

General Terms and Conditions 01-2018

Valid as at 01.01.2018

Section I General Terms of Agreement

1. Scope

- (1) The following conditions shall apply only in business dealings with entrepreneurs within the meaning of Section 14 German Civil Code (BGB), legal entities under public law and special funds under public law. The conditions are based solely on our offers and all agreements with us. They shall be deemed accepted at the time an order is placed or at the latest by accepting the delivery.
- (2) Our terms and conditions shall not apply for public procurements (VOB/A, VOL), even if the offer or sections thereof referred to them in individual cases.
- (3) Other conditions of the purchaser shall not become part of the contract, unless they are expressly accepted by us in writing.
- (4) Our conditions shall also apply to all future transactions.

2. Offer and contract conclusion

- (1) Our offers are made without obligation, unless otherwise stated. Our offers are not binding unless expressly stipulated to the contrary
- (2) The documents enclosed with the offer and our brochures and catalogues only reproduce approximations and illustrations that are customary in the industry, unless otherwise stated. We retain ownership and copyright to the documents attached to the offer. Disclosure to third parties is only permitted with our prior written consent.
- (3) The acceptance of the purchase agreement is through our written order confirmation or by the actual delivery.
- (4) Changes and collateral agreements require the written form.
- (5) If a declaration of will or knowledge is transmitted by the purchaser via electronic data interchange (EDI) - in particular via e-mail including file attachments - the data received or retrieved by us shall be binding.

3. Delivery - Place of fulfilment - Risk assumption - Insurance

- (1) Unless otherwise agreed, our delivery is ex works (EXW Incoterms® 2010); for deliveries by third parties contracted by us to manufacture, starting from their respective operating or storage facilities.
- (2) Appropriate partial deliveries are permitted.
- (3) The place of performance for our delivery obligation is D-74211 Leingarten. In the case of third-party business, the place of performance is the actual place of delivery.
- (4) For pick-up orders, our delivery obligation is fully met as soon as the purchaser has been notified of the supply readiness and the latter is in default of acceptance. The risk is transferred to the purchaser upon delivery to the pick-up point.
- (5) In other cases, the risk is transferred to the purchaser upon delivery of the goods to the freight forwarder or carrier, at the latest upon leaving our factory or warehouse or the factory or warehouse of the actual supplier.
- (6) If the purchaser desires a delivery by us, packaging, loading and shipping shall be at our discretion and always for the account and at the risk of the purchaser. Insofar as our employees or agents assist in packaging, loading and unloading or during transport, they act at the purchaser's risk as their vicarious agents.

- (7) Goods, that the purchaser has to pick up as agreed, shall be stored at the expense and risk of the purchaser from the time on, when the readiness for delivery has been communicated to him and he is in default with the collection.
- (8) In the case of deliveries, the purchaser shall ensure that unloading takes place without delay. Waiting time, protection and storage costs or return freight or costs for additional journeys shall be billed at actual cost.
- (9) The conclusion of transport and similar insurance is the responsibility of the purchaser. In the event of damage in transit, it is the responsibility of the purchaser to immediately initiate an assessment of the facts with the relevant body, as otherwise any claims against the freight forwarder, carrier or their insurers may be void.

4. Delivery time, delays in acceptance

- (1) Delivery times stated in brochures, cost proposals and offers are subject to the proviso that our supplying plant and sub-contractors can fulfil the obligations they have entered into towards us, as we reserve the possibility of delivery in any other case.
- (2) Delivery times or dates specified in the offer, order or order confirmation will only become binding contractual dates if they have been expressly agreed to be binding.
- (3) The only decisive factor for compliance with the delivery period is the notification of readiness for dispatch, and in cases of delivery, the handover of the goods to the freight forwarder or carrier. The delivery period is also adhered to if the essential components of the goods are ready for shipment at the specified time or have been handed over to the freight forwarder or carrier in cases of delivery; the subsequent provision of insignificant accessories does not prevent the timeliness of the delivery.
- (4) We are entitled to set a reasonable deadline for acceptance and, after fruitless expiry of this period, to dispose otherwise of the object of delivery and to supply the purchaser within a reasonably extended period. Alternatively, we are entitled to store the goods at the expense and risk of the purchaser.
- (5) If the purchaser is in default of acceptance, after 14 days have expired, we have the right to either demand acceptance or receipt of the entire delivery or part thereof or to withdraw from the contract and claim damages instead of performance. In addition to the demonstrable loss positions in individual cases, we are entitled to charge 15% of the net order value for general costs and a further 15% as foregone profit. Proof of non-incurred or lower general costs or foregone profit remains reserved to the purchaser.

