

# Terms and Conditions of Sale and Delivery of ILLIG packaging solutions GmbH<sup>1</sup> (August 2024)

## 1. Applicability, Exclusion of Other Terms and Conditions

- 1.1 All deliveries and related offers of ILLIG packaging solutions GmbH (hereinafter "ILLIG") are subject to these Terms and Conditions of Sale and Delivery (hereinafter the "Terms and Conditions of Sale and Delivery"). The Terms and Conditions of Sale and Delivery are hereby made a part of and incorporated by reference into all contracts made by ILLIG with the Contract Partner for the delivery of machinery or equipment, accessories or related components/replacement parts (hereinafter "Deliverables"). They shall also apply to any future deliveries or offers made to the Contract Partner, whether or not specifically agreed upon in connection with such future deliveries or offers.
- 1.2 Services such as the installation or servicing/repair of machinery are, in addition, subject to the Terms and Conditions of Service of ILLIG, which are available at <https://www.illig.de/en-de> (hereinafter the "Terms and Conditions of Service").
- 1.3 Any applicability of terms and conditions of the Contract Partner or any third parties is hereby excluded, whether or not ILLIG objects to the applicability of such terms and conditions in a particular case. Even if ILLIG makes reference to, or makes delivery without reservation despite of, a document that includes or incorporates by reference terms and conditions of the Contract Partner or any third party, this shall not be construed as acceptance of such terms and conditions by ILLIG.

## 2. Offer and Acceptance, Documents

- 2.1 All offers of ILLIG are subject to change and in each case are merely an invitation to place an order.
- 2.2 By placing an order the Contract Partner makes a binding offer to enter into a contract. A valid contract will result only if and when the order is confirmed in writing by ILLIG and shall be governed by the terms of the order confirmation, including these Terms and Conditions of Sale and Delivery and, if applicable, the Terms and Conditions of Service.
- 2.3 Any amendments or modifications to contracts between the parties, including these Terms and Conditions of Sale and Delivery, shall be valid only if in written, signed or unsigned, form. Transmission by email shall be sufficient for compliance with the requirement of written, signed or unsigned, form.
- 2.4 Only managing directors, holders of a general commercial power of attorney (Prokuristen), and ILLIG employees expressly designated to the Contract Partner as contact persons with decision-making authority – in each case either individually or jointly with other designated contact persons – are authorized to enter into contracts, agree to amendments or modifications to existing contracts, provide consents, or make any other legally binding statements, declarations, or representations. No other ILLIG employees are authorized to do so.
- 2.5 All dimensions, weights, images, descriptions, or other information related to Deliverables and included in brochures, catalogs, cost estimates, or offers serve information purposes only and shall become binding contract terms only if and to the extent that ILLIG expressly agrees to such terms in writing. This shall also, and in particular, apply to information about suitability for the intended purpose or about performance.
- 2.6 ILLIG hereby reserves all rights, including copyrights, to cost estimates, drawings, samples, plans, and other documents and information, whether physical or non-physical in nature, including in electronic form. Such items shall be returned to ILLIG upon demand without undue delay and any copies thereof (including any electronic copies) shall be deleted as soon as and to the extent that they are no longer needed in the ordinary course of business. The Contract Partner shall use the aforementioned items exclusively for the agreed purposes. Such items may not be made accessible to any third parties, commercially exploited, reproduced, or modified, except with the prior written consent of ILLIG.
- 2.7 The Contract Partner hereby assumes full responsibility for all documents made available to the Contract Partner, such as drawings, images, calculations, or other specifications. ILLIG shall be under no obligation to review such information for accuracy or implementability.

## 3. Delivery Times and Dates, Force Majeure, Delivery in Installments

- 3.1 All delivery times and dates specified by ILLIG are estimates only, unless ILLIG has expressly committed or agreed to a firm delivery time or date.
- 3.2 Agree delivery times shall commence on the date of the order confirmation or written acceptance, unless otherwise provided in the offer or order confirmation. If the Contract Partner later adds to or increases the volume of an order, delivery times shall be extended as appropriate.
- 3.3 It is a condition for compliance with all delivery times and dates by ILLIG that the Contract Partner communicates or makes available in a timely manner all information, procurement specifications, approved plans, documents, permits, and clearances necessary for delivery/performance, duly fulfills any other duties of cooperation, and duly makes any agreed down payments.

