1. ACCEPTANCE OF ORDERS

1.1. These terms as well as any possible separate contractual agreements shall form the basis of all deliveries and services. Divergent conditions of purchase of the Orderer (purchaser) shall not become the content of the contract, even if we do not expressly object to the same and declare our acceptance of the order. In addition to the acknowledgement of the order, the performance of the order, in particular the acceptance of delivery or partial delivery by the Orderer, shall be regarded as unqualified assent to these present General Conditions of Sale. Apart from this, INCOTERMS 2010 shall apply.

1.2. Purchase orders shall only be binding on the Manufacturer if they are confirmed by it in writing or exist in its offer in writing, and this offer was accepted by the Orderer in writing. The same shall apply for subsidiary agreements or amendments to the contract.

2. SUBJECT MATTER OF THE SALE

2.1. The subject-matter of the sale shall be shown finally by the specification itemized in the acknowledgement of the order. Unimportant deviations and technical improvements shall not create any violation of the contract by the goods delivered.

2.2. The contracting parties undertake to treat all non-apparent commercial and technical details, which become known to them through the business relationship, as a business secret. Both parties shall ensure that this obligation is implemented in their business company circle.

3. PRELIMINARY WORKS AND WORKING CONDITIONS

3.1. The Manufacturer shall deliver in good time, i.e. in accordance with a stipulated schedule, the drawings for the assembly of the subject matter of the delivery, as well as all the instructions which are required to design and construct suitable foundations, in order to bring the subject matter of the delivery and the necessary equipment to the location where the subject matter of the delivery is to be installed, and in order to make all the connections necessary to the Work.

3.2. The Manufacturer shall deliver in good time, i.e. in accordance with a stipulated schedule, and ensure that the conditions necessary for the assembly of the subject matter of the delivery and for the faultless utilization of the Work are met. This shall not apply for preliminary works that, according to the contract, are to be carried out by the Manufacturer.

3.3. The Orderer must carry out the preliminary works in accordance with the drawings and instructions delivered by the Manufacturer. The works are to be completed in good time, i.e. in accordance with the stipulated schedule.

3.4. The Manufacturer shall have to ensure that:

a. The Manufacturer's personnel has the possibility of beginning the work in accordance with the agreed schedule and at least to work during usual working hours. The work can be rendered outside of normal working hours, in so far as this should appear necessary to the Manufacturer, and provided the Orderer was informed of this within a reasonable period.

b. It shall inform the Manufacturer in good time in writing before the beginning of the assembly of all relevant safety regulations in force in the assembly location. The assembly shall not be carried out in unhealthy or dangerous surroundings. All necessary safety and protective measures are to be taken before beginning assembly and to be maintained during the assembly.

c. The Manufacturer's personnel shall have the possibility of being accommodated and catered for appropriately in the vicinity of the assembly location and have access to sanitary facilities and medical care in accordance with West European standards.

d. The Manufacturer's personnel shall be conveyed appropriately between their accommodation and the assembly location, or appropriate vehicles for this shall be placed at the personnel's disposal.

3.5. It shall have all the cranes required ready for the Manufacturer at the assembly location free of charge and punctually, as well as lifting equipment and means of transport within the assembly location, ancillary equipment, machines, materials and fuels (including petrol, oils, grease and other materials, gas, water, electricity, steam, compressed air, heating, air, etc.), as well as the Manufacturer's metering and testing devices available at the assembly location. The Manufacturer shall inform the Orderer in writing one month before the beginning of assembly at the latest what cranes, lifting equipment, metering and test devices, as well as means of transport within the assembly location it requires.

f. It shall place the necessary storage facilities at the Manufacturer's disposal free of charge in order to protect the subject matter of the delivery, the tools and items of equipment necessary for the assembly, as well as the personnel's personal property from theft and deterioration.

g. The access roads to the assembly location shall be suitable for the transport required of the subject matter of the delivery, parts or the Manufacturer's equipment.

4. NON-PERFORMANCE ON THE ORDERER'S PART

4.1. If the Orderer can foresee that it will not meet its obligations for the completion of the Work, in particular in accordance with the provisions of clause 3.2., 3.3. and 3.4., it shall have to inform the Manufacturer of this forthwith and in writing, stating the reason and, as far as possible, giving the Manufacturer a time when it will be able to fulfil its obligations. In so far as the Manufacturer shall incur additional expense through this, the Orderer shall have to make up for this immediately at the Manufacturer's request. Apart from this, clause 10.6. shall be applicable.

