (2) If there is a threat of loss of rights, for example due to the statute of limitations, legal action may already be taken before or during the appraisal proceedings.

   (3) Otherwise, a legal dispute shall be conducted as if the appraisal agreement had not been made.

7. (1) The Parties acknowledge the decision of the appraiser as binding until a final court decision. Until then, the Parties are bound by the decision, unless the decision is based on manifestly incorrect findings or on inaccurate assumptions or bases, or if the decision does not include or does not sufficiently include the required documents to be submitted.

   (2) The same applies if no grounds are provided for the decision, if the grounds are not objectively verifiable, or if the grounds do not contain information on standards or recognised rules or do not correspond to the rules of fairness within the meaning of sec. 317, 319 BGB.

XIV. Regulations on the applicability of the UN Convention on Contracts for the International Sale of Goods (CISG)

1. In the substantive scope of application of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (CSIG), these Terms and Conditions of Sale and Delivery as well as the agreements made by the Parties as a matter of principle only modify its provisions, but do not result in the exclusion of these provisions in favour of national, non-uniform law, unless individual provisions are expressly excluded or amended below.

2. In as far as the CISG does not contain a relevant rule, the contractual and non-contractual legal relationships of the Parties shall be governed exclusively by German law as set out in the BGB/HGB, and, prevailing in this respect, the agreements in these Terms and Conditions of Sale and Delivery (Terms and Conditions of Sale).

3. The general provisions in Art. 7- Art. 27 CISG are excluded. Accordingly, the provisions of the German law of obligations (BGB) and, as a matter of priority, the agreements in these Terms and Conditions of Sale apply in particular with regard to the conclusion of the contract and its interpretation.

4. The Seller's strict liability for damages pursuant to Art. 45 (1) b), 74-77 CISG is excluded.

5. Liability for consequential damage of any kind, in particular liability for loss of profit and production downtime, is also excluded. The above shall not apply to personal injury. The Seller is only liable for damage to property within the scope of its commercial third party and product liability insurance.