

# General terms and conditions of purchase

(Date October 2017)

## zur Mühlen Gruppe

Gewerbestraße 1, 24860 Böklund

### § 1 General information, scope of application

- (1) Our terms and conditions of purchase apply exclusively; the supplier's other terms that contradict or differ from these terms will not be recognised unless we expressly consent to them in writing. Our terms and conditions of purchase will also apply even in the event that we unconditionally accept delivery in awareness of the supplier's contradicting or differing terms.
- (2) All agreements we enter into with the supplier for the purposes of fulfilling a contract must be documented in writing in the contract.
- (3) Our terms and conditions of purchase apply exclusively to business persons, corporate bodies under public law and special funds under public law as set out in Paragraph 310 I Bürgerliches Gesetzbuch (BGB – German Civil Code).
- (4) These terms and conditions of purchase apply to all the supplier's transactions with the Mühlen Group; in particular, with the following companies:

Anhalter Fleischwaren GmbH Zerbster Original  
Astro Fleischwaren GmbH & Co. KG  
Böklunder Fleischwarenfabrik GmbH & Co. KG  
Chemnitzer Wurstspezialitäten GmbH & Co. KG  
Die frische Thüringer! GmbH & Co. KG  
Dithmarscher Katenrauch Hans A. Liebing GmbH & Co. KG  
Döllinghareico GmbH & Co. KG  
EL 3 GmbH  
Gutfried GmbH  
Gutfried Services GmbH & Co. KG  
Gütersloher Fleischwarenfabrik F.J. Marten GmbH  
Gütersloher Fleischwaren Vertriebs GmbH & Co. KG  
Heinrich Nölke GmbH & Co. KG  
HN Produktion GmbH & Co. KG  
J.G. Dickel GmbH  
Joh. Blankemeyer GmbH & Co. KG  
Könecke Fleischwarenfabrik GmbH & Co. KG  
Landsberger Wurstspezialitäten GmbH & Co. KG  
Lutz! Markenvertrieb GmbH  
Martena Fleischhandels GmbH

Marten-Fleischwaren-Verkaufsgesellschaft mit beschränkter Haftung  
Marten-Fleischwaren Verkaufsgesellschaft mbH  
Marten Verkaufs-Gesellschaft mbH  
Marten-Verkaufsgesellschaft mbH  
MAX Handelsgesellschaft GmbH & Co. KG  
Schulte Fleisch- und Wurstwaren GmbH  
Schulte Umwelttechnik GmbH  
Vogt & Wolf GmbH  
ZM Grundbesitz GmbH & Co. KG  
ZMI Zur Mühlen International GmbH  
zur Mühlen ApS & Co. KG  
zur Mühlen Gruppe Markenvertriebs GmbH  
zur Mühlen Mobillienbesitz GmbH & Co. KG  
zur Mühlen Production Services GmbH & Co. KG  
zur Mühlen Support Services GmbH & Co. KG

The supplier is herewith being expressly notified of this general application to the supplier of the terms and conditions of purchase – also on behalf of further companies.

### § 2 Orders, documents, confidentiality

- (1) Our orders will only be binding if they have been placed in writing or – following oral orders or orders by phone – we have confirmed them in writing.
- (2) The supplier will be obliged to accept our order within a time limit of two weeks.
- (3) We reserve our property rights and copyrights to images, drawings, calculations, data, data carriers provided, work descriptions, functional specifications and other materials – „information“ for short hereinafter; this information may not be made accessible to third parties without our express written consent. The information may only be used for the production and/or processing of our order. It must be returned to us without further request on termination of the business relationship.
- (4) No legal basis exists which entitles the supplier to retain this information.

- (5) The supplier will be obliged to keep confidential the provided written or oral information relating to the placing of the order, the creation of the tools and/or the production of parts. This obligation to maintain confidentiality refers, in particular, to data, drawings, specifications, calculations, production information, etc. We shall release the supplier from this obligation to maintain confidentiality if it is able to demonstrate that it was already aware of the confidential information before our disclosure or if this information enters the public domain during the term of the contract without this being in the main due to a breach of contract by the supplier. The release from the obligation to maintain confidentiality will only come into effect with our written declaration.