4.2. If the Orderer shall not meet its obligations for the completion of the Work, in particular in accordance with the provisions of clause 3.2., 3.3. and 3.4., the Manufacturer shall have the right to compensate the Manufacturer's rights in accordance with clause 4.3 to 4.5, the following shall apply:

a. The Manufacturer, at its own discretion, can fulfil the Orderer's obligations itself or have them fulfilled by a third party, and take other suitable measures under the respective circumstances in order to avoid or limit the effects of the Orderer's non-performance.

b. The Manufacturer can suspend its performance of the contract in whole or in part. It shall have to inform the Orderer forthwith and in writing of the suspension.

c. If the subject matter of the delivery is not at the assembly location, the Manufacturer shall ensure the storage of the subject matter of the delivery at the Orderer's risk. At the Orderer's request, the Manufacturer shall ensure the subject matter of the delivery.

d. If the performance of the contract shall be delayed on account of the Manufacturer's non-performance, the Orderer shall have to pay the Manufacturer the part of the contractual price that would have been due without the delay.

e. The Orderer shall have to compensate the Manufacturer for all reasonable costs in so far as the Manufacturer incurs the same on account of measures in accordance with paragraphs a, b, c and/or d of this clause.

4.3. If the completion of the Work shall be prevented on account of non-performance on the Orderer's part in accordance with clause Ziff. 4.2 and if this nonperformance is not to be ascribed to a circumstance regulated in clause 16, the Manufacturer can continue to request the Orderer in writing to make good its non-performance within a reasonable period.

4.4. In the case of forfeiture of securities limited in the Manufacturer's favour (letter of credit, bank guarantee, bank surety, etc.) for reasons for which the Manufacturer is responsible, the Manufacturer shall have the right to suspend all deliveries and performances on the date of maturity until the security has been redated and extended in accordance with the period of delay on the Orderer's side.

4.5. If the Orderer should not make its non-performance good within this period for a reason for which the Manufacturer is not responsible, the Manufacturer shall, by the way, be entitled to withdraw from the contract by notification in writing. The Manufacturer shall have a right to compensation of the loss incurred by it through the Manufacturer's non-performance.

5. ALTERATIONS

5.1. Subject to the reservation of the provisions in accordance with 5.5, the Orderer shall be entitled, until the time of the acceptance of the Work, to request alterations with respect to the extent, the design.
and the structure of the Work. The Manufacturer can also propose such alterations in writing.

5.2. Requests for alterations are to be submitted to the Manufacturer in writing and must describe the alteration requested exactly.

5.3. Within 6 weeks after it has received a request for an alteration or it has itself made a proposal for an alteration, the Manufacturer shall notify the Orderer in writing whether and, if necessary, how the alteration can be carried out, as well as what changes result from this with respect to the contractual price, the completion period and other contractual provisions.

5.4. If completion of the Work is delayed on account of disagreements between the Manufacturer and Orderer with respect to the consequences of alterations, the Orderer shall pay that part of the contractual price that would have been due, if the completion of the Work had not been delayed. In addition, the Orderer shall reimburse the delay costs to the Manufacturer forthwith which the latter incurred.

Clause 10.6 shall apply.

5.5. The Manufacturer shall not be obliged to carry out the alterations requested by the Orderer until the Parties either agree on the effects on the completion period and other contractual provisions, or, the dispute is resolved in accordance with clause 19.

6. PASSING OF THE RISK

6.1. The risk of the loss or damage of the subject matter of delivery shall pass to the Orderer in accordance with the agreed commercial clauses which are to be interpreted in accordance with the INCOTERMS valid at the time of concluding the contract. In so far as no special delivery clause has been agreed in the contract, the delivery of the subject matter of the delivery shall take place at FCA Am Scheerenteck 7, 6866 Wecker, Luxembourg.

6.2. Every type of loss or damage to the Work, which does not fall under clause 6.1, shall pass to the Orderer with the acceptance of the Work at the latest.

6.3. During the Orderer's delay, the Manufacturer shall only have to answer for intent or gross negligence.

6.4. After the passing of risk, as well as in the commissioning with the deployment of the Orderer's personnel, the Manufacturer shall bear the risk for every type of loss or damage of the subject matter of the delivery, or of the Work, provided that such a loss is not to be ascribed to the grossly negligent behaviour of the Manufacturer or its servants.

