

MBS AG
(the Company)

CONDITIONS OF SALE

1. INTERPRETATION

1.1 In these Conditions:

Customer means the person who accepts a quotation of the Company for the sale of the goods or whose order for the Goods is accepted by the Company

Goods means the goods (including any instalment of the goods or any parts for them) which the Company is to supply in accordance with these Conditions

Conditions means the standard terms and conditions of sale set out in this document and (unless the context otherwise requires) includes any special terms and conditions agreed in writing between the Customer and the Company

Contract means the contract for the purchase and sale of the Goods

Incoterms means the international rules for the interpretation of trade terms of the International Chamber of Commerce as in force at the date when the Contract is made. Unless the context otherwise requires, any term or expression which is defined in or given a particular meaning by the provisions of Incoterms shall have the same meaning in these Conditions, but if there is any conflict between the provisions of Incoterms and these Conditions, the latter shall prevail.

Writing includes facsimile transmission, e-mail and comparable means of communication

Export means for transport outside the Federal Republic of Germany

- 1.2 A reference to a particular legal concept includes any analogous act or concept in any part of the world where the context so admits and if rights of the Company as provided in these Conditions cannot be validly exercised or retained in another jurisdiction, provided that the laws of such other jurisdiction are applicable, then the Customer shall fully cooperate with the Company and shall do or omit to do any acts or things or execute such documents or deeds as may be required by the Company to give effect to those rights of the Company.
- 1.3 A reference to a particular law is a reference to it as it is in force for the time being.
- 1.4 Words in the singular include the plural and in the plural include the singular.
- 1.5 A reference to one gender includes a reference to the other gender.
- 1.6 Condition headings do not affect the interpretation of these conditions.

2. BASIS OF THE SALE

- 2.1 The Company sells and the Customer purchases the Goods in accordance with any written quotation of the Company which is accepted by the Customer, or any written order of the Customer which is accepted in writing by the Company, subject in either case to these Conditions, which govern the Contract to the exclusion of any other terms and conditions subject to which any quotation is accepted or purported to be accepted, or any order is made or purported to be made, by the Customer. Written confirmation of any verbal order or quotation shall be deemed as the Company's written quotation or written acceptance of order as appropriate.
- 2.2 No variation of these Conditions is binding on the Company unless agreed in writing between the authorised representatives of the Customer and the Company. The Company's employees or agents are not authorised to make any representations about the Goods or the Contract unless confirmed by the Company in Writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any representations which are not so confirmed.
- 2.3 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, invoice or other document or information issued by the Company may be corrected without any liability on the Company.
- 2.4 All samples, drawings, descriptive matter, specifications and advertising issued by the Company and any descriptions or illustrations contained in the Company's catalogues or brochures are issued or published only to give an approximate idea of the Goods described in them. They shall not form part of the Contract and this is not a sale by sample.
- 2.5 The Customer confirms that provision of any personal data (as defined in the Data Protection Act 1998 – "the Act") is in accordance with the

Act and that the Customer gives all consents necessary in order for the Company to lawfully process such data and to pass the data to third parties for the proper business purposes of the Company, and in each case the data may pass outside the European Economic Area.

3. ORDERS AND SPECIFICATIONS

- 3.1 The Customer is responsible to the Company for ensuring the completeness and accuracy of the terms of any order or request for quotation and any other information submitted by the Customer, within a sufficient time for the Company to perform the Contract in accordance with its terms.
- 3.2 The Goods are designed and manufactured in accordance with the legal requirements of the Federal Republic of Germany. Any variations from these requirements requested by the Customer are at the cost and risk of the Customer who shall indemnify the Company for any actual or potential liability arising in consequence plus associated costs. If the Goods are to be manufactured or processed in accordance with a specification of the Customer, the Customer shall indemnify the Company against all liability of the Company for loss, damages, costs and expenses any claim for infringement of any industrial or intellectual property rights of any other person which results from the Company's use of the Customer's specification and any claim against the Company in respect of any alleged defect in the Goods.
- 3.3 The Company reserves the right to change the specification of the Goods to conform with any applicable safety or other statutory or EU requirements or, where the Goods are to be supplied to the Customer's specification, which do not materially affect their quality or performance.
- 3.4 No order which has been accepted by the Company or quotation accepted by the Customer may be amended or cancelled by the Customer except with the agreement of the Company and on terms that the Customer fully indemnifies the Company against all loss costs, damages, charges and expenses incurred by the Company as a result of the amendment or cancellation.
- 3.5 Samples may be provided at the discretion of the Company free of charge for a period of four weeks from delivery of the sample to the Customer, subject to return in good condition. Any postal or freight charges for the delivery or return of samples shall be at the cost of the Customer. A charge will be made for late return or non return of samples or damage to samples.
- 3.6 The Company shall retain the exclusive intellectual property rights in any original works or inventions, intellectual property created by or on behalf of the Company in respect of any order, quotation or Contract and it shall be a condition of any supply or production of the same to the Customer that details of such the same are kept strictly confidential.