5. Participation of the purchaser, subsequent change requests, agreed return of goods, effects on price and service time

- (1) Each delivery time begins only after receipt of all documents required for the execution of the order, clarification of all essential details for the start of production and after receipt of payment, provided that immediately maturity for payment was agreed with the order. The observance of the delivery schedule or performance schedule by us requires that all commercial and technical issues between the contracting parties have been clarified and all cooperation obligations of the purchaser have been fulfilled.
- (2) If the purchaser is obliged to cooperate or if the purchaser has to perform an act of cooperation, which is essential for the fulfilment of the contract, we shall informally inform the purchaser prior to the manufacture of the delivery item. The agreed delivery time shall be extended in accordance with paragraph (4), unless we are responsible for the delay.
- (3) Even without request, the agreed delivery time shall be extended if and as long as the purchaser has not fulfilled his contractual duties, duties of cooperation and obligations already agreed on at the time of the conclusion of the contract. In particular, this applies if the purchaser culpably delays

- the delivery of plans or data (for the delivery item or construction project to be manufactured or processed therewith)
 - the provision of material or accessories (for the delivery item or construction project to be produced or processed therewith)
 - obtaining the required government certificates or permits
 - the timely approval of production drawings or
 - making an agreed down payment or instalment.
- (4) If the production or delivery or our performance is temporarily prevented or delayed for reasons for which the customer is responsible, the delivery schedule (or service schedule) shall be extended accordingly by the demonstrable duration of the hindrance. When calculating the extension of the deadline, a reasonable start-up period for the resumption of performance shall be taken into account. Performance claims or claims in lieu of performance by the customer during the period of hindrance are excluded. Subsequent changes or additional requests by the purchaser will result in the delivery schedule being extended accordingly in an appropriate manner.
- (5) If the production or delivery or our performance is delayed due to these circumstances or at the request of the purchaser, any resulting additional costs will be charged to and shall be reimbursed by the purchaser.
- (6) Changes after release of the plans for production or procurement are only possible with the assumption of the already incurred costs. The processing costs for subsequent changes will be invoiced at cost. Changes to orders after the start of production are not possible. **Goods that have been produced according to the order are generally excluded from return.**
- (7) When returning stock already delivered, we reserve the right to charge a return fee. Prerequisite for a return is undamaged and originally packaged goods.

6. Force majeure, hindrances to performance beyond the control of both contracting parties

- (1) If we are prevented from delivering due to force majeure, the delivery schedule shall be extended by the duration plus a reasonable start-up time. **Force majeure is equivalent to circumstances unforeseen at the time of appointment and which are beyond our control, which make the delivery unreasonably difficult or temporarily impossible.** Examples include labour disputes, official measures, unavoidable lack of raw materials or energy, **significant breakdowns in operation due to damage to the factory as a whole or to important sections thereof**, or the falling out of essential production facilities or substantial parts of the workforce due to pandemics, serious transport disruptions, etc. These include road blockades, labour disputes in the transport industry, general driving or flight bans. This also applies if these circumstances affect major suppliers. The specified circumstances relieve us even if they arise during an existing default. We will inform the purchaser of the circumstances as soon as possible. A notification may be omitted if the purchaser is already aware of the circumstances. Should the circumstances last for more than 3 months, we reserve the right to withdraw from the contract. At the request of the purchaser, we shall declare whether we will withdraw or deliver within a reasonable time to be determined by us. Claims for damages by the purchaser are excluded in these cases. Both **contracting** parties may withdraw from the agreement without liability for damages if it is determined that the fulfilment of the agreement has become impossible due to these circumstances.
- (2) If the production or delivery or our services are temporarily **hindered** or delayed for reasons for which we are not responsible, the delivery time (or service time) shall be extended accordingly by **the verifiable** duration of the hindrance. When calculating the extension of the deadline, a reasonable start-up period for the resumption of performance must be taken into account. **Any claims for performance by the purchaser or claims in lieu of performance during the period of hindrance shall be excluded.**

7. Default, limitation of liability

- (1) If a specific fixed date has not been agreed, delivery or service default only occurs after a reminder. The purchaser can withdraw from the contract only after expiration of a reasonable deadline. **Even after expiry of the deadline, the purchaser is obliged to accept our services, unless we prior to dispatch of the delivery item or notification of readiness for shipment has been given have received the declaration of withdrawal.**
- (2) **If we, our legal representatives or our vicarious agents have acted with intent or gross negligence with regard to the delay, or had guaranteed a fixed date, or if the purchaser's interest in the service verifiably no longer exists due to the default, we shall be liable according to the statutory provisions. Insofar as the delay in delivery is based on the culpable breach of an essential contractual obligation** whose non-compliance affects the purpose of the contract, liability is limited to the foreseeable, typically occurring damage and a maximum of 5% of the purchase price of the delayed parts of the delivery. Insofar as timely partial deliveries are not reasonable for the purchaser, they shall not be taken into account when calculating the upper limit of the liability (maximum 5% of the total purchase price of the delivery).
- (3) Damages resulting from loss of rent- or production, downtime costs, **loss of profits** or contractual penalties promised third parties which have arisen or were forfeited due to the delayed delivery to the purchaser or his customers shall only be compensated if a binding delivery date has been agreed and the purchaser pointed out the specific damages and costs which could be associated with the missed deadline, in writing in the agreement of the schedule.