7. ACCEPTANCE CONDITIONS

7.1. After completion of commissioning, in the absence of any agreement to the contrary, a joint acceptance is to be carried out in order to determine whether the Work complies with the contractual provisions.

7.2. The Manufacturer shall notify the Orderer in writing that the Work is ready for acceptance. This notification shall contain a date for the acceptance tests which shall give the Orderer sufficient time to prepare for the inspections and to let itself be represented at them.

7.3. The Manufacturer shall bear all the costs for the acceptance tests and shall make, in particular, electricity, lubricants, water, fuels, raw materials and all other materials available at its expense, in so far as these shall be necessary for carrying out the acceptance tests, and the last adjustments in the preparation of the acceptance tests. It shall also build up items of equipment at its expense, and provide the workers or aids required for carrying out the acceptance tests.

7.4. If the Manufacturer has received a notification in accordance with clause 7.2., and it does not meet the completion of the acceptance tests, the tests shall be regarded as having been carried out successfully on the day which was given as the date for the acceptance tests in the Manufacturer's notification.

7.5. As a rule, and so far as technically possible, the acceptance tests shall be carried out during normal working hours. The Manufacturer shall prepare a report of the acceptance tests. It shall send this report to the Orderer. If the Orderer is not represented at the acceptance tests, after having received a notification in accordance with clause 7.2., it can no longer dispute the correctness of the acceptance record.

7.6. If the Work shall prove to be contrary to the contract in the acceptance tests, the Manufacturer shall have to remedy every defect as quickly as possible. So far as necessary, on the Orderer's prompt request in writing, tests shall once again be carried out in accordance with clause 7. However, this shall not apply in the case of unimportant defects.

7.7. In so far as there shall still be no ability to make acceptance with respect to all the machine installations to be delivered and assembled under the contract, but the subject matter of the contract can and shall, however, in principle already be employed for the contractual use, the Manufacturer's consent in writing shall be required for this. In this case, the Orderer shall have to carry out a partial acceptance in writing and can employ the subject matter of delivery at its own risk.

8. ACCEPTANCE

8.1. The Work shall have been accepted,

a. if the acceptance tests have been successfully carried out or are regarded as having been successfully carried out in accordance with clause 7.5. or

b. when the Orderer has received the Manufacturer's notification in writing that Work has been completed, provided it complies with the contractual provisions with respect to the acceptance. However, this shall only apply in those cases in which the Parties have excluded the carrying out of acceptance tests. Minor defects, which do not or do not seriously impair the performance of the Work, shall not constitute a reason for refusing the acceptance.

8.2. Notwithstanding clause 7.7, the Orderer shall not be entitled to use the Work or a part thereof before the acceptance. In default thereof, the Manufacturer shall regard as having been accepted by it, provided the Manufacturer's consent in writing to that is not to have. The Manufacturer shall then no longer be obliged to carry out acceptance tests.

8.3. In case the subject of contract is not installed or taken into operation - for reasons not caused by the Manufacturer – then the goods are deemed to be accepted 18 months after supply.

9. COMPLETION TIME / DELIVERY TIME / DELAY / CONTRACTUAL PENALTY

9.1. The Work shall be regarded as having been completed with its acceptance in accordance with clause 8.1. or 8.2.

9.2. If, instead of a completion date, the Parties have agreed a period, at the expiration of which the acceptance is intended to take place, such a period shall begin as soon as the contract is concluded, all the official formalities have been completed, all the payments due with the conclusion of the payment paid, any securities possibly agreed furnished and all further prerequisites have been fulfilled.

9.3. If the Manufacturer can foresee that it will not be in a position to fulfill its obligations within the contractually stipulated period, it shall inform the Orderer of this as quickly as possible and in writing, notify it of the reasons and, if possible, name the expected date of fulfillment.

9.4. The Manufacturer shall have a right to an extension of the completion/delivery time if a delay is to be ascribed to:

a. Force majeure in accordance with clause 16,

b. Alterations in accordance with clause 5,

c. the suspension of fulfilment in accordance with clause 4,

d. an action or omission by the Orderer,

e. delivery times of the Manufacturer's supplier in the case of the need to replace (long-running) parts or

f. the customs formalities and clearance, in so far as the Manufacturer has done what is necessary on its part. The period is to be extended appropriately in accordance with the respective circumstances. This provision shall be applicable regardless of the fact whether the reason for the delay occurs before or after the agreed date for completion.