4. PRICE OF THE GOODS

- 4.1 The price of the Goods shall be the price listed in the Company's published price list current at the date of delivery or deemed delivery subject to variation as set out below. Unless otherwise specified by the Company all quotations are valid for eight weeks.
- 4.2 The Company may, by giving notice to the Customer at any time before delivery, increase the price of the Goods to reflect any increase in cost to the Company which is due to any factor beyond its reasonable control, any change in delivery dates, quantities or specifications for the Goods which is requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Company adequate information or instructions. In particular but without limitation the Company may vary prices to reflect increases in the price of raw materials (including metals trading on the London Metal Exchange ("LME")), energy costs and climate change levies, provided always that (except in the case of the daily LME copper price) if the increase is in excess of 10 % above the original quoted price the Customer may by notice request the alteration or cancellation of the Contract by notifying the Company of the same [by return] upon receipt of notice of the relevant price increase. The Company reserves the right to withdraw from any tender or cancel any Contract in case of failure to agree any price change.

- 4.3 Except as otherwise stated in any quotation or price list of the Company or agreed in writing between the Customer and the Company, all prices given by the Company are on an ex-works basis. If delivery is otherwise than at the Company's premises, the Customer will be charged additionally for transport, packaging and insurance on orders below the minimum order value as specified by the Company from time to time, in the case of deliveries in Germany.
- 4.4 Export orders not less than the minimum order value specified by the Company will be made FCA Incoterms to German sea port or airport or German border. The Company shall be under no obligation to give notice under Section 32(3) of the Sale of Goods Act 1979.
- 4.5 All prices and other charges are quoted in euros exclusive of VAT or other applicable excise duty or sales tax, costs of packaging and customs clearance, which is payable in addition. The Customer shall provide all identification, VAT, or other information reasonably required by the Company and the Company may claim reimbursement from the Customer for any liability to tax, levy or other charges and costs due to any omission or error of such information. Any certification by government authorities or otherwise required shall be charged to the Customer at cost. The Customer shall be responsible for arranging for any testing and inspection of the Goods at the Company's premises before placing his order.
- 4.6 Calibration charges as provided under the respective current Eichgebuhenverordnung regulation on calibration charges of the Physikalisch Technische Bundesanstalt ("PTB" or National Institute of Natural and Engineering Sciences) at Braunschweig shall apply to tariff current transformers. These charges shall apply in addition to the sales price and shall not be trade discountable or cash discountable.
- 5. TERMS OF PAYMENT**
- 5.1 The Company may invoice the Customer for the price of the Goods on or at any time after delivery of the Goods, unless the Goods are to be called off in instalments as required or collected by the Customer or the Customer wrongfully fails to take delivery of the Goods in which event the Company may invoice the Customer for the price at any time after the Goods are ready for calling off or collection or (as the case may be) the Company has tendered delivery of the Goods.
- 5.2 Payment is due in euros (without deduction whether by way of set off counterclaim, discount, abatement or otherwise) within 30 days of the Company's invoice, notwithstanding that delivery may not have taken place and title to the Goods has not passed to the Customer. The time of payment of the price is of the essence of the Contract. Upon termination of the Contract all payments to the Company will immediately become due.
- 5.3 If the Customer fails to make any payment on the due date (or commits any other breach of the Contract) then, without prejudice to any other right or remedy available to the Company, the Company may:
- 5.3.1 cancel the Contract or suspend any further deliveries to the Customer under the Contract or any other Contracts with the Customer;
- 5.3.2 appropriate any payment made by the Customer to such of the Goods (or the goods supplied under any other contract between the Customer and the Company) as the Company thinks fit; and
- 5.3.3 charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 8% p.a. above European Central Bank base rate from time to time accruing daily until payment in full is made;
- 5.3.4 disapply any agreed discount in which case the payment due shall be increased accordingly.
- 5.4 No payment shall be deemed received until the Company has received cleared funds.
- 6. DELIVERY**
- 6.1 Delivery of the Goods shall be made on an Ex Works basis. Assistance with loading Goods at the Company's premises will be provided free of charge at the Company's discretion and at the Customer's risk.
- 6.2 Any dates quoted for delivery of the Goods are approximate only and the Company shall not be liable for any delay in delivery of the Goods howsoever caused. Time for delivery shall not be of the essence unless previously agreed by the Company in writing. The Goods may be delivered before the quoted delivery date on giving reasonable notice to the Customer.
- 6.3 No partial deliveries are permitted but the Company may at its discretion deliver the Goods by separate instalments, in which case each delivery shall constitute a separate contract. Failure by the Company to deliver any one or more of the instalments in accordance with those Conditions or any claim by the Customer in respect of any one or more instalments shall not entitle the Customer to cancel or treat the Contract as a whole as repudiated.
- 6.4 If the Customer fails to take delivery or call off the Goods within the time agreed or fails to give the Company adequate delivery instructions or requisite documents or authorisations for delivery (otherwise than due to any cause beyond the Customer's reasonable control or the Company's fault) then, without prejudice to any other right or remedy available to the Company:
- 6.4.1 the Goods shall be deemed delivered and risk shall pass to the Customer (including for loss or damage caused by the Company's negligence); and
- 6.4.2 the Company may store the Goods until actual delivery without liability at the cost and risk of the Customer and charge the Customer for the reasonable costs (including insurance) of storage or sell the Goods at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Customer for the excess over the price under the Contract or charge the Customer for any shortfall below the price under the Contract.
- 6.5 Claims for damage in transit, short delivery or non-delivery or loss in transit must be made in writing to the Company [and carrier] within seven days of the actual or anticipated date of delivery whichever is the earlier. Any additional information must be provided at the request of the Company and the expense of the Customer.
- 6.6 The Customer shall not be entitled to object to or reject the Goods or part of the Goods by reason of delivery of a surplus or shortfall of up to 10% of the quantity stated in the Contract and shall pay for such Goods at the pro rata Contract rate.
- 6.7 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.
- 7. OWNERSHIP OF GOODS**
- 7.1 Notwithstanding delivery and passing of risk in the Goods or any other provision of these Conditions, ownership of the Goods shall not pass to the Customer until the Company has received in full (in cash or cleared funds) all sums due to it in respect of:
- 7.1.1 the Goods; and
- 7.1.2 all other sums which are or which become due to the Company from the Customer on any account.
- 7.2 Without prejudice to any common law or statutory rights of the Company as unpaid seller, until ownership of the Goods has passed to the Customer, the Customer shall:
- 7.2.1 hold the Goods on a fiduciary basis as the Company's bailee;
- 7.2.2 store the Goods (at no cost to the Company) separately from all other goods of the Customer or any third party in such a way that they remain readily identifiable as the Company's property;
- 7.2.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and
- 7.2.4 maintain the Goods in satisfactory condition and keep them insured on the Company's behalf for their full price plus 10% against all risks to the reasonable satisfaction of the Company. On request the Customer shall produce the policy of insurance to the Company.
- 7.3 The Customer may resell the Goods before ownership has passed to it solely on the following conditions:
- 7.3.1 any sale shall be effected in the ordinary course of the Customer's business at full market value; and
- 7.3.2 any such sale shall be a sale of the Company's property on the Customer's own behalf and the Customer shall deal as principal when making such a sale.

