1. SUPPLY CONTRACT

1.1. ACCEPTANCE OF ORDER

Upon receipt of the acknowledgement of order the supply contract, which shall be governed exclusively by the terms and conditions specified in the following, shall come into existence. Deviating terms and conditions of purchase of the Purchaser are hereby explicitly contradicted. They shall only become part of the contract where they are expressly confirmed in writing by the Seller. Our General Terms and Conditions of Sale and Delivery shall not apply for business relationships with entrepreneurs, legal entities under public law or special funds under public law pursuant to section 510 BGB (German Civil Code).

The Seller’s Terms and Conditions of Sale and Delivery shall also apply if deliveries are made without reservation although the possibility to order such protective devices from the Supplier separately at the Customer’s expense.

The Seller shall be prohibited. The Customer shall immediately inform the Seller about this, in order to enable the Seller to enforce its property rights. To the extent the third party is not able to reimburse the Seller for the judicial or out of court expenses incurred in this context, the Customer shall be liable to bear all such costs. The Seller shall release the Reserved Goods and substituting goods or claims to the extent their value exceeds 50% of the amount of the secured claims, with the selection of the items to be released to be realised in due being at the discretion of the Seller. If the Seller withdraws from the contract due to a breach of contract by the Customer – in particular in case of a payment default (Event of Default) – the Seller shall be entitled to claim the return of the Reserved Goods.

5. CLAIMS IN CASE OF DEFECTS

5.1. DUTY TO EXAMINE GOODS AND TO GIVE NOTICE OF DEFECTS

The Customer may only make any warranty claims if he has complied with the duty to examine the goods properly and to give notice of any defects pursuant to section 287, HGB (German Commercial Code). The Customer shall only be entitled to claim the return of the Reserved Goods.

5.2. CLAIMS IN CASE OF DEFECTS

The Customer can only claim subsequent performance of the contract, rescission of contract or reduction of the purchase price as well as damages if the following provisions are fulfilled: in case of justifiable and timely notice of a defect the Seller shall either be entitled to supply faultless goods or to improve the goods claimed to be defective. If the Seller is unable to do so, the Customer is entitled to demand a reduction of the price accordingly. The minimum order value is Euro 15,000, 1/3 of the invoiced amount shall be due - on receipt of the acknowledgement - on receipt of the notice of readiness for dispatch and - 30 days from the date of invoice

Any payment shall be considered as settled if the Seller’s account determined for this purpose is credited with the respective invoice amount. If the Customer does not pay by the due date, interest shall be payable on the outstanding amounts at a rate of 5% above the base rate or the application of higher interest rate and actual damages in case of default shall remain unaffected.

2. SET OFF/RIGHT OF RETENTION

In the event of a partial or complete counterclaim against the Seller’s claims for payment shall only be admissible if the counterclaim is unchallenged or has been recognized judicially. The same applies for a right of retention of the Customer.

2.1. TAKING BACK OF GOODS

In principle, the Seller does not effect any transportation insurance. At the Customer’s express request the Seller is willing to effect any kind of transportation insurance on the usual terms for Customer’s account. As far as drive units, other machine parts or accessories are supplied by the Customer for the purposes of being insured for inward shipment or onward transportation on the aforesaid conditions.

4. RESERVATIONS OF TITLE

If the Seller’s right of resale is not restricted (fractional ownership) in the new manufactured goods in case the Seller is entitled to enforce such claims on his own behalf. The Seller may only revoke this authorization in the case of an Event Of Default. Then the Buyer is responsible for the product and/or the company’s property rights.

The Customer shall be entitled to process and sell the Reserved Goods in the ordinary course of business and which were predictable for the Seller at the time of conclusion of the contractual or at the latest at the time of the breach of duties.

The limitations set forth in this section 6.0 shall not apply if the claim is due to an intentional or grossly negligent breach of duties, sections 444 and 438 I no. 1 BGB (German Civil Code) remain unaffected.

6. LIABILITY

The liability of the Seller - regardless of its legal basis - is limited to damages, which the Seller or his legal agents or his auxiliary person, if used intentionally, by gross negligence or by negligently breaching duties substantial for the performance of the contract.

In cases of ordinary negligence liability is limited to the amount of damages, which typically occur in comparable business and which were predictable for the Seller at the time of conclusion of the contract or at the latest at the time of the breach of duties. The limitations set forth in this section 6.0 shall not apply to Seller’s liability due to intentional actions, for guaranteed quality, or due to any injury to life, body or health or any liability under the Product Liability Act (Produkthaftungsgesetz).

All texts are free of charge.

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3. PLACE OF PERFORMANCE AND JURISDICTION
The place of performance shall be the principal place of business of the Seller if there is no other place mentioned in the acknowledgement of order.

Place of jurisdiction, also for actions based on bills of exchange or cheques - but apart from dunning procedures, shall be the Seller’s principal place of business. The Seller shall also be entitled to institute an action at the principal place of business or at the place of a branch of the Customer.

5. OTHER PROVISIONS
The legal relationship between the Seller and the Customer shall be solely governed by the written purchase agreement including these General Terms and Conditions of Sale and Delivery. This agreement reflects all agreements and understandings between the parties regarding the subject of the agreement.

Oral promises by the Seller before the conclusion of this agreement shall not be legally binding and any oral agreements between the contracting parties shall be replaced by this written agreement unless they explicitly stipulate that they shall continue to apply.

All alterations or amendments to this supply agreement must be in writing, at least confirmed in writing.

All alterations or amendments to this agreement and to these General Terms and Conditions of Sale and Delivery must be in writing.

Should individual provisions of these General Terms and Conditions of Sale and Delivery be void, the validity of the remaining provisions shall not be affected. Should a provision be void the parties shall agree upon a new provision which fulfills the object furthered by the invalid provision.