9.5. The same shall apply if securities in the form of letters of credit, bank guarantee, bank suretyship, etc. on the Orderer's part are to be furnished through financing institution at a certain time in the Manufacturer's favour, and the same do not in fact reach the Manufacturer until a later time than contractually agreed. In this case, the contractually agreed delivery time shall be extended by at least the period of delay.

9.6. A delay on the Manufacturer's part shall exist if the Work is not completed or undertaken, the completion period is extended, or to a bank guarantee, bank suretyship, etc. are not furnished in accordance with clauses 9.1, 9.2 and 9.4. Through the delay on the Manufacturer's part, the Orderer shall have a right to the payment of a lump-sum compensation in accordance with clause 9.7, provided it granted the Manufacturer an additional period of time in writing of one full month after receipt of the request and this has passed without success.

9.7. The lump-sum compensation shall be fixed at 0.25 % of the value of the contract for each complete week of the delay. The lump-sum compensation may not exceed 5 % of the contract value. Further reaching claims for compensation by the Orderer shall be excluded.
If only a part of the Work is delayed, then the lump sum compensation shall be determined on the basis of the part of the contract price corresponding to the part of the Work which cannot be used in accordance with the intended use because of the delay. The lump sum compensation shall fall due with the assertion in writing by the Orderer, not, however, before the acceptance is completed.

9.8. The Orderer's claims in the case of delay by the Manufacturer shall be limited to the lump-sum compensation in accordance with clause 9.6. All other claims against the Manufacturer with respect to such delays shall be excluded, provided there is not a case of culpable infringement of fundamental contractual obligations, intent or gross negligence on the Manufacturer's part.

10. PAYMENTS

10.1. In the absence of any agreement to the contrary, payment for the scope of supply and performance is to be made immediately after the invoice date as follows:

a. in the case of contracts excluding assembly:
   • 30% of the agreed price of the subject matter of delivery at the time of concluding the contract;
   • 60% when the manufacturer has declared the readiness for dispatch of the subject matter of the delivery or of the essential part of the subject matter of the delivery to the orderer from the place of production and
   • 10% on arrival of the subject matter of the delivery at the assembly location. Payments for the assembly are to be made against monthly invoices.

b. If the assembly is included as a fixed sum in the contract price:
   • 30% of the contract price at the time of concluding the contract;
   • 30%, when the Manufacturer has declared the readiness for dispatch of the subject matter of the delivery or of the essential part of the subject matter of the delivery to the Orderer from the place of production;
   • 30% on arrival of the subject matter of the delivery at the assembly location;
   • the remaining part of the contract price on acceptance.

10.2. In the case of assembly according to time calculation / daily rates the following items shall be invoiced separately:

a. any travel expenses incurred by the Manufacturer for his personnel, as well as the costs for the transport of its tools and the personal luggage to a reasonable extent in accordance with the type and class of the means of conveyance possibly agreed in the contract
b. overtime, Sunday, public holiday and night work shall be calculated in accordance with special rates. The rates shall be guided by the agreement made in the contract in the absence of such an agreement, they shall be guided by the rates usually requested by the Manufacturer
c. the time required for:
   • preparation and formalities with respect to journeys there and back;
   • journeys there and back, as well as other journeys to which the personnel has a right in accordance with valid law, valid provisions or collective legal agreements in the Manufacturer's country;
   • the daily journey there and back between the accommodation and the assembly location, if this exceeds half an hour per single trip and appropriate accommodation located nearer to the assembly location is not available;
   • bridging of times in which work is prevented on account of circumstances for which the Manufacturer cannot be held responsible in accordance with the contract, whereby all these items shall be subject to the rates stipulated under b.
d. the Manufacturer's expenditure in accordance with the contract for its making available items of equipment, as well as possibly a fee for the use of its heavy tool

10.3. In the case of assembly for a flat rate price, the agreed price shall comprise all the items listed under clause 10.2., however, subject to the proviso that the flat rate price shall include at all events the fitter's working hours, before the acceptance is completed, plus 45 min. time for breaks. After six working days in succession at the latest in each case, the fitter is to be allowed a day off from work by the Orderer. In so far as the Orderer wishes for a longer working day, this is to be agreed separately with the Manufacturer and subject to the prerequisite of the agreement of the fitter working for it, and to be remunerated separately in accordance with the Manufacturer's usual collective working time law.