- 7.4 Until such time as the title in the Goods passes to the Customer (and provided the Goods are still in existence and have not been resold), the Company shall be entitled at any time to require the Customer to deliver up the Goods to the Company and, if the Customer fails to do so forthwith, the Customer grants the Company its agents and employees an irrevocable licence to enter at any time any vehicles or premises owned or occupied by the Customer or in its possession or control to inspect, repossess and remove the Goods. The Customer will indemnify the Company against any liability for damages caused in such repossession which could not reasonably have been avoided.
- 7.5 The Customer's right to possession of the Goods shall terminate immediately if:
- 7.5.1 the Customer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Customer or notice of intention to appoint an administrator is given by the Customer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer; or
- 7.5.2 the Customer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Customer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Customer ceases to trade; or
- 7.5.3 the Customer encumbers or in any way charges any of the Goods.
- 7.6 The Customer may not pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Company, but if the Customer does so (or does or fails to do anything and the provisions of Clause 7.5.1 or 7.5.2. may or do apply), all sums owing by the Customer to the Company shall (without prejudice to any other right or remedy of the Company) immediately be due and payable.
- 7.7 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company.
- 7.8 Where the Company is unable to determine whether any Goods are the goods in respect of which the Customer's right to possession has terminated, the Customer shall be deemed to have sold all goods of the kind sold by the Company to the Customer in the order in which they were invoiced to the Customer.
- 7.9 If any of the events mentioned in Clause 7.5 above shall occur or the Company reasonably apprehends that any of those events is about to occur in relation to the Customer and notifies the Customer accordingly, then, without prejudice to any other right or remedy available to the Company, the Company may cancel the Contract or suspend any further deliveries under the Contract without any liability to the Customer, and if the Goods have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.
- 7.10 On termination of the Contract, howsoever caused, the Company's (but not the Customer's) rights contained in this condition 7 shall remain in effect.