8. Prices, minimum order value, additional costs

- (1) Unless otherwise stated in the order confirmation, our prices are EURO net, plus VAT applicable at the time of delivery, only for the respective individual order and the listed services. Special services shall be remunerated separately.
- (2) Unloading, including transport to the point of use and storage, is the responsibility of the purchaser. If the purchaser does not provide loading equipment (crane, forklift, etc.) and loading personnel, our transporter is entitled to unload himself at the expense and risk of the purchaser.
- (3) We assume freight and packaging costs within Germany for a total value of more than EURO 800.00 (per delivery).
- (4) For goods orders with a total value of less than EURO 50.00 (net value of goods), a minimum quantity surcharge of EURO 10.00 plus VAT must be paid.
- (5) The packaging and shipping conditions for parcel delivery shall be agreed and calculated based on our shipping price list which valid and published on our website at the time of order confirmation. Upon request, the purchaser will receive a printout together with the offer. For the arrival time we are liable exclusively to the extent of the terms and conditions of the commissioned carrier.
- (6) If the purchase contract includes assembly as an ancillary service, the purchase price includes the described service including the travel expenses of the installation personnel. Additional services shall be paid additionally.
- (7) For installation services (repairs, maintenance, servicing, etc.), **the terms and conditions for installation** in Section II shall apply, in addition to the price agreement.
- (8) If prices are not bindingly agreed in writing, the prices stated in our order confirmation shall apply; otherwise the prices valid at the time of execution of the contract, according to our current price list, shall apply.

- (9) Unless otherwise agreed (for example, fixed prices), the contracting parties are entitled to a price change if there is more than 5% change in the price of raw material prices, prices of suppliers, wages, transport costs, tax rates or other cost factors between price agreement and execution of the order, and the specific change was unpredictable on conclusion of the contract. The burden of proof shall be borne by the party making the adjustment claim. The price adjustment claim may be enforced at the earliest 4 months after conclusion of the contract.

9. Terms of payment, authority to collect, cash discount, default in payment, asset deterioration, security deposit, exclusion of set-off, rights of retention

- (1) Unless otherwise stated in the order confirmation or the assembly conditions in Section II, the purchase price is due net (without deductions) immediately upon receipt of the invoice by the purchaser.
- (2) If assembly is owed as an ancillary service, payments for the portion of the purchase price accruing to the delivery itself are to be paid in cash without deductions after delivery, irrespective of the receipt of the goods and without regard to the execution of the assembly services within 10 days from the invoice date.
- (3) Partial deliveries shall be paid for separately in accordance with our payment terms.
- (4) Payments shall be made directly to us. Our sales representatives, field staff, warehouse managers and similar persons are only entitled to accept payments if they have been authorized by us in writing to do so. Nevertheless, payments made to them shall be considered fulfilment only after payment has been received by us.
- (5) A deduction of a discount is only permitted if expressly agreed. If a cash discount deduction has been agreed in individual cases, the right to deduct the cash discount does not exist if another invoice with default of payment by the purchaser already exists. Payments are then credited first to any interest receivable and the oldest arrears. Invoices for services or works and pure wage labour in accordance with Section II are not eligible for discount.
- (6) If the agreed net payment term is exceeded, we shall be entitled, without prejudice to our other statutory claims, to charge default interest in the amount of 9 percentage points above the respective base interest rate, but at least 12%. Proof of a lower or higher default damage is permitted.
- (7) Discounts, bonuses and other benefits are waived for all deliveries and services affected by the delay in payment. Granted discounts shall be totally omitted.
- (8) Incoming partial payments or payments without payment reverences shall be credited first to any interest receivables and then to the oldest outstanding receivables after the default has occurred.
- (9) If the purchaser falls into default with due payments or if we become aware of circumstances that give rise to reasonable doubts as to the purchaser's solvency or creditworthiness, we are entitled, irrespective of previously agreed terms of payment, to demand either adequate advance payment or security. In case of doubt, payments which are accepted as cash transactions in insolvency proceedings or are considered as non-contestable are considered appropriate. If this requirement is not met, we shall continue to retain the right, after the expiry of a reasonable deadline, to refuse performance of the contract and to demand damages instead of the consideration.
- (10) In all cases, the purchaser can restore the originally agreed terms of payment until the receipt of our declaration of withdrawal by sending an enforceable, unconditional and perpetual bank guarantee in the amount of the outstanding part of the purchase price, including any claims for compensation for supplements or services in accordance with Section II. If the compensation has not been agreed, the customary, reasonable remuneration must be secured. Upon request, we shall inform you what we consider to be the required guarantee amount to which we are bound by within the meaning of the clause.

- (11) In the event of non-compliance with the term of payment or in the case of filing for insolvency, we may prohibit the installation or resale of the delivered goods and demand that they be returned to us. The rights and obligations under Section 13 (retention of title) remain unaffected.
- (12) The purchaser can only set off against counterclaims if these are undisputed or legally binding, or if a pending legal dispute will not be delayed by the offset. The same applies to the assertion of rights of retention of the purchaser. However, the customer is only authorized to exercise a right of retention if it is based on the same contractual relationship.

10. Duty of inspection and notification, complaints

- (1) Transport damage (in particular glass breakage) and quantity deviations must be checked on the spot of delivery and the carrier must be informed immediately. The purchaser shall provide a suitable receiving person for this. If the goods cannot be handed over and accepted immediately upon delivery of the goods to the building site, the purchaser has the burden of proof that the delivery was incomplete or has transport damage.
- (2) Complaints regarding obvious damages, incorrect deliveries and other obvious defects, as well as the incompleteness of the delivery are to be reported to us in writing immediately after delivery.
- (3) The items delivered by us are to be inspected immediately for defects, even if samples were previously sent. The (partial) delivery shall be deemed to have been approved if obvious defects or deviations in quality apparent during a proper inspection have not been communicated to us in writing prior to installation or further processing by the purchaser, or within a limitation period of 8 days after arrival at the destination.
- (4) Defects and deviations only identifiable later shall be reported in writing within a limitation period of 8 days after discovery.
- (5) Only if the purchaser has complied with his inspection and complaint duties, in accordance with the contract, shall he be entitled to the following claims for defects and, in the case of resale, the legal recourse. Excluded from the warranty are, in particular, defects that were not communicated until after the object of delivery has been processed or altered despite recognizable defects.
- (6) We shall be awarded the opportunity to review the complaint, if possible. Otherwise, defects and warranty claims shall be excluded.
- (7) Costs incurred by us through unjustified complaints, in particular travel costs, shall be borne by the purchaser.

11. Guarantees, claims for defect, warranty period

- (1) Guarantee declarations shall be expressly included as such in the order confirmation or be subsequently agreed in writing. The special warranty conditions of Section 13 shall apply.
- (2) Advertised information about the characteristics of our products, their preparation and use, special dimensional accuracy and compliance with DIN regulations will only become part of the contract or guaranteed quality if this has been expressly agreed in each respective case. Product changes are possible at any time and may result in advertisements being outdated. For construction products, the provisions of the construction products regulation shall apply.
- (3) No guarantee is given for differences in quality, dimensions, density, weight etc., if such differences do not exceed deviations customary for the industry and the material, in particular if they are within the tolerance range of quality guidelines or standards. Special requirements for exact dimensional accuracy must be specified when ordering, and confirmed by us.
- (4) In the case of production according to the purchaser's drawings, we shall only be responsible for the design as described, irrespective of any other warranty and liability limitations. The same shall apply to other requirements and specifications of the purchaser. We shall point out identifiable concerns.

- (5) We assume no liability for defects or damages resulting from the following:
- failure to participate or incorrect participation
 - improper or negligent use and handling
 - improper storage
 - incorrect assembly, installation or incorrect commissioning by the purchaser or third parties
 - incorrect or failure to apply protective coatings
 - use of unsuitable paints, mortars, adhesives, etc.
 - properties not known at the time the contract was concluded or requirements of the installation situation provided by the purchaser for the delivery item
 - non-observance of protective regulations or protective arrangements in individual cases
 - failure to follow the installation instructions, operating instructions or maintenance instructions
 - missing or incorrect instruction of the user/operator
 - lack of trial operation
 - natural wear and tear
 - natural deterioration
 - light-related colour and surface changes
 - missing or faulty maintenance, especially due to non-compliance with the maintenance instructions
 - use of unsuitable illuminants, equipment or media
 - use of unsuitable replacement parts by the purchaser or third parties
 - improper or incorrect maintenance or repair by the purchaser or third parties
 - chemical, electronic or electrical influences (such as magnetic fields) or other unsuitable environmental conditions
 - inappropriate interventions by the purchaser or third parties
- unless the causes are due to our fault.
- (6) In the case of justified complaints submitted in good time, we will, at our discretion, provide repair or replacement.
- (7) Replaced parts become our property.
- (8) For replacement deliveries, we are entitled to a reasonable period of time, in particular the period required for the manufacture of the replacement goods.
- (9) Unless otherwise agreed, subsequent performance is owed ex works in the case of subsequent delivery and at the place of installation, in the event of rectification by our vicarious agents.
- (10) In the event of removal of defects, we shall bear the necessary expenses, insofar as these do not increase, resulting from the delivery item being located at a place other than the place of performance. Additional costs incurred as a result of the fact that the claims for defects are to be fulfilled outside of the Federal Republic of Germany, without our knowledge at the time of concluding the contract, shall be borne by the customer. We are entitled to demand a reasonable advance payment on the expected additional costs. Insofar as there is compensation for labour costs, only the standard times specified for our own services shall be accepted at the usual labour costs in the respective country.
- (11) If the defect does not affect the suitability for use and there is no substantial defect, we shall be entitled to grant reduction instead of supplementary performance.
- (12) The further claims of the purchaser presuppose that essential defects have not been remedied by us within a reasonable period or two attempts to rectify the same defect have failed, unless further rectification attempts are reasonable and reasonable for the purchaser due to the delivery item and its contractual use.
- (13) Even after expiry of the period, we shall be entitled to render the supplementary performance until we have received a clear declaration from the purchaser expressly rejecting further services from us.

- (14) In lieu of withdrawal and damages in lieu of performance, the purchaser may demand the costs of a self- or replacement action, provided that this does not exceed the net order value of the defective part of the delivery.
- (15) The reimbursement of installation and removal costs in the event of a resale to the purchaser's customers takes place only in case of defects that cannot be detected by proper inspection before resale. The reimbursement is limited in amount. Provided that there is compensation of labour costs, only the set time for our own services shall be accepted at the usual labour costs in the respective country, if the purchaser wilfully allows a deadline set by the customer to remedy the defect to pass, without offering the rectification.
- (16) Neither a withdrawal can be declared nor - if we owe performance - the acceptance be denied owing to insignificant defects.
- (17) This also applies to the acceptance if the purchaser does not accept it within two weeks of notification of completion or final invoice, although he is obliged to do so. A deficiency reservation must be declared within this period.
- (18) The duration of the warranty is for all deliveries and services according to the legal deadlines, unless otherwise specified below.
- (19) If acceptance has been agreed, the deadline starts on the last day of acceptance, the commencement of the acceptance effects (in case of non-acceptance, acceptance by conclusive behaviour by the purchaser or after expiry of the period according to Section 640 II German Civil Code BGB), or at the latest with the default in acceptance.
- (20) The notice of defects, the follow-up correspondence, measures for error checking and determination as well as supplementary performance do not interrupt or restrict the expiry of the statute of limitations. These effects are to be agreed upon in individual cases.
- (21) Defective damages shall be limited, if not excluded, by the following liability agreement.
- (22) Claims for defects may not be transferred or assigned without our prior consent. The sole claimant is the purchaser. Warranty claims are transferable under the terms of the guarantee conditions in Section 13.

12. Liability

- (1) Mandatory provisions of the product liability regulations remain unaffected.
- (2) Due to the legal regulations, we are liable for warranty violations, personal injury and as far as we, our legal representatives or our vicarious agents have acted with intent or gross negligence.
- (3) If we, our legal representatives or our vicarious agents negligently violate a contractual obligation whose non-compliance endangers the purpose of the contract, our liability for property damage is limited to the foreseeable typically occurring damage.
- (4) Further claims are excluded.
- (5) Insofar as our liability is excluded or limited, this also applies to the personal liability of our employees, workers, temporary employees, representatives and vicarious agents.
- (6) If damage is impending, the purchaser shall inform us immediately. We shall not be responsible for damages that would not have occurred if we had been informed in good time.
- (7) In order to avoid consequential damage - in particular due to missing or limited possibilities of use - the purchaser shall stock a sufficient number of spare parts (especially all wearing parts), illuminants, consumables etc.

13. Warranty conditions

- (1) For commercial goods (third-party products), the respective manufacturer's warranty conditions may apply. We assume an independent guarantee in the sense of the following conditions exclusively on WIBRE products as manufacturer.

- (2) The offer of the guarantee contract relates to the purchaser as contract partner. To the extent that warranty offers are made, a warranty card for each affected WIBRE product is included with the delivery. The currently valid version of the guarantee contract conditions is available on our website wibre.de. We forego a formal declaration of acceptance.
- (3) The guarantee obligation and the respective conditions under which the claim shall be honoured are product-dependent. In general, the following restrictions apply:
- (4) The guaranteed warranty period begins with the transfer of the risk of performance to the purchaser, but no later than upon delivery of the product under warranty. Any later processing or installation time is not decisive and does not lead to a new start of the period, even if the warranty claim is transferred by the purchaser to its customer.
- (5) The warranty is always limited to the free repair or the delivery of a replacement (part), at our discretion. Removal and installation costs shall not be assumed.
- (6) Unless we demand a return shipment for repair or inspection, the part to be replaced must be disposed of by the claiming party, at its own expense, in an environmentally sound manner.
- (7) The warranty claim lapses if the substantive facts are based on causes which the purchaser or the customer is responsible for, in particular in the case of
 - improper or negligent use and handling
 - improper storage
 - incorrect fitting, installation or incorrect commissioning by the purchaser, customer or third parties
 - incorrectly or inappropriately application of protective coatings
 - use of unsuitable paints, mortars, adhesives, etc
 - non-observance of protective regulations or protective arrangements in individual cases
 - failure to follow the installation instructions, operating instructions or maintenance instructions
 - missing or incorrect instruction of the user/operator
 - natural wear and tear
 - natural deterioration
 - light-related colour and surface changes
 - lack of maintenance or faulty maintenance, especially due to non-compliance with the maintenance instructions
 - use of unsuitable equipment
 - use of unsuitable replacement parts by the purchaser, customers or third parties
 - improper or faulty maintenance or repair by the purchaser, customer or third parties
 - chemical, electronic or electrical influences (such as magnetic fields) or other unsuitable environmental conditions
 - inappropriate interventions by the purchaser, customer or third parties
- (8) If the purchaser wants to transfer the claims from the guarantee contract to his customer, a warranty claim must be made. In addition to the product identification (product name, order number and production number), the delivery note date and the delivery note number, the address and contact details of the purchaser, the address data of the customer and the installation location of the affected product must be communicated. The fully completed warranty claim shall be signed by the customer. In individual cases, we reserve the right to reject the transfer of warranty claims for objective reasons.
- (9) The warranty claim may also be transmitted electronically by the purchaser to the customer (registration on the website www.wibre.de/warranty application after acceptance of the terms of use and our privacy policy).

14. Retention of title, (extended, expanded), retention obligation, factoring, use

- (1) The provisions of this Section 14 paragraphs (2) to (15) do not apply to prepayment and cash payment transactions (full purchase price payment before or upon delivery). Otherwise (full payment of the purchase price after delivery), the following rights and obligations are agreed:
- (2) Until full payment of all receivable due to us from deliveries and services, now or in the future, we shall be provided with the following securities, which we will release upon request at our discretion, as long as their value sustainably exceeds our total claim by more than 10%:
- (3) The goods shall remain our property.
- (4) The retention of title shall remain valid even if individual claims have been included in a current account and the balance has been deducted or acknowledged (current account reservation). In the case of several business transactions, the retention of title remains valid even if a delivery has been paid for but an open balance still exists from other deliveries (extended retention of title).
- (5) The purchaser is entitled to process the reserved goods in the normal course of business, as long as he is not in default of payment.
- (6) Processing or transforming is always done for us as a manufacturer, but without obligation to us. If the goods are also processed together with items, materials or other foreign values for a third as a manufacturer, not belonging to us we acquire co-ownership of the new item in proportion of the value of our goods to the foreign values at the time of processing.
- (7) If our (co-) ownership expires through connection or processing, it is already agreed that the (co-) ownership of the purchaser of the unified object will pass to us in proportion to the value (invoice value). The purchaser shall retain possession of the (co-) property free of charge. In particular, the purchaser, as depositary, is obliged to properly secure and maintain the goods and to ensure that no endangering of persons or things is possible. The potential risks shall be properly covered by insurance. Goods subject to (co-) ownership are referred to below as reserved goods.
- (8) The purchaser is entitled to sell the reserved goods in the ordinary course of business, as long as he is not in default of payment. Pledges or collateral assignments are inadmissible. The purchaser hereby assigns to us the claims resulting from the resale or other legal ground (balance of current account, compensation for installation, reimbursement of insurance, damages due to tort) with respect to the reserved goods in the amount of 110% of the invoice value of the reserved goods. The circumstance, whether or not the installation is done by us, the purchaser or one of his vicarious agents or another contracting party, remains without influence on the assignment. The purchaser is revocably authorized to collect the claims assigned to us for his account in his own name. This direct debit authorization can be revoked by us if the purchaser does not meet or is not able to meet his payment obligations.
- (9) The purchaser is only entitled, with our consent, to sell the claim assigned to us from the business relationship with its customers to a factor through genuine factoring. The claim against the factor is already assigned to us in the amount of 110% of the invoice value of the affected reserved goods. If the claim against the factor also serves as security for other retention of title suppliers, the assignment is limited to the amount of the share resulting from the ratio of all claims secured against the customer by retention of title and assignment (quota share). Upon payment of the purchase price for the claim by the factor, our claim from the affected contractual relationship against the customer is due immediately and without deduction of cash discount.
- (10) In the case of access by third parties to the reserved goods, the purchaser will refer to our ownership and inform us immediately. Costs and damages caused by the access shall be borne by the purchaser, provided that these cannot be collected by third parties.
- (11) In case of a breach of contract by the purchaser - in particular default of payment - we are entitled to repossess the reserved goods. The purchaser already agrees to the return of the reserved goods, in such a case. If the reserved goods are located at a third party's premises, the purchaser hereby assigns his claims for surrender against the third party to us. Insofar as

the third party has legitimate claims to the reserved goods, these are taken into account. As the indirect possessor of the reserved goods, we have the right to enter the purchaser's premises.

- (12) In case of a repossession as well as seizure of the reserved goods by us as well as in case of disclosure of the security assignment there is no withdrawal from the contract, if the purchaser is a merchant in the sense of the commercial law regulations.
- (13) The purchaser is obliged, at our request, to provide information about all assigned claims, in particular to provide us a list of debtors with name, address, amount of the receivables, date and number of the invoices and, on request, the documents required to enforce the claims.
- (14) We are entitled to claim the reserved goods and values from the purchaser, which are subject to our actual action, as security and to use them freehand after unsuccessful offer of a reasonable transfer fee, if the purchaser himself is a merchant within the meaning of the commercial law.
- (15) The valuation of all collateral is based on its recoverable value (collateral value). If this cannot be reasonably ascertained within a reasonable time, we shall be entitled to charge the delivery price without consideration of additional services, sales tax, discounts, rebates and freight and other ancillary costs for the valuation of goods collateral. The nominal value shall prevail for the valuation of claims.

15. Technical Changes

We may make technical changes to improve the delivery item at any stage during the performance of the contract without the prior consent of the purchaser, provided the changes are reasonable for the purchaser.

16. Privacy Policy

Please note that business information is processed within our company and we reserve the right to provide the information required to obtain credit protection to the insurer. Please also note our privacy policy and our terms of use for our website.

17. Choice of law for international legal relations

The law of the Federal Republic of Germany, excluding the United Nations Convention on the International Sale of Goods (United Nations Convention of 11 April 1980 on Contracts for the Sale of Goods, CISG - "Vienna Sales Convention"), is applicable for these terms and conditions and the entire legal relationship between us and the purchaser.

18. Applicable language of the contract, rules of interpretation

- (1) Unless otherwise agreed, the contract language is German. If, in addition to the order confirmation in the German language, a version exists in the purchaser's language or another foreign language, solely the German version is decisive for the interpretation of the contract. If there exists only an order confirmation in a foreign language, its translation into the German language shall prevail.
- (2) If there is disagreement between the contracting partners as to the wording of a translation pursuant to Section (1), a publicly appointed document translator, whose translation shall prevail for the interpretation of the contract, shall be assigned jointly and at the expense of both parties.
- (3) If the contracting parties cannot agree on a translator according to Section (2), the person shall be appointed by the President of the District Court in Heilbronn or a manager of the Chamber of Commerce in Heilbronn. Both parties have the right to apply for the provision.

- (4) If the question of the interpretation of the contract or the current version cannot be settled by mutual agreement, the competent court shall independently determine the basis of interpretation.

19. Place of payment, place of jurisdiction

- (1) If the purchaser is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the place of performance for the obligations of the purchaser to WIBRE Elektrogeräte Edmund Breuninger GmbH & Co. KG is D-74211 Leingarten.
- (2) If the customer is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law or has no registered office in the Federal Republic of Germany, the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is D-74072 Heilbronn/Neckar.

Section II Supplementary terms and conditions for installation

20. Scope

- (1) If, in addition to the delivery, we owe the assembly of the delivered items, the following additional installation conditions shall apply. These conditions shall also apply to all separately ordered assembly, repair or maintenance services. They shall replace the provisions of Section I only insofar as this is expressly stipulated.
- (2) The regulations of the VOB/B (General Conditions for Construction Work Part B) shall apply instead of the general terms and conditions only with explicit agreement. The provisions on the reservation of title (Section 14) remain unaffected.

21. Transfer of the obligation to execute the order

- (1) Inclusive authorized installation services or separately ordered assembly, repair or overhaul services shall be delegated to a third party or a person for execution at our discretion.
- (2) The commissioned third party is our vicarious agent in accordance with Section I 12 (5).
- (3) The commissioned third party, as well as our own assembly personnel, shall have no power of representation. For orders (for example, of spare parts) or similar, they are the receiving messengers and shall forward the declaration of intent of the purchaser/client in the ordinary course of business to us.

22. Obligation of the purchaser/client to cooperate in preparing the work

- (1) The purchaser/client shall make all preparations for carrying out a smooth assembly.
- (2) At the beginning of installation, all installation locations must be accessible without hindrance, so that our assembly personnel can commence their work without waiting times.
- (3) Our transport includes, in particular, the delivery to the unloading point as well as the ground-level and unhindered cross-transport to the place of installation up to a distance of 50 m from the unloading point.
- (4) Auxiliary staff for any possible chiselling work, auxiliary materials such as hoists, electricity, water, etc. shall be provided by the purchaser/client in good time at the place of installation. Hole-cutting and masonry work, erection and dismantling of scaffolding and electrical installation work shall be assumed by the purchaser/client.
- (5) Additional costs incurred as a result of complications and the additional work of the contractor commissioned with the execution shall be passed on to the purchaser/client with evidentiary support.

23. Building site safety, environmentally-safe disposal

- (1) The purchaser/client is responsible for the safety of the building site. Our assembly personnel shall be notified of risks identified. If the source of danger is not remedied immediately, the installation in the hazardous areas must be stopped.
- (2) The purchaser/client is responsible for the provision of waste containers into which we can deposit our packaging material or any construction waste we might have. The environmentally friendly disposal shall take place at the expense and risk of the purchaser/client. If a container is not available, we shall make disposals at the expense and risk of the purchaser/client.

24. Carrying out the assembly

- (1) Unless otherwise agreed, we shall carry out the assembly on the basis of the recognized rules of technology on the basis of the planning of the purchaser/client. Each assembly shall be carried out in compliance with legal and regulatory requirements, and we are not obliged to comply with deviating instructions from the purchaser/client.
- (2) If the purchaser/client requires an assembly plan from us, the delivery period will only start with the release of our plan by the purchaser
- (3) Our installation services shall be carried out independently and without instructions, unhindered and in one go without interruptions at normal working hours (weekdays between 07:00 and 18:00). If the purchaser/principal requires the installation to be carried out under deviating or difficult conditions, Section 22 (5) shall apply accordingly. The purchaser/client is responsible for the consequences of his instructions. Our commissioned assembly personnel is entitled to refuse contractual and unlawful instructions and in case of doubt, to interrupt the execution of the assembly pending clarification.

25. Performance limits, ancillary services not included, on-site completion

- (1) Unless otherwise expressly agreed, we shall only provide the installation services required for the object of purchase.
- (2) We shall notify you of any supplementary services required (for the operation of the object of purchase in the building or property and compliance with the laws and regulations for the building and its use or the item the purchase object is mounted on) at the latest at the time of delivery, if we are legally obliged, or have recognized that, without the notification there could be possible damage to the purchaser/client.
The obligation to notify is waived if the purchaser/client himself is expertly advised by an architect or specialist engineer or has given the assembly order as a contractor (general contractor, main contractor or subcontractor).
- (3) Useful or optical beautification serving connection services are neither scope of the order, nor the basis of advice or notification obligations.

26. Installation date, hindrances, extension of the installation period

Unless otherwise agreed, the date of installation becomes binding only upon our confirmation. Hindrances, impediments or changes in the scope of service extend the assembly period. A binding confirmed schedule will be cancelled in these cases and must be re-agreed, taking the circumstances into consideration.

27. Changes to the assembly order

If our assembly personnel are asked in the course of the agreed assembly work to do other or not commissioned assembly services, corresponding reports shall be submitted immediately after work. The modified or additional works are to be compensated as hourly wage and can lead to an extension of the assembly time.

28. Installation price, calculation of waiting times, no crediting for own work

- (1) The agreed assembly prices assume that the assembly of all parts of the complete order can be carried out without hindrance and without difficulty and in one go. Waiting times and costs for additional journeys or overnight stays at the installation site caused by missing or late execution of the purchaser/client's obligation to cooperate, missing or late executed on-site services or other reasons not attributable to us shall be additionally charged. This also applies in the event of an interruption of the assembly work, which is caused by the client and which requires a removal of the assembly personnel from the installation site.
- (2) For its own cooperation in the assembly itself, the purchaser/client can neither demand compensation nor require deductions from the agreed purchase price or wages without express written agreement.

29. Hourly wage work

- (1) Hourly wage work as well as waiting times and assembly interruptions will be billed on proof.
- (2) We will calculate the settlement rate valid at the time of placing the order, plus the value added tax applicable at the time of completion of the work. We will inform you of the settlement rates in our order confirmation or you may refer to the price list valid at the time of placing the order.
- (3) The client shall confirm the correctness of the entries on the submitted work report, with his signature.

30. Risk to performance, acceptance

- (1) If a delivery debt has been agreed, the performance risk shall deviate from Section I 2 (3) with the installation of the delivered goods to the purchaser/client.
- (2) If damage to the delivered goods occurs after installation, we are not obliged to remedy or re-deliver the damage if the cause of the damage is in breach of a protective order or if the delivered goods are used immediately after installation.
- (3) An acceptance of the ancillary service is not owed. We shall notify the purchaser/client after notification of completion by the contracted assembly personnel. A joint examination of the installed goods can be arranged at the expense of the purchaser/client.
- (4) If acceptance has been agreed and acceptance does not take place immediately upon completion of the assembly, repair or maintenance, the service is deemed to have been accepted no later than 12 workdays after the completion of the work.

The above terms and conditions supersede our general terms and conditions and apply to all contracts concluded as at 01.08.2018.

Leingarten, 30.12.2017

WIBRE Elektrogeräte Edmund Breuninger GmbH & Co. KG