10.4. If the assembly is delayed for reasons for which the Orderer or one of its contracting partners, but not the Manufacturer, is responsible, the Orderer shall compensate the Manufacturer for:

a. waiting times and additional travel times;

b. costs and additional work on account of the delay, including dismantling, safeguarding and assembling the assembly equipment;

c. additional costs, in particular costs which the Manufacturer incurs on account of the fact that its items of equipment are tied to the assembly location longer than intended;

d. additional separation allowances and travel expenses of the assembly personnel;

e. additional financing and insurance costs;

f. other proven costs which the Manufacturer has incurred on account of deviations from the assembly programme.

10.5. Regardless of the means of payment used, the payment shall only be regarded as having been made when the full amount is credited irrevocably to the Manufacturer's account.

10.6. If the Orderer is in arrears with its payments, the Manufacturer can claim interest for late payment from the due date on. The interest rate is to be stipulated by the Parties. In the absence of such a provision, an interest rate of 8 % above the rate of the top refinancing facility of the European Central Bank applicable at the time of the due date of the payments shall be regarded as agreed. However, the Orderer shall be permitted to prove that the Manufacturer did not incur any damage at all, or the damage caused by delay is considerably lower. A preceding reminder to pay shall not be required.

10.7. In the case of outstanding payments, after notification in writing to the Orderer, the Manufacturer can suspend the performance of its contractual obligations until receipt of the payments

10.8. If the Orderer shall be more than 6 weeks in arrears with its due payments, then the Manufacturer may put the machine/equipment delivered out of service until the time of the payment in accordance with the contract in the sense of this provision. In addition, the Orderer shall be obliged to compensate the Manufacturer for the damage incurred through the delay in payment.

11. RESERVATION OF OWNERSHIP

11.1. The subject matter of the delivery shall remain the Manufacturer's property until complete payment, this shall also include the payment of the assembly of the subject matter of the delivery, provided such a reservation of ownership shall be effective in accordance with the applicable law.

11.2. At the Manufacturer's request, the Orderer shall support it comprehensively in its endeavours to protect the Manufacturer's right of ownership to the subject matter of the delivery in the country concerned. The reservation of ownership shall not affect the provisions on the passing of risk in accordance with clause 6.

12. LIABILITY FOR PROPERTY DAMAGE BEFORE AND AFTER ACCEPTANCE

12.1. The Manufacturer shall be liable for damage to the Work which occurs before the passing of risk to the Orderer, provided the damage has not been caused by the Orderer itself, its personnel or a third party for whom the Orderer is responsible in connection with the fulfilment of this contract. Even in cases in which the Manufacturer shall be liable for damage to the Work in accordance with this clause, at the Orderer's request it shall have to repair the damage at the Orderer's expense, in so far as this is possible and reasonable for it.

12.2. The Manufacturer shall only be liable for damage to the Work, which occurs after passing of risk to the Orderer, for intent and gross negligence, provided it is not the case of clause 13 (Liability for defects). This shall also apply for third parties deployed by the Manufacturer. In so far as the damage was caused by the Orderer itself, its personnel or a third party, the Manufacturer shall not be liable.

12.3. The Manufacturer's liability for damage to the Orderer's property until the acceptance of the Work shall be restricted to the cases in which the Manufacturer or a third party, for whom the Manufacturer is responsible within the scope of the fulfilment of the contract, has caused the damage negligently. After acceptance, the liability standard in accordance with clause 12.2 shall apply. However, the Manufacturer shall not be liable for losses of production, loss of earnings or other consequential economic damage.
13. LIABILITY FOR DEFECTS AND DISCHARGE

13.1. In accordance with the following regulations, the Manufacturer shall be obliged to remedy every defect or deviation (hereinafter referred to as "defect/defects") on the Work which is due to a fault in the design, the materials or the execution. Provided nothing to the contrary has been expressly agreed below, the Orderer's further reaching rights shall be excluded.