8. WARRANTIES

- 8.1 Subject to the conditions set out below the Company warrants that the Goods will be free from defects in material and workmanship for a period of 1 year from delivery.

- 8.2 This warranty is given subject to the following conditions:

- 8.2.1 the Company is not liable for any defect in the Goods arising from any drawing, design or specification supplied by the Customer or for any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow the Company's instructions oral or in writing, misuse or alteration or repair of the Goods without the Company's approval;
- 8.2.2 no warranty is given as to the length of working life of the Goods or that they will be suitable for any specific purpose or conditions, notwithstanding that such purpose and conditions have been made known to the Company;
- 8.2.3 the Company is not liable under this warranty (or any other warranty, condition or guarantee) if the total price for the Goods has not been paid by the due date for payment;
- 8.2.4 this warranty does not extend to parts, materials or equipment not manufactured by the Company, in respect of which the Customer is only entitled to the benefit of such warranty or guarantee of the manufacturer to the Company as the Company is able to pass on to the Customer;
- 8.2.5 Defects claims are notified to the Company within [7] days from delivery or (where the defect was not apparent on reasonable inspection) within 14 days after discovery of the defect. If delivery is not refused, and the Customer does not notify the Company within this time, the Customer will be deemed to have accepted the Goods as complying with the Contract and must pay the price for the Goods accordingly;
- 8.2.6 the Company must be given a reasonable opportunity after receiving notice of defect for examining such Goods and the Customer (if asked to do so by the Company) must return such Goods to the Company's place of business at the Customer's cost for the examination to take place there;
- 8.3 Subject to condition 8.2, if any of the Goods do not conform with the warranty in condition 8.1 the Company shall at its option repair or replace such Goods (or the defective part) or refund the price of such Goods at the pro rata Contract rate provided that, if the Company so requests, the Customer shall return the Goods or the part of such Goods which is defective to the Company at their own expense. The Company shall refund the expenses incurred by the customer if the complaint is proven.

9. LIMITATION OF LIABILITY

- 9.1 Subject to condition 8 – warranty, the following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 9.1.1 any breach of these conditions including (without limitation) any delay or failure in the delivery of the Goods;
- 9.1.2 any use made or resale by the Customer of any of the Goods, or of any product incorporating any of the Goods; and
- 9.1.3 any representation, statement or tortious act or omission including negligence arising under or in connection with the Contract.
- 9.2 All warranties, conditions and other terms implied by statute or common law or other analogous laws are, to the fullest extent permitted by law, excluded from the Contract.
- 9.3 Nothing in these conditions excludes or limits the liability of the Company for any matter which it would be illegal for the Company to exclude or attempt to exclude its liability including, if applicable:
- 9.3.1 for death or personal injury caused by the Company's negligence; or
- 9.3.2 under section 2(3), Consumer Protection Act 1987; or
- 9.3.3 for fraud or fraudulent misrepresentation.
- 9.4 Subject to condition 9.2 and condition 9.3:
- 9.4.1 the Company's total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the lesser of the value of the Goods supplied under the Contract to which any claim relates; or
- 9.4.2 the amount received by the Company in relation to the Contract under any relevant liability insurance currently held by the Company; [and]