### § 3 Scope of performance, forwarding of the order, informational duty

- (1) The scope of the respective deliveries / performances will be determined in our order.
- (2) The supplier will be obliged to expressly identify in writing – while highlighting the typography – any deviations from our order in its order confirmation.
- (3) If the deviations set out in the respective order confirmation by the supplier are considerable, the conclusion of the contract will require the express written confirmation by our responsible purchasing department. The principles of commercial confirmation letters will not apply.
- (4) Forwarding the order to third parties and the use of subcontractors will require our prior written consent. Insofar as the supplier uses third parties to fulfil its performance obligations, the supplier must oblige these third parties in the same way that the supplier has itself been obliged by the order and these terms. The supplier will conclude contracts with third parties in its own name and on its own account.
- (5) The supplier must check our enquiry and/or order, particularly for plausibility, feasibility, completeness, etc. and immediately inform us of any shortcomings.

### § 4 Quality

- (1) The supplier will guarantee that all deliveries comply with the local and national regulations applicable at the place of delivery. This applies, in particular, to goods-specific quality, packaging, declaration and labelling regulations and other regulations based in public law. The supplier will, in particular, guarantee that the goods it has supplied comply at the time of

handover with legal requirements (e.g. food-law requirements), the accepted codes of practice and relevant DIN standards, legal directives and legal ordinances and that the goods supplied will at the time of delivery in all aspects be marketable at the stated place of delivery. The supplier will undertake to regularly check that the above regulations are being fulfilled. We will only accept the supplier's goods if they satisfy all the demands made on their quality.

- (2) To the extent that the supplier's performance concerns the delivery of food contact materials and consumer products as set out in Paragraph 2 Section 6 Lebensmittel-, Bedarfsgegenstände und Futtermittelgesetzbuch (LFGB – German Food and Feed Code), the supplier will guarantee that the food contact materials and consumer products it has manufactured and/or supplied comply with the respectively relevant provisions set out in German and European food law, namely the provisions of Paragraphs 30 ff LFGB, and that we will be able to use them without restriction in the production of food. The supplier also promises that the food contact materials and consumer products it has supplied comply with the state of technology and the recommendations made by Bundesinstitut für Risikobewertung und -kommunikation (BfR – Federal Institute for Risk Assessment). The supplier guarantees that the food contact materials and consumer products it has supplied have been manufactured and/or treated under flawless conditions, with the required care and with the necessary hygiene and quality controls. Specifications and safety data sheets must always be prepared and updated at the latest every two years; corresponding declarations of conformity must also be provided for packaging and products made from plastic.
- (3) We will be entitled to have the goods checked. These checks may also be carried out before or during the delivery. The supplier will also entitle us to carry out inspections and quality controls on its premises within normal operating and business hours (audits) to the extent that goods are being manufactured for us. We may also commission third parties to carry out goods inspections and audits at the supplier's.
- (4) The supplier must on request provide us with materials and documentation relating to quality assurance; the supplier must do so at no cost to us.
- (5) The supplier must procure our prior written permission before making any changes to quality parameters and product compositions for goods to be delivered to us.

## § 5 Tools

- (1) The supplier must manufacture tools in accordance with our specifications. Modifications or deviations will only be binding when we have approved of the manufactured tool in writing. The supplier will be obliged to expressly point out any modifications or deviations in writing both in the drawings as well as in a separate declaration. We reserve ownership in these tools.
- (2) The supplier will be obliged to only use our tools for the production of deliveries that are the subject of our orders. We will be entitled to the rights of utilisation and industrial property rights relating to the tools.
- (3) We reserve the exclusive copyright in drawings on which the manufacture of tools is based. This will also apply to the extent that modifications or deviations may be traced back to suggestions by the supplier.
- (4) The supplier will for the duration of the delivery and performance relationship be obliged to maintain and repair the tool at its own cost. The supplier will also be obliged to insure the tool for its new value against the usual material risks (fire, water damage, theft and burglary). The supplier is already assigning any claims for compensation against the insurance to us in advance; we herewith accept this assignment. Irrespective of the above, the supplier will be obliged to use any compensation performances by the insurance only for the purpose of repairing the tool or acquiring a new one.
- (5) For the duration of the delivery and performance relationship, the supplier will bear the risk of the tool accidentally perishing or deteriorating. The above Section 4 applies accordingly where the duty of insurance is concerned.

## § 6 Spare parts

- (1) The supplier will be obliged to supply spare parts at reasonable prices and at the terms of the underlying order for the period of the probable technical use, at least, however, for 10 years subsequent to the delivery. The entity placing the order must be informed in writing when the supplier intends to cease delivery of spare parts so that it is possible to place a final order.
- (2) The supplier must on request immediately and at no cost provide the person placing the order with the materials required to produce the spare parts and permit free-of-charge use if an order for spare parts cannot be realised because deliveries have ceased or prices and terms cannot be agreed.

## § 7 Prices, terms of payment

- (1) Insofar as not otherwise agreed, we will pay the invoiced amount within 30 days of delivery / performance and receipt of the invoice minus a 3 % cash discount or net within 60 days of receipt of the invoice. Delays caused by incorrect or incomplete invoicing will suspend the expiry of the time limit for the cash discount.
- (2) In order to enable us to quickly and properly process invoices, the supplier will be obliged to state on all invoices our order number, the quantities and quantity units, the gross, net and, where appropriate, calculation weights, article designations with article numbers and, where part deliveries are concerned, the remaining quantity. The supplier's invoices will be deemed to be incorrect and therefore not due for payment for as long as they do not comply with the above provisions.
- (3) When „prices subject to change“ have been agreed, the price that applies on the day of the delivery will be deemed to have been agreed.
- (4) Where contractual relationships that are based on our regularly purchasing goods are concerned, the supplier will undertake to consider changes in prices for our benefit even where binding prices have been agreed, particularly if the supplier generally reduces the prices concerned or reduces them for a large number of its customers.
- (5) We will only make payments or compensation for visits, the preparation of quotations, brochures, cost estimates and so on if this has been expressly agreed in writing.
- (6) Surcharges for lowest or minimum quantities will not be paid.
- (7) We will be entitled to retention, offsetting and utilisation rights to the extent provided for by the law. The supplier will only be able to offset claims that are undisputed or that have been determined in a legally effective manner; the supplier may only exercise retention rights to the extent that these are based on the same contractual relationship.
- (8) We will be entitled to offset claims within the Mühlen Group. We will be prepared on request to inform the supplier in writing what companies belong to our group.
- (9) We will remain entitled to make the performance to our contract partner in the event that a claim for money has been assigned to a third party.

- (10) In the event of early deliveries, we will state the invoice's value date as the date of delivery specified in the order. Irrespective of the above, it will be at our free discretion to make an instalment payment.
- (11) The price stated in the order is binding. If not otherwise agreed in writing, the price will include free delivery and packaging. A separate agreement must be made for the packaging to be returned. The provisions of the packaging ordinance remain unaffected by the above.

## § 8 Delivery and performance time

- (1) The delivery time and/or performance time stated in the order will be binding. Delivery deadlines commence with the day of the order (order date). The receipt of the goods at our premises or at the point of reception we have specified will be relevant to determining whether the delivery has been made on time (within the time limit).
- (2) The supplier will be obliged to immediately inform us in writing should circumstances occur or become apparent to the supplier that indicate that the specified delivery and/or performance deadline cannot be met. We must be notified to this extent as quickly as possible in advance by email or fax. Where freight consignments are concerned, notice of dispatch must be sent separately on the day of dispatch.
- (3) We will be entitled to make the statutory claims in the event of delayed delivery. In particular, we will be entitled to claim compensation for non-fulfilment after a reasonable subsequently set deadline has passed to no avail. The supplier will also be liable within the framework of the legal provisions for any culpability by its suppliers or manufacturers.
- (4) In light of the conditions set out in the above Section 3, we will be entitled to demand a contractual penalty amounting to 1.5 % of the value of the delivery for each commenced week of delay, but no more than 5 % in total, however. We will be entitled to claim the contractual penalty alongside fulfilment. We undertake to declare the reservation of the contractual penalty at the latest within one month calculated from the acceptance of the delayed delivery / performance to the supplier. The forfeited contractual penalty will be deducted from any claims for compensation. We reserve the right to make further claims and exercise further rights, in particular, withdrawal, compensation and/or claims for reimbursement of expenses. The contract partner will be entitled to demonstrate to us that no or a lower loss has been suffered as a result of the delay.

## § 9 Transfer of risk, freight, documents

- (1) The delivery will be free domicile insofar as not otherwise agreed in writing.
- (2) The supplier will be obliged to precisely state on all dispatch papers and delivery notes our order number, quantity and quantity unit, gross, net and, where appropriate, calculation weights, article designations and article numbers and, in the event of part deliveries, the remaining quantity; we will not be responsible for delayed processing if the supplier does not do so.
- (3) The supplier will be obliged to cover the risk of accidental perishing or accidental deterioration of the ordered raw, auxiliary and operating materials within the framework of normal transport insurance. The supplier will assign to us in advance all claims for compensation against the transport insurer to which the supplier will be entitled; we herewith accept this assignment.
- (4) Insofar as not otherwise stated in the order, the supplier will bear the costs for packaging and for freight to the destination or, in the event of plant and machines, to the first set-up location. The packaging must be suitable, i.e. able to protect the goods from damage, the effects of the weather, etc. The supplier must procure information about the relevant requirements in this regard. The goods must be delivered duty paid to us.
- (5) Insofar as not otherwise agreed, the supplier must supply the goods on undamaged Euro pallets that are suitable for use in high-bay racking. No compensation will be made for damaged Euro pallets. The supplier must select the packaging in such a way that it permits transport by forklift truck, stacking and that the goods may be transported to production without the packaging having to be changed.
- (6) Insofar as not otherwise agreed, the supplier will be obliged to take back the transport packaging at delivery. If the packaging is not taken back, we will be entitled to invoice the supplier for the costs of properly disposing of the transport packaging.

## § 10 Inspection, disclosure, network access

- (1) The supplier will make it possible for us to inspect the progress of work to be provided and/or order processing. We will be entitled to inform ourselves at any time about the progress by viewing all the relevant materials (reporting, descriptions, listings, manuals, etc.). These materials must be presented and explained to us on request.

- (2) As soon as the suspicion becomes justified that the supplier's products and production procedures are causing environmental harm extending beyond the generally accepted codes of practice, we will be entitled to inspect the production procedure and the composition of the supplied raw, auxiliary and operating materials and the supplier's tools. The supplier will to this extent be obliged to disclose information to us and must provide us with samples of the materials used in response to our first request.
  - (3) If we grant the supplier access to our networks and/or our data-processing systems or those of our customers, this access may only be used for the purposes of fulfilling the respective individual orders. The supplier will undertake, particularly in these cases, to observe the provisions governing confidentiality in accordance with the above Paragraph 2 Section 5 and to oblige the supplier's staff and other third parties participating in the execution to these provisions. To the extent that it is not absolutely necessary for the fulfilment of the order by the supplier, the supplier will not be entitled without our prior written consent to copy, modify or reproduce our data to which the supplier has access or to forward it to third parties. We will only be liable within the scope absolutely required by the law for the functioning of access security or for operational disruptions to the above networks and data-processing systems and for any losses resulting from their use.
- regulation set out in Section 1.
  - (3) If a DIN / EN standard is amended after the conclusion of the contract but before the delivery has been completed, the supplier will be expected within reason to observe the requirements of the new standard. The supplier will not need to make significant modifications to machines, software and so on to the extent that these could only be realised through a not inconsiderable additional expenditure in finance and time. The supplier will, however, inform the user in writing about significant changes so that it becomes possible to reach an agreement about changes.
  - (4) The approval or confirmation of models, drawings, payments and similar does not mean that we have waived either our rights to make complaints or our warranty rights.
  - (5) The supplier must immediately notify us in writing about any concerns regarding the type of execution we have requested.
  - (6) We will notify the supplier in writing of any defects in the delivery as soon as they are discovered within the circumstances of ordinary business operations and within the time-limit set out in Paragraph 11 Section 8. To this extent, the supplier will waive its rights to object on the basis of delayed notification of defects. In the event of a quality-assurance agreement existing, any separate provisions governing the inspection of received goods that have been set out therein will apply to our duties of inspection for defects and our duties regarding the making of complaints.

## §11 Lack of title, defects, warranty

- (1) The supplier will guarantee that the items it supplies and the performances it provides comply with the intended use, the current state of the art, the relevant legal provisions, the regulations and directives issued by authorities, employers' mutual insurance associations and trade associations, particularly safety, occupational safety, environmental safety, accident prevention and the relevant standard, DIN, VDE and other regulations. Recommendations issued by these authorities that become regulation within a year must also be taken into account. If, in individual cases, it is necessary to deviate from these regulations, the supplier must procure our written consent to this end. The supplier's warranty obligations will not be affected by this consent.
  - (2) If, within the processing of this contract relationship, disagreements about the content of terms or symbols, quality requirements, format requirements or similar occur between the contract parties, the fulfilment of at the least the relevant DIN / EN standards applicable at the time the contract was concluded will be deemed to have been agreed irrespective of the
- (7) We will be entitled to exercise our statutory warranty rights without restriction.
  - (8) We will be obliged to examine the goods for any deviations in quality and quantity within suitable time limits; complaints must in any event be made punctually to the supplier, i.e. within a period of 10 working days (Monday to Friday) for domestic procurement transactions, within a period of 28 working days for international procurement transactions, calculated from the date the goods were received or in the event of concealed defects from the time they were discovered by us; the above applies irrespective of any other provisions in a quality-assurance agreement.
  - (9) The supplier will, in particular, be responsible for the goods delivered or the owed work performances complying with the respective purchasing and performance samples in accordance with Paragraphs 433 I 2, 434, 435 BGB (purchasing contract) or Paragraph 633 I, II and III BGB (contracts for work and services) as well as the statutory and agreed quality and

packaging conditions and specifications, and, if such do not exist, at least the commercially usual quality and are free of material and title defects or defects in the sense of the law, in particular, the product-liability law. The supplier will guarantee that the sale of the supplied merchandise and/or the use of the contract performance does not contravene applicable regulations, including packaging and labeling regulations, does not infringe the rights of third parties and/or the merchandise and/or work performance meets the requirements governed by public and/or competition law. Existing and/or enclosed labelling concerning properties, composition and/or shelf life, designations, descriptions, accompanying documents and/or advertising statements and/or instructions of use and assembly must be composed in such a way that it is correct in content, legally correct, complete, understandable and in German or at our request composed in a corresponding foreign language, which is something that the supplier guarantees.

- (10) The provisions of the above Section 8 and 9 apply accordingly to services, in particular, consulting services, provided by the supplier. Information about processing, production and usage as well as other information provided by the supplier will be comprehensive and correct, which is something that the supplier guarantees.
- (11) The following Paragraph 13 will apply additionally in regard to any industrial property rights.
- (12) To the extent that the supplier breaches its duties, it will be liable towards us for all types of culpability. The supplier will be entitled to demonstrate that it is not responsible for the breach of duty.
- (13) We will only be obliged to clarify claims made by customers or infringements at court to the extent that the supplier guarantees the reimbursement of the costs to be anticipated in advance.
- (14) If the contractual performance (supplied goods, provided work performance, service, etc.) does not comply with the above contractual specifications, we will be entitled at our discretion to demand subsequent fulfilment through the elimination of defects or the delivery of a defect-free item (purchasing contract) or the elimination of defects in all new production of the work (contract for work and services). The expenditure required for the purposes of subsequent fulfilment must be borne by the supplier in full. Further claims will remain unaffected by this.
- (15) We will be entitled to carry out subsequent fulfilment and/or improvement ourselves or to have such carried out by a third party at the supplier's cost insofar

as exigent circumstances or particular urgency obtain and further delays, particularly by setting an appropriate short deadline for subsequent fulfilment, would be unreasonable.

- (16) In the event that subsequent fulfilment fails, we will be entitled to make the claims for material defects that are permitted by law, this will apply particularly to claims for compensation for non-fulfilment.
- (17) The warranty period for items that according to normal usage will be used in buildings is 66 months and otherwise 36 months from the time risk is transferred insofar as no longer warranty period has been specified in the contract or is required by law.
- (18) Where item numbers, weights, quantities, etc. are concerned, the values determined during our inspection of the goods received will be relevant and used as the basis for settlement.
- (19) Agreed, defined and/or supplied technical execution and the quality of a supplied part may not be modified without our written consent.
- (20) The supplier must label the delivered items in such a way that they may be permanently identified as the supplier's products.

## § 12 Product liability, discharge, liability insurance cover

- (1) To the extent that the supplier is responsible for damage to a product, it will be obliged to discharge us from claims for compensation by third parties at our first request insofar as the cause lies within its domain and organisation and it is itself liable in its relations to the outside world.
- (2) The above Section 1 applies accordingly to the extent that we are entitled to make claims against the supplier in accordance with Paragraphs 478, 479 BGB. Within this scope, the supplier will assign to us in advance any recourse claims that the supplier is entitled to make in accordance with 478, 479 BGB against its sub-supplier so that we will be able to secure our own recourse claims. We accept the assignment.
- (3) The supplier will be obliged to reimburse us for any expenditure that results from or that is related to a call-back campaign we have carried out. We will as far as is possible and reasonable communicate with and inform the supplier about the extent and content of the call-back campaign to be carried out and give the supplier the opportunity to comment accordingly. Other legal claims will remain unaffected.

ed by this.

- (4) The supplier will undertake to take out a product-liability insurance for all risks with a flat coverage of at least five million euros per case of physical injury/damage to property and to maintain it without reduction for the duration of the delivery relationship / order. Any further claims for compensation to which we may be entitled will remain unaffected by the above. Proof of insurance cover must be provided to us on request. The supplier will immediately inform us in writing about any imminent withdrawal / reduction in insurance cover or such that has already taken effect.
- (5) The transfer of contractual rights and duties to third parties requires our written consent and will not affect the contract partner's liability.

### § 13 Industrial property rights

- (1) The supplier will guarantee that no third-party rights, in particular, copyrights are infringed in relation to its delivery and performance and that works it provides are free of third-party rights. If the work infringes third-party rights and if we are prohibited from using the work either entirely or in part, the supplier will at its discretion either procure the right for us to use and/or utilise the work or structure the work so that it is free from industrial property rights. Any further claims will remain unaffected by the above.
- (2) If claims are made against us by a third party on the basis of the infringement of industrial property rights, the supplier will, to the extent that the supplier is warranty-bound to us, be obliged to discharge us from these claims in response to our first request. This supplier's duty to discharge us from claims covers all expenditure necessarily incurred as a result of or in relation to claims being made against us by a third party.
- (3) The time bar for claims as set out in Section 1 and 2 above is three years commencing from the date risk is transferred if no longer time bar has been specified in the contract or is required by law.

### § 14 Provisions, reservation of title

- (1) To the extent that we provide parts and/or materials to the supplier, the supplier will be obliged to check the parts and/or materials we have provided for suitability and to treat them properly and provide temporary storage.
- (2) In the event that the supplier takes over parts and/or materials at our factory, the responsibility for damage

and loss will be transferred to the supplier irrespective of whether the parts and/or materials have been provided by us free of charge or against payment. The supplier must insure any tools, machines, machine components and any other equipment we have provided at its own cost against fire, water and theft and to provide proof of such insurance to us on request within a reasonable time limit. The supplier is already assigning all claims for compensation arising out of these insurances to us. We accept the assignment. We will be entitled to acquire corresponding insurance cover at the supplier's cost after a deadline has passed to no avail.

- (3) If not otherwise expressly agreed, parts and/or materials provided to the supplier will be billed at factory sales prices.
- (4) The parts and/or materials we have provided may only be used by the supplier for the agreed purposes.
- (5) We shall reserve title in any parts or materials we provide to the supplier. Processing and conversion by the supplier will always be carried out on our behalf. If these items in which title has been reserved are processed with items that do not belong to us, we will acquire co-ownership in the new item to the proportion of the value of our item (purchasing price plus the statutory value added tax) to value of the other items processed at the time of processing.
- (6) If the item we have provided is mixed inseparably with items that do not belong to us, we will acquire co-ownership in the new item to the proportion of the value of the item in which title has been reserved to value of the other mixed items at the time of mixing. If mixing is carried out in such a way that the supplier's item must be regarded as the main item, it will have been deemed to have been agreed that the supplier transfers proportional co-ownership to us; the supplier will hold the sole ownership or co-ownership on our behalf.
- (7) To the extent that the security interests to which we are entitled in accordance with the above Section 5 and/or 6 exceed the purchasing price of all our items in which title has been reserved and which have not yet been paid for by more than 10%, we will at the supplier's request be obliged to release the security interests at our discretion.
- (8) Any tools we have provided will remain our property. If the tools are manufactured by the supplier or third parties in accordance with our specifications, we will be given ownership in the tools at the latest when they have been completed and delivered / handed over to the supplier with the proviso of a simple reservation of title insofar as agreed. The supplier will hold

our sole ownership in the tools for us.

## § 15 The customer's liability, withdrawal from the contract

- (1) The supplier may generally only demand compensation for damages in place of the performance while simultaneously refusing performance only after a reasonable deadline has been previously set in conjunction with the threat of refusal.
- (2) If by law we must compensate a loss in accordance with these conditions, our liability will be limited where minor negligence is concerned: liability will only obtain in the event of the breach of essential contractual and material duties and will be limited to the typical loss that would have been foreseeable at the conclusion of the contract. This limitation does not apply to injury to life, limb and health. To the extent that the damage is covered by an insurance (excluding fixed-sum insurances) concluded by one of our contract partners for the respective loss, we will only be liable for any adverse effects suffered by our contract partner in this regard, e.g. higher insurance premiums or interest losses until such time as the claim is settled by the insurance.
- (3) Personal liability by our legal representatives, vicarious agents and employees for losses that they have caused through simple or minor negligence will be excluded. We will only be liable for losses resulting from grossly negligent breach of duty by us or an intentional grossly negligent breach of duty by our vicarious agents or one of our legal representatives.
- (4) Otherwise our liability will be excluded.
- (5) In the event that the supplier ceases payments or applications for court or out-of-court composition proceedings or insolvency proceedings are made on the supplier's assets, we will be entitled to withdraw from the part of the contract that has not been fulfilled.

## § 16 Place of jurisdiction, place of fulfilment

- (1) Insofar as the supplier is a business person, corporate body under public law or a special fund under public law, the registered offices of the company making the purchase will be the place of jurisdiction. We will, however, be entitled to take court action against the supplier at the court responsible for its registered offices or the registered offices of one of its branches.
- (2) The place of fulfilment for obligations arising out of the order will insofar as not otherwise agreed be the regis-

tered offices of the company making the purchase.

## § 17 Language / applicable law

- (1) The language of the contract is German. In the event that contractual materials are available in languages other than German, the version of the contract in German, if one exists, will be exclusively relevant to the legal relationships between the parties.
- (2) Insofar as our terms and conditions of business do not contain any special provisions, the law that applies at our registered offices to domestic parties (German law) will apply to the exclusion of foreign law. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) will be excluded.

## § 18 Application of the BSCI code of conduct

Our contract partner undertakes to apply the BSCI code of conduct ([www.bsci-eu.com](http://www.bsci-eu.com)) and to agree with its sub-contractors and service providers that they will observe this code. Our contract partner will provide proof of the above on request.

## § 19 Final provisions / escape clause

- (1) If, in regard to a contract that both parties see as having been concluded, the parties have in reality not agreed a point to be agreed, we will, in addition to what has been agreed, be entitled to close the gap in the contract at our equitable discretion while taking account of the interests of both sides.
- (2) If individual provisions of the respective contract are or become ineffective, this will not affect the effectiveness of the overall contract. If individual provisions of the respective contract are or become ineffective for other reasons than those set out in Paragraphs 305 - 310 BGB, the parties will replace the ineffective provision by a provision that comes commercially closest to what the contract partners had intended. The same will apply when individual provisions of the respective contract are or become ineffective for the reasons set out in Paragraphs 305 - 310 BGB or no regulation of this point is to be found in the law.