13.2. The Manufacturer's liability shall be restricted to defects to the Work which occur within 12 months from assembly at the Orderer's (in the case of kits and dryers from the first attainment of operating temperature), at the longest, however, within 18 months from readiness for dispatch. If the Work's daily operating time exceeds the agreed framework (in case of presses and press accessories 4,500 operating hours per year) this period shall be shortened appropriately. On the Manufacturer's written request, the Orderer shall issue a certificate of the time of the acceptance of the Work. Nevertheless, if the Orderer does not issue such a certificate, this shall not impair the acceptance in accordance with clauses 8.1. and 8.2.

13.3. If a defect is remedied in one part of the Work, the Manufacturer shall be liable for 12 months for defects on the replaced or repaired parts in accordance with the same terms as for the original Work. For all other parts of the Work, the period stated under clause 13.2. shall be extended solely for the period of the operating breakdowns of the Work caused by the defect, however, not longer than agreed under clause 13.2. The operating breakdown and its duration must be proved to the Manufacturer by the Orderer.

13.4. The Orderer shall have to complain to the Manufacturer forthwith and in writing about any defect occurring. The complaint shall have to describe the defect exactly as its effects, namely in each case within a period of 2 weeks after knowledge or imputed knowledge of the defect. If the Orderer does not complain to the Manufacturer about the defect within the aforementioned period in writing, it shall lose its right to remedy of the defect.

13.5. After receipt of the complaint about defects, the Manufacturer shall have to remedy the defect forthwith. The Orderer shall bear travel and transfer expenses, also between the assembly location and the acceptance location. The Manufacturer shall bear the personnel and material costs required. The defect is to be remedied on principle at the assembly location; however, it shall be at the Manufacturer's discretion to have the defective part or the subject matter of the delivery sent back for the purpose of repair or replacement. If the works for remedy of the defect are carried out at the assembly location, clause 12.2 shall apply accordingly. The Manufacturer shall be obliged to remedy all defects on the subject matter of the delivery in so far as this shall be necessary and require special knowledge. If such special knowledge is not required, the Manufacturer's obligation with respect to the defect shall end with the delivery of the properly repaired or replaced part to the Orderer.

13.6. If the Orderer has complained about the defect in accordance with clause 13.4., and no defect is to be determined for which the Manufacturer is liable, then the Orderer shall have to reimburse the Manufacturer the costs which the latter has incurred through such a complaint.

13.7. The Orderer shall have to ensure the removal and installation of items of equipment that do not belong to the Work at its own expense, in so far as this shall be necessary for the remedying of the defect.

13.8. In the absence of any agreement to the contrary, the necessary transport of the subject matter of the delivery and/or parts of the subject matter of the delivery to and from the Manufacturer in connection with the remedying of defects, for which the Manufacturer is liable, shall take place at the Manufacturer's risk and cost. In the case of such a transport, the Orderer shall have to obey the Manufacturer's instructions. If the Work is not at the assembly location, the Orderer shall bear all additional costs which the Manufacturer incurs through the remedying of defects.

13.9. If the Manufacturer's request, replaced defective parts are to be placed at its disposal and, at its request, shall pass into its ownership.

13.10. If the Manufacturer does not meet its obligations in accordance with clause 13.5. within a reasonable or agreed period, then the Orderer may set the Manufacturer a deadline in writing, as well as a subsequent additional period of grace, in the event of its lack of success, of 1 month in each case. If the Manufacturer does not fulfill its obligations, despite the fixing of deadlines in writing, the Orderer can carry out the necessary repairs itself or have them carried out by a third party at the Manufacturer's expense and risk. The self-performance or replacement performance must, at all events, be carried out expertly, otherwise the Manufacturer's liability shall lapse. If the repair was successfully carried out by the Orderer or by a third party, then all the Orderer's claims against the Manufacturer with respect to this defect shall be deemed discharged with the reimbursement of the reasonable costs incurred by the Orderer. In cases of clause 9.4. the periods are to be extended appropriately.

13.11. If the remedying of a defect in accordance with clause 13.10. shall fail twice, then the Orderer can demand a reduction in the contract price corresponding to the reduced value of the Work, whereby the reduction may on no account exceed 5% of the contract price.

13.12. The Manufacturer shall not be liable for defects which are due to materials supplied by the Orderer, or a design prescribed or specified more closely by the Orderer. The Manufacturer shall be liable only for defects which occur under the contractually envisaged operating conditions and with orderly use of the Work. The Manufacturer shall not be liable for defects which are due to bad maintenance or faulty repair by the Orderer or alterations without the Manufacturer's consent in writing. Finally, the Manufacturer's liability shall not extend to normal wear and tear or deterioration, in particular on account of not carrying out, or not properly carrying out expert servicing of the subject matter of the delivery.

13.13. In the case of the use of other spare parts than the original spare parts of the Manufacturer or of other manufacturers' spare parts not previously expressly released by the former in writing, the Manufacturer's liability shall not apply in the case of intent or in the case of gross negligence, or in the case of culpable injury of life, limb or health. The limitation of liability shall not apply furthermore in the case of culpable infringement of fundamental contractual obligations. If there shall be a case of ordinary negligence, the Manufacturer shall be liable for the contractually typical damages that could reasonably be foreseen. The limitation of liability shall not apply furthermore in the case of defects which the Manufacturer kept silent about or the absence of which he guaranteed.

14. DISTRIBUTION OF LIABILITY for damage caused by the Work

The Manufacturer shall not be liable for property damage which is caused by the Work after completion, when it is in the Orderer's possession. Furthermore, the Manufacturer shall not assume any kind of liability for damage to the products manufactured by the Orderer or to goods containing a product manufactured by the Orderer. If the Manufacturer shall be called to liability by a third party for property damage in the sense of the preceding paragraph, then the Orderer shall have to compensate, defend and indemnify the Manufacturer. If a third party shall assert one of the claims for compensation described in this clause against one of the parties, then this party shall have to notify the other party of its assert and in writing. The Manufacturer's limitation of liability in accordance with the first paragraph of this clause shall not apply in case of gross negligence.

15. LIABILITY GENERAL

The Orderer shall bear the full responsibility in the relationship towards the Manufacturer for infringements of clause 10.3. If the fitter or other personnel of the Manufacturer shall suffer physical injury while exceeding the maximum permissible working time in the sense of these terms.

16. FORCE MAJEURE

16.1. Each party shall be entitled to suspend the fulfilment of its contractual obligations for the duration of the disturbances named below, provided their fulfilment is made impossibly or unreasonably more difficult by the following circumstances: industrial conflicts and all circumstances independent of the parties’ will, such as fire, war, general mobilisation, insurrection, confiscation, embargo, restrictions of electricity consumption as well as faulty or delayed deliveries by subcontractors on account of the circumstances listed in this clause.

16.2. The party pleading force majeure shall have to notify the other party forthwith and in writing of the occurrence and end of such a circumstance.
16.3. If force majeure shall hinder the Orderer in the performance of its contractual obligations, it shall have to compensate the Manufacturer for the costs expended to safeguard and protect the Work.

17. FORESEEABLE NON-PERFORMANCE
Irrespective of any regulations worded to the contrary in these General Conditions with respect to the suspension of performance. Each party shall have the right to suspend the performance of its contractual obligations, if it turns out without doubt that the other party will not be able to perform its obligations. A party suspending the performance of its contractual obligations shall have to notify the other party of this forthwith and in writing.

18. CONSEQUENTIAL DAMAGE
Subject to the reservation of provisions to the contrary in these present General Conditions, the liability of one Party to the other Party for production standstill, loss of earnings, loss of use, contractual impairment or every other indirect or consequential damage shall be excluded. This exclusion of liability shall not apply in the case of intent or gross negligence, or in the case of culpable injury of life, limb or health. It shall not apply furthermore in the case of culpable infringement of essential contractual obligations. However, in the case of ordinary negligent infringement of essential contractual obligations, the Manufacturer shall be liable only for typically contractual, reasonably foreseeable damage. The exclusion of liability shall not apply furthermore in cases in which there is liability in accordance with the Product Liability Act for personal injuries and/or property damage to privately used objects in the case of faults in the Work for. It shall also not apply in the case of damage on account of malicious deceit or despite special indemnity commitments.

19. DISPUTES AND APPLICABLE LAW
Unless the parties agree on a different provision, the place of jurisdiction is Luxembourg. Luxembourg law is applicable. The Vienna UN Law on Sales shall not be applicable.

20. SAVING CLAUSE
If any provision of this contract should be or become legally ineffective, then this shall not affect the efficacy of the other contractual provisions. Rather, the legally ineffective provision shall then be replaced by a valid agreement that for the most part realises the contracting parties’ will, as it should have been expressed in the ineffective provision.

(December 2018)