- 9.4.3 the Company shall not otherwise be liable for any loss (including, without limitation pure economic loss, loss of profit, loss of business, or depletion of goodwill) in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) cost, damages, charges or expenses which arise directly or indirectly out of or in connection with the Contract.
- 9.5 The Customer recognises that the limitation of liability contained in this clause is reasonable in that the prices quoted by us are dependent upon such limitation being incorporated in the Contract, and that we may have insurance cover which covers some or all of the losses purported to be excluded herein, but that there are legitimate business reasons for still excluding such liability, including (but not limited to) the maintenance of a clean insurance claims record.
- 10. FORCE MAJEURE**
- The Company shall not be liable to the Customer or in breach of the Contract due to any delay in performing, or any failure to perform or any variation in performance of, any of the Company's obligations if the delay or failure was due to any cause beyond the Company's reasonable control. [Provided that if the event in question continues for a continuous period in excess of [one hundred and eighty (180) days, the Customer shall be entitled to give notice in writing to the Company to terminate the Contract].
- 11. ADDITIONAL EXPORT TERMS**
- 11.1 Unless otherwise agreed in writing by the Company, all Goods are supplied on the strict condition that:
- 11.1.1 they are solely for civil use;
- 11.1.2 they are not to be supplied to any country or for any application prohibited by any law or regulation binding or effective in the European Union and United States;
- 11.1.3 they will not in any way be installed used or applied in or in connection with the operation of any nuclear facilities such as but not limited to nuclear power plants, nuclear fuel manufacturing plants, uranium enrichment plants, spent nuclear fuel stores or research reactors.
- 11.2 The Customer undertakes not to offer the Goods for resale in any country notified by the Company to the Customer at or before the time the Customer's order is placed, or to sell the Goods to any person if the Customer knows or has reason to believe that that person intends to resell the Goods in any such country. The Customer agrees to abide by any governmental regulations of any relevant country which may exist preventing or restricting the export of the Goods to certain countries and to indemnify the Company against any actions costs demands or expenses resulting from any failure by the Customer to do so.
- 11.3 The Contract may be subject to United States and European Union laws and requirements to obtain a validated export licence as well as to similar laws in other applicable jurisdictions. If applicable the Company shall file for the export licence only after appropriate documentation for the licence application has been provided by the Customer, within a reasonable time after order acceptance. If an export licence is not granted or is revoked by the appropriate authorities, the Contract may be cancelled by the Company without liability.
- 11.4 In the case of Export contracts:
- 11.4.1 the provisions of this clause 11 shall (subject to any special terms agreed in writing between the Customer and the Company) apply notwithstanding any other provision of these Conditions.
- 11.4.2 the Customer shall be responsible for complying with any legislation or regulations governing the importation of the Goods into the country of destination and for the payment of any duties on them.
- 11.4.3 payment of all amounts due to the Company shall be made by irrevocable confirmed letter of credit payable in Germany subject to UCP (Uniform Customs and Practice for documentary credits – current revision) opened by the Customer at the Customer's expense in favour of the Company and confirmed by a recognised German Clearing Bank acceptable to the Company negotiable at sight against documents valid 90 days.
- 11.4.4 the United Nations Convention on Contracts for the International Sale of Goods shall apply to Contracts made under these Conditions to the extent that they are not inconsistent with these provisions. In the case of any conflict these Conditions shall prevail.
- 12. GENERAL**
- 12.1 The Company may perform any of its obligations or exercise any of its rights under the Contract, through any associated companies, agents or sub-contractors appointed by it in its absolute discretion for the purpose.
- 12.2 Any notice to be given by either party to the other under these Conditions shall be in Writing.
- 12.3 Service of notices may be by hand, pre-paid special delivery or recorded delivery post, fax or email (with written confirmation of fax or email signed by an authorised representative posted or delivered the same day). Service is deemed effected: by hand at the time of delivery; by inland first class post on the second day after posting; by fax at the time of dispatch provided confirmation of receipt from the machine of the other party is received and by email within 12 hours provided that within that time no notice of delivery failure has been received.. Service, or confirmation of service by post to persons overseas must be by air-mail post, and is deemed effected on the fourth day after posting. Failure to confirm service of any notice sent by fax will render the notice invalid.
- 12.4 No waiver by the Company of any breach of or default under the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. Any waiver shall in no way affect the other terms of the Contract. Failure or delay by the Company in enforcing or partially enforcing any provision of the Contract shall not be construed as a waiver of any of its rights under the Contract.
- 12.5 The Company may assign the Contract or any part of it to any person, firm or company. The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Company.
- 12.6 Each right or remedy of the Company under the Contract is without prejudice to any other right or remedy of the Company whether under the Contract or not.
- 12.7 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.
- 12.8 The parties to the Contract do not intend that any term of the Contract shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.
- 12.9 The Contract shall be governed by the laws of Germany, subject only to the Company's right to bring a claim to the German courts.
- 12.10 Subject only to the Company's right to bring a claim in the German courts, any disputes connected with this contract or the single business actions performed under its conditions shall be ruled by German Law excluding the Convention on the International Sales of Goods (CISG). Place of jurisdiction is Heilbronn/Germany.
- 12.10.1 The number of arbitrators shall be one.
- 12.10.2 The language to be used in the arbitral proceedings shall be German. In the event that the Company's option is deemed to be ineffective for any reason, the language to be used in the arbitral proceedings shall be English.
- 12.11 The Company reserves the right to refer any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination that has not already been referred to arbitration, to the German courts. Once the Company has exercised this option, by issuing a claim in any German court, it shall thereafter not be possible for either party to refer the same dispute to arbitration.
- 12.12 In case of any conflict the English language version of these Conditions shall prevail.