- 3.4 If the parties have agreed to shipment, compliance with delivery times or dates shall be determined with reference to the time the shipment is placed with the carrier, freight company, or other shipping services provider.
- 3.5 Without prejudice to any other rights, ILLIG may demand that the Contract Partner agree to extend delivery times or delivery dates by any time period for which the Contract Partner fails to perform any of its contractual obligations to ILLIG. In particular, the Contract Partner is responsible for communicating or making available to ILLIG in a timely manner all information, procurement specifications, approved plans, documents, permits, and clearances needed for delivery/performance and, if applicable, for meeting the technical, structural, and organizational requirements for any agreed setup of products at the location of the Contract Partner or for any similar services (e.g., installation, startup, setup/adjustment). If needed, the Contract Partner shall, at its own cost and on its own responsibility, make available technical staff and equipment and take all necessary precautions to ensure that ILLIG can start work related to Deliverables immediately after arrival of the technical staff and can complete such work without interruption. In particular, the Contract Partner shall prepare at the location of the machine/system all materials that will be required by ILLIG for the performance of functionality tests, if applicable; work performed on the business premises of the Contract Partner shall, in addition, be governed by the provisions of the Terms and Conditions of Service. Idle time and waiting time will be charged to the customer.
- 3.6 ILLIG assumes no liability for any impossibility of delivery or delayed delivery resulting from force majeure or any other events that were unforeseeable on the date of the contract (e.g., war, epidemics, damages resulting from fire or explosion, business disruptions of any kind, difficulties in the procurement of materials or energy, shipping delays, strikes, lawful lockouts, shortages of labor, energy or raw materials, cyber attacks, difficulties in the procurement of required regulatory permits, regulatory actions, or non-delivery or incorrect or late delivery by suppliers), unless ILLIG is legally responsible for such events. Events within the meaning of sentence 1 shall include outbreaks of epidemics and/or pandemics (e.g., COVID-19) and any renewed, future outbreaks and the resulting consequences (e.g., plant shutdowns at ILLIG and/or ILLIG's suppliers, shortage of materials, quarantine measures, and regulatory directives restricting or prohibiting the normal course of business). If events within the meaning of this section 3.6 substantially impair or render delivery by ILLIG impossible and such impairment is not just temporary in nature, ILLIG shall have the right to rescind the contract. If impairments are temporary in nature, delivery times shall be extended or delivery dates shall be postponed by the duration of the impairment, plus a reasonable startup period. If acceptance of delivery would be unduly burdensome for the Contract Partner because a delay exceeds six months, the Contract Partner may rescind the contract by providing ILLIG with written notice of rescission without undue delay.
- 3.7 In justified cases ILLIG may make delivery in installments, unless unduly burdensome for the Contract Partner.
- 3.8 If delivery, shipment, or pickup of a Deliverable is delayed at the request of the Contract Partner or if the Contract Partner fails to accept delivery in breach of the contract, or fails to fulfill a duty of cooperation, or if delivery is delayed for any other reasons for which the Contract Partner is legally responsible, ILLIG shall have the right to recover all resulting damages, including any additional expenses (e.g., costs of storage). In such case, the Contract Partner shall for each calendar week of delay or fraction thereof pay liquidated damages in the amount of 0.5% of the price of the delayed delivery, beginning on the date the Contract Partner failed to accept delivery in breach of the contract or on the date delivery is delayed for other reasons. Liquidated damages for additional expenses shall be limited to a maximum of 10% of the price of the delayed delivery. The right of ILLIG to furnish proof of higher damages and ILLIG's remedies under applicable law (including, without limitation, recovery of additional expenses, reasonable compensation, termination) shall remain unaffected thereby; however, any liquidated damages shall be credited against any claims for additional damages. The Contract Partner shall be free to furnish proof that ILLIG sustained no damages or substantially lower damages than the aforementioned liquidated damages.

## 4. Additional Delivery Modalities, Shipment, Transfer of Risk, Insurance

- 4.1 All deliveries are subject to the Incoterms agreed upon by the parties in the offer and order confirmation. Otherwise deliveries shall be ex works of ILLIG.
- 4.2 All deliveries shall be packaged at ILLIG's dutiful discretion. Reusable packaging (lattice boxes, Euro pallets, etc.) shall remain the property of ILLIG and shall be returned to ILLIG without undue delay, all shipping costs prepaid.
- 4.3 The risk of accidental damage or loss shall transfer to the Contract Partner at the time the Contract Partner is notified that the Deliverables are ready for shipment and the Deliverables are set aside for shipment or, absent such notification, at the latest when the Deliverables are placed with the carrier, freight company, or other shipping services provider, with the time of placement being determined by the start of the loading process. This shall also apply if ILLIG provides any additional services, such as loading, shipping, or unloading, or makes delivery in installments.
- 4.4 If formal acceptance is required and an earlier transfer of risk does not result from the agreed Incoterms, the acceptance shall be controlling for the transfer of risk. Formal acceptance shall take place without undue delay on the date of acceptance, or, in the alternative, without undue delay after ILLIG notifies the Contract Partner that the Deliverables are ready for acceptance. Unless otherwise agreed, formal acceptance shall take place on-site at the Contract Partner in accordance with the agreed testing procedure and testing criteria and shall be confirmed by signing a site acceptance test report (SAT report). In consultation with the customer, an upstream test procedure and an inspection can be carried out while still at ILLIG (so-called "pre-acceptance" / "factory acceptance test"). The

(1) This text is a translation from the authoritative Terms and Conditions of Sale and Delivery in the German language (available at [www.illig.de/de-de](http://www.illig.de/de-de)). The German language version shall prevail in case of any inconsistencies.

Contract Partner may not refuse delivery on the basis of any non-material defects. Deliverables shall be deemed accepted even without signing of a site acceptance test report, at the latest if or when

- delivery has been made and, if agreed, any additional services (e.g., installation, startup, setup/adjustment) have been completed,
- ILLIG has notified the Contract Partner thereof without undue delay following completion and has requested that the Contract Partner accept delivery,
- 15 days have elapsed since the arrival of the Deliverables at the contracting party or, if applicable, since completion of the additional services, or the Contract Partner has begun to use the Deliverables (e.g., the Contract Partner has begun to operate the delivered and, if applicable, installed system) and 10 days have elapsed since the arrival of the Deliverables or, if applicable, since completion of the additional services, and
- the Contract Partner has failed to accept the Deliverables within the aforementioned time period for any reason other than a reported defect that renders use of the Deliverables impossible or substantially impairs their use.

4.5 ILLIG shall provide shipping insurance for the protection of the Contract Partner. For such shipping insurance the Contract Partner will be charged an amount equal to 0.1% of the value of the shipment. If the Contract Partner will provide its own insurance, the Contract Partner must notify ILLIG thereof prior to shipment to avoid charges for shipping insurance. Moreover, Deliverables shall be insured against the risks of theft, breakage, fire damage, water damage, or other insurable risks only if expressly agreed upon with the Contract Partner and at the Contract Partner's own cost.

## 5. Prices, Payment Terms

5.1 All prices are denominated in euros (EUR) and are exclusive of any taxes and other public dues and charges, including, without limitation, value-added tax, excise taxes, customs fees, and other public dues and charges. All taxes, charges and dues related to deliveries shall be the responsibility of and paid by the Contract Partner.

5.2 In the event of any unforeseeable changes in costs, including, without limitation, as a result of changes in prices of materials, wages, salaries, or energy, ILLIG reserves the right to increase prices in proportion to the cost increase, if delivery is made more than four months after the date of the contract. Proof of such cost increases shall be furnished to the Contract Partner upon request.

5.3 Unless otherwise agreed, and subject to section 5.4 (replacement parts/modifications), the following payment terms shall apply. The Contract Partner shall make payment, without any deduction, as follows:

- Fifty percent (50%) of the total price for a delivery shall be due upon conclusion of the contract. The payment period shall be 10 days from receipt of the related invoice, which ILLIG may combine with the order confirmation.
- Forty percent (40%) of the total price shall be due after receipt of notification that the Deliverables are ready for shipment/pickup. The payment period shall be 10 days from receipt of the related invoice. ILLIG may combine the invoice with the aforementioned notification. The Contract Partner shall have no right to pick up, arrange for others to pick up, or demand shipment of Deliverables prior to payment of the invoice; however, the Contract Partner may make payment concurrently with (Zug-um-Zug) delivery.
- Ten percent (10%) of the total price shall be due after startup and completion of performance and, if required, formal acceptance. The payment period shall be 14 days from receipt of the related invoice.

5.4 To the extent that the parties have agreed to deliveries of replacement parts and/or in connection with modifications, the following shall apply:

- If the total price due for a delivery is €100,000 or less, the invoice amount shall be paid without deduction within 14 days from receipt of the related invoice.
- If the total price due for a delivery exceeds €100,000, the invoice amount shall be paid within the payment period provided for in the offer and order confirmation.

5.5 The Contract Partner shall make all payments by bank transfer, and payments shall be deemed effected only if and to the extent that ILLIG can freely dispose of the transferred funds.

5.6 If the Contract Partner fails to make payment when due, interest on the amount past due shall accrue at a rate of 5% per annum from the payment due date. The right to recover additional interest and additional damages in the event of non-payment shall remain unaffected thereby.

5.7 The Contract Partner shall have no right to offset any counterclaims, unless such counterclaims are undisputed or have been established by a final and conclusive court judgment.

5.8 The Contract Partner shall have no right to refuse performance based upon any counterclaims, unless such counterclaims arise from the same contract and are undisputed or have been established by a final and conclusive court judgment.

5.9 If at any time after the date of the contract a risk of non-payment by the Contract Partner becomes reasonably apparent to ILLIG, ILLIG shall have the right to make outstanding deliveries only after the Contract Partner prepays for delivery or furnishes security. If no prepayment or delivery of security is made prior to expiration of a reasonable grace period, ILLIG may stop deliveries until prepayment or delivery of security is made or, in the alternative, rescind any or all affected contracts, in each case in whole or in part. Any additional rights ILLIG may have shall remain unaffected thereby.

## 6. Retention of Title

6.1 ILLIG shall retain title to Deliverables, including software, as well as all rights licensed to the Contract Partner until all claims arising from the business relationship with the Contract Partner have been fully paid; prior to full payment, any rights to use software are licensed on a temporary basis only and may be revoked.

6.2 In the event that ILLIG enforces its retention of title, all rights to use software shall lapse for the Deliverables involved. In such case, all software copies made by the Contract Partner must be deleted.

6.3 If deliveries are made on a current account basis, the retention of title shall secure the account balance due and owing to ILLIG.

6.4 Deliverables subject to the retention of title (hereinafter "Secured Products") shall be held in bailment by the Contract Partner. The Contract Partner shall handle all Secured Products with due care and sufficiently insure all Secured Products at replacement value against the risks of damage from fire, water, or theft. The Contract Partner shall, at its own cost and in any timely manner, perform any necessary servicing, maintenance, or inspection work.

6.5 Any sale of Secured Products by the Contract Partner is permitted only in the ordinary course of business. The Contract Partner hereby assigns to ILLIG, and ILLIG hereby accepts the assignment of, all claims from any resales of Secured Products. ILLIG hereby revocably authorizes the Contract Partner to collect for ILLIG, in its own name and in a fiduciary capacity, the claims assigned to ILLIG hereunder. ILLIG may revoke this authorization as well as the right to resell Secured Products, if the Contract Partner fails to perform any material obligations to ILLIG in a timely manner, such as the obligation to make payment; in the event of revocation, ILLIG shall have the right to collect claims directly from purchasers of Secured Products. The Contract Partner shall have no right to pledge Secured Products, assign Secured Products for security purposes, or otherwise dispose of Secured Products in a manner jeopardizing ILLIG's title to such products. If the Contract Partner sells Secured Products after processing, transformation, or combination or commingling with any other products or together with any other products, the assignment of claims shall be limited to such amount as corresponds to the price agreed upon between ILLIG and the Contract Partner, plus a security margin of 10% thereon.

6.6 Any processing or transformation of Secured Products by the Contract Partner shall in each case be made for ILLIG. If Secured Products are processed together with any other items, ILLIG shall acquire co-ownership of the resulting new product based upon the proportion of the value of the Secured Products to the other processed items at the time of processing. Moreover, the new product resulting from such processing shall be subject to the same provisions as those that apply to Deliverables delivered subject to the retention of title.

6.7 If Secured Products are combined or commingled with any other items, ILLIG shall acquire co-ownership of the resulting new product based upon the proportion of the value of the Secured Products to the other items at the time of combination or commingling. If the combination or commingling occurs in such a manner that the product of the Contract Partner must reasonably be considered the primary product, it is hereby agreed that the Contract Partner shall acquire a proportionate fractional ownership interest therein from ILLIG. The Contract Partner shall hold the resulting co-ownership interest in trust for ILLIG.

6.8 The Contract Partner shall provide ILLIG at any time upon demand with all requested information about Secured Products or claims that have been assigned to ILLIG hereunder. The Contract Partner shall immediately report to ILLIG any actions or claims of third parties with respect to Secured Products, submitting all necessary documents to ILLIG. At the same time, the Contract Partner shall advise the third party or parties of ILLIG's retention of title. The costs of defending such actions or claims shall be borne by the Contract Partner.

6.9 The Contract Partner shall - to the extent possible - designate Secured Products as property of ILLIG and handle Secured Products with due care for the duration of the retention of title.

6.10 If the realizable value of Secured Products exceeds the value of all secured claims of ILLIG by more than 10%, the Contract Partner may demand the release of such excess security.

6.11 If the Contract Partner fails to perform any material obligations to ILLIG, such as the obligation to make payment, in a timely manner, ILLIG may, without prejudice to any other rights, repossess the Secured Products and, following rescission of the contract, commercially exploit such Secured Products otherwise to satisfy outstanding claims against the Contract Partner. If ILLIG demands the surrender of Secured Products, the Contract Partner shall immediately provide ILLIG or an authorized representative of ILLIG with access to and surrender the Secured Products. Any demand by ILLIG for the surrender of Secured Products in accordance with this provision shall not, in and of itself, be deemed a rescission of the contract.

6.12 If the retention of title has no legal effect, or does not have legal effect to the same extent as provided for herein, in a foreign country where Secured Products are shipped, the Contract Partner shall cooperate with ILLIG to create such security interests as most closely approximate this retention of title in terms of its scope and effect.

## 7. Warranty, Quality of Deliverables, Contract Partner's Inspection and Notice of Defect Obligations

7.1 Unless expressly agreed otherwise, the agreed quality and agreed purpose of Deliverables shall be governed exclusively by the written descriptions of Deliverables (including, without limitation, specifications, technical requirements, and drawings) the parties expressly

- incorporated by reference when they entered into the contract. Unless expressly agreed otherwise, no conformity with any additional objective requirements within the meaning of § 434 para. 3 of the German Civil Code (BGB) (as in effect since January 1, 2022) or suitability for a particular purpose shall be owed. This shall apply, in particular, to the integration of machinery or systems into the operational processes of the Contract Partner.
- 7.2 Unless expressly agreed otherwise, Deliverables must be in compliance only with applicable German laws – e.g., German laws on product safety, environmental compatibility, etc.
- 7.3 The Contract Partner shall have no warranty claims of any kind against ILLIG based upon any defects of Deliverables resulting from quality specifications of the Contract Partner. The Contract Partner is fully responsible for the correctness and implementability of such quality specifications. Information and descriptions provided by ILLIG for Deliverables (e.g., dimensions, weights, technical data, drawings, images) are approximate only, except in exceptional cases where the agreement between the parties, e.g., the expressly agreed purpose of Deliverables, reflects a necessity of exact information. Such information shall not be construed as guarantees of any particular quality of a Deliverable; any guarantees of quality must be expressly designated as such.
- 7.4 Any discrepancies in quality that are standard in the industry, any discrepancies in quality that are required by applicable law or involve technical improvements, as well as any replacement of components with equivalent parts are permitted, provided that such discrepancies or replacements do not impair usability for any expressly agreed purpose.
- 7.5 It shall be a condition for any rights or claims of the Contract Partner based upon any defects of Deliverables that the Contract Partner inspects Deliverables upon delivery and provides ILLIG with due notice of any defects in accordance with this section. Deliverables shall be inspected without undue delay after delivery and in the exercise of reasonable care. The Contract Partner shall be deemed to have accepted Deliverables despite any apparent defects or other defects that reasonably could have been discovered had the Deliverables been carefully inspected without undue delay, unless ILLIG receives written notice of defect within 10 days from delivery. With respect to any other defects, the Contract Partner shall be deemed to have accepted Deliverables, unless ILLIG receives notice of defect within 10 days from the date on which the defect was discovered; if a defect was reasonably apparent at an earlier point in time in the course of normal use, such earlier point in time shall be controlling for purposes of the beginning of the notice period for defects. If formal acceptance is required, any notice of defect related to defects that could have been discovered at the time of formal acceptance shall be excluded after the time of formal acceptance.
- 7.6 The Contract Partner shall afford ILLIG or authorized third parties opportunity to review notices of defects or any other complaints, including, without limitation, by providing access to Deliverables, and allow reasonable diagnostic measures to proceed. For this purpose the Contract Partner shall provide ILLIG with the necessary time and assistance.
- 7.7 Upon the demand of ILLIG Deliverables subject to a notice of defect shall be returned to ILLIG, all shipping costs prepaid. If a notice of defect has merit, ILLIG shall reimburse the Contract Partner for the costs of the least costly shipping method; this shall not apply to the extent that costs increase because Deliverables are located at a place other than the place of intended use.
- 7.8 The Contract Partner shall have no warranty rights or claims in cases where malfunctions are due to causes that fall within the exclusive responsibility of the Contract Partner. Such cases shall include, without limitation, any the following (non-exhaustive list):
- (i) any erroneous, incomplete, or unsuitable specifications of the Contract Partner for the quality of Deliverables;
  - (ii) any unsuitable or improper use of Deliverables;
  - (iii) any exceeding of or non-compliance with recommended operating times;
  - (iv) any defective assembly or startup of Deliverables by the Contract Partner or any third party;
  - (v) any ordinary wear and tear of Deliverables or any parts thereof;
  - (vi) any failure to properly service and/or handle Deliverables in accordance with the operating instructions of ILLIG;
  - (vii) any physical, chemical, electrochemical, and/or electrical impacts suffered during shipping or at the location chosen by the Contract Partner, unless ILLIG is legally responsible for such effects; and
  - (viii) any modifications to Deliverables made by the Contract Partner without the approval of ILLIG.
- 7.9 The Contract Partner further shall have no warranty rights or claims if the Contract Partner modifies, or allows any third parties to modify, Deliverables without the consent of ILLIG, thereby rendering the remediation of resulting defects impossible or unduly burdensome. In any event, the Contract Partner shall be responsible for any additional costs of remediation that may result from such modifications.
- 7.10 In the event of any defects, ILLIG shall, at its own option, either render remedial performance by eliminating the defect or, in the alternative, deliver a non-defective replacement product (hereinafter collectively referred to as “Remedial Performance”).
- 7.11 ILLIG shall be responsible for any necessary costs of Remedial Performance, including, without limitation, costs of shipping, travel, labor, and materials, as provided by applicable law, if Deliverables are in fact defective. Otherwise ILLIG may demand that the Contract Partner reimburse ILLIG for the costs resulting from the unjustified notice of defect, unless the absence of a defect was not reasonably apparent for the Contract Partner.
- 7.12 If Remedial Performance does not succeed within a reasonable time period, is unreasonably burdensome for the Contract Partner, or is refused by ILLIG in accordance with applicable law, the Contract Partner may, at its sole option, rescind the contract, reduce the purchase price, and/or, subject to the provisions of section 9, seek damages or reimbursement of costs in accordance with applicable law.
- ## 8. Proprietary Rights of Third Parties
- 8.1 Each party shall notify the other party in writing without undue delay if any third parties bring any claims against such party that Deliverables infringe proprietary rights or copyrights of such third parties.
- 8.2 Any rights or claims based upon infringements of proprietary rights or copyrights of third parties are hereby excluded, if such infringements result from specifications or instructions of the Contract Partner or from any unauthorized modifications of Deliverables or any non-agreed use of Deliverables by the Contract Partner.
- 8.3 In the event that Deliverables infringe a proprietary right or copyright of a third party, ILLIG shall, at its own option and at its own cost, modify or replace such Deliverables so that they no longer infringe any rights of third parties while still conforming to the agreed requirements, or, in the alternative, procure the necessary rights for the Contract Partner by entering into an appropriate license agreement with the third party. The Contract Partner shall afford ILLIG a reasonable time period for doing so.
- 8.4 In the event that any Deliverables of other manufacturers or suppliers delivered to the Contract Partner by ILLIG infringe any rights of third parties, ILLIG shall, at its own option, make its own warranty claims against the manufacturer or supplier for the account of the Contract Partner or assign its warranty claims to the Contract Partner. In such cases the Contract Partner shall have claims against ILLIG only if judicial enforcement of the aforementioned claims against the manufacturer or supplier was unsuccessful or obviously has no prospect of success, e.g., as a result of insolvency.
- ## 9. Liability and Damages
- 9.1 Any liability of ILLIG for damages, whatever the legal basis, including, without limitation, any liability resulting from impossibility of performance, untimely performance (Verzug), delivery of defective or the wrong Deliverables, breach of contract, breach of pre-contractual obligations, or tort claims, in each case to the extent that such liability requires wrongdoing, shall be subject to the limitations of this section 9.
- 9.2 ILLIG shall not be liable for any ordinary negligence of its officers, directors, legal representatives, employees, or other agents, except in cases involving a breach of material contractual obligations. Material contractual obligations include the obligation to deliver and install Deliverables in timely manner and free of defects in title and defects in quality that would substantially impair their functionality or suitability for their intended purpose, as well as advisory, protective, and care obligations intended to enable the Contract Partner to use Deliverables for the agreed purpose or to protect the life or limb of the Contract Partner's staff or the Contract Partner's property from substantial damages.
- 9.3 In the event that ILLIG is, in principle, liable under section 9.2 above, such liability shall be limited to damages that were actually foreseen by ILLIG as a potential consequence of a breach of contract at the time the contract was concluded or that should have been foreseen by ILLIG in the exercise of such reasonable care as is standard in the industry. Moreover, any indirect damages or consequential damages resulting from defects of a Deliverable may be recovered only insofar as such damages are usually to be expected when the Deliverable is used as intended.
- 9.4 The foregoing exclusions and limitations of liability shall, to the same extent, also apply for the benefit of officers, directors, legal representatives, employees, and other agents of ILLIG.
- 9.5 In the event that ILLIG provides technical information or consulting services outside the agreed scope of services, ILLIG shall receive no compensation for such services and ILLIG assumes no liability of any kind in connection therewith.
- 9.6 The limitations of this section 9 shall not apply to any liability of ILLIG for intentional acts or omissions, guaranteed qualities, or harm to life, limb, or health, or to liability under the German Product Liability Act (Produkthaftungsgesetz).
- ## 10. Limitation of Claims
- Any claims of the Contract Partner against ILLIG in connection with deliveries made by ILLIG – whatever the legal basis of such claims – shall be subject to a limitation period of 12 months from delivery or, if formal acceptance is required, from the date of formal acceptance. This limitation period shall not apply to any claims for damages based upon harm to life, limb, or health, breach of guarantee, or intentional or grossly negligent breach, or to any claims for damages under the German Product Liability Act (Produkthaftungsgesetz); such claims shall become time-barred as provided by statute.
- ## 11. Confidentiality
- Unless the parties have entered into separate confidentiality agreements, the following shall apply:
- 11.1 The parties each agree to keep confidential all information they receive, directly or indirectly, from the other party, including offers and all related commercial and technical

details. In particular, all images, drawings, calculations, quality standards, samples, and similar items shall be kept confidential. Any reproduction or transfer of confidential information shall be permitted only if and to the extent required for the business needs of a party. Confidential information may not be disclosed to any third parties, except with the prior written consent of the other party.

11.2 The foregoing obligations shall not apply to any confidential information which the receiving party can show

- (i) was already in the public domain at the time of disclosure or became part of the public domain thereafter without any fault of the receiving party;
- (ii) was already in the possession of the receiving party at the time of disclosure;
- (iii) was made available to the receiving party by a third party not subject to any duty of confidentiality or non-use, provided that such third party did not receive the information, directly or indirectly, from the other party; or
- (iv) is required to be disclosed to any regulatory authorities under applicable law.

11.3 The duty of confidentiality shall survive and continue in effect for a time period of five years after the business relationship of the parties ends. After the end of the business relationship, the Contract Partner shall surrender to ILLIG all confidential information the Contract Partner has received from ILLIG, to the extent that such information is physically embodied or stored electronically. Upon the request of ILLIG the Contract Partner shall confirm compliance with the obligations under the two preceding sentences in writing.

## 12. Data Protection

12.1 The parties shall comply with all applicable data protection laws.

12.2 If and to the extent that ILLIG processes any personal data of the Contract Partner in the course of performing the contract, the parties shall enter into a standard data processing agreement within the meaning of Art. 28 of the General Data Protection Regulation (GDPR) prior to the commencement of data processing.

## 13. Software

13.1 In the event that a delivery includes software, ILLIG hereby licenses to the Contract Partner a non-exclusive right to use such software, including related documentation. Software will be made available for use on the Deliverable intended for that purpose. Any use of software on more than one system is prohibited. The Contract Partner generally shall have no right to receive the object code or source code of software, unless the parties have expressly and specifically agreed otherwise.

13.2 The Contract Partner may copy, edit, translate, or convert software from object code to source code only to the extent permitted by law (§§ 69a et seq. of the German Copyright Act (UrhG)). The Contract Partner shall not remove information about the manufacturer – including, without limitation, copyright notices – or modify such information without the prior express consent of ILLIG. All rights to software and related documentation, including any copies thereof, shall remain the property of ILLIG or the software supplier. Any sublicensing of software is prohibited.

13.3 Prior to delivery to the Contract Partner, ILLIG shall test software for computer viruses, Trojan horses, hoax viruses, and comparable programs, program components, and malware that may result in a loss or falsification of data or programs or impair systems or any parts thereof (hereinafter "Computer Viruses"), by implementing up-to-date safeguards in conformity with the latest state of the art. Nonetheless, such tests cannot rule either the risk that software may include undiscovered or mutated Computer Viruses or the risk that such Computer Viruses may enter (operating or control) systems of the Contract Partner at a later date, thereby possibly modifying or deleting program data of the software or any other data or programs or adversely affecting such systems.

13.4 The Contract Partner therefore may implement its own safeguards to protect against Computer Viruses and other destructive data. The Contract Partner shall independently test delivered software and files for Computer Viruses before running such software or opening such files. This shall also apply to software the Contract Partner intends to use in connection with its (operating or control) systems, if this may impact the functionality of software made available by ILLIG.

## 14. Sanctions, Embargoes

Without prejudice to any other rights, ILLIG shall have the right to rescind contracts if the performance of such contracts would violate national and/or international foreign trade laws, such as embargoes or sanctions.

## 15. Compliance

15.1 The Contract Partner shall operate its business, whether domestic, foreign, or international, in compliance with all applicable laws and regulations (hereinafter collectively "Laws"). This shall apply, in particular, to all Laws related to or involving (i) bribery and corruption, (ii) export and import of products, including customs laws and foreign trade laws, (iii) antitrust and unfair competition laws, (iv) taxes, (v) labor and employment, (vi) health and safety, or (vii) environmental protection.

15.2 The Contract Partner further shall ensure that its employees and other representatives are sufficiently informed of all Laws, by establishing an adequate and effective internal compliance program and providing regular training, among other measures, and the Contract Partner shall take all necessary steps, now and in the future, to ensure that its employees

and representatives will comply with all Laws when performing their responsibilities to the company.

15.3 The Contract Partner shall operate its business in compliance with the requirements of the ILLIG Code of Conduct as amended from time to time (hereinafter the "ILLIG Code of Conduct") and as published on the homepage of ILLIG (<https://www.illig.de/de-de/compliance>). Upon the demand of ILLIG the Contract Partner shall confirm compliance in writing. Instead of having to comply with the ILLIG Code of Conduct, the Contract Partner may request, and ILLIG may grant, permission to comply with another, equivalent code of conduct, provided that ILLIG determines that the other code of conduct is equivalent and the Contract Partner agrees in writing to comply with such other code of conduct.

15.4 ILLIG reserves the right to take reasonable steps to audit the Contract Partner's compliance with the provisions of this section 15. Upon the demand of ILLIG the Contract Partner shall permit such an audit to proceed on the business premises of the Contract Partner, and the Contract Partner shall provide ILLIG with all reasonable assistance, including access to all records of the Contract Partner which ILLIG reasonably deems necessary for the audit.

15.5 The Contract Partner shall notify ILLIG in writing without undue delay of any circumstances indicating that Laws have been or may have been violated in connection with any business transactions of the Contract Partner.

15.6 ILLIG shall have the right to rescind contracts with the Contract Partner if there is reason to assume that the Contract Partner is in material breach of any provisions of this section 15. However, ILLIG shall have a right of rescission only if the Contract Partner fails to remedy the grounds for rescission or fails to furnish proof of remediation within four weeks from receipt of a written demand from ILLIG. In case of continuing obligations (Dauerschuldverhältnisse), ILLIG shall have a right to terminate the contract for good cause without notice.

## 16. Measures to Warrant Product Safety, Regulatory Measures

If the Contract Partner is subject to or targeted by any regulatory measures related to Deliverables (e.g., plant shutdown directive) or the Contract Partner intends to implement its own measures to warrant product safety, the Contract Partner shall notify ILLIG thereof without undue delay and coordinate its steps with ILLIG, to the extent possible and not inconsistent with obligations of the Contract Partner under mandatory provisions of applicable law. Upon the demand of ILLIG the Contract Partner provide the regulatory authorities involved with reasonable cooperation and assistance.

## 17. Termination of Contract

17.1 Neither party shall have a right to terminate the contract for convenience (termination at will), unless expressly agreed otherwise by the parties as an exception to the general rule.

17.2 The right of either party to terminate a contract for good cause without notice shall remain unaffected by the provisions of these Terms and Conditions of Sale and Delivery.

17.3 ILLIG shall have a special right of rescission if circumstances related to the sphere of the Contract Partner provide cause for concern that the Contract Partner may on a long-term basis no longer be able to perform its obligations under contracts with ILLIG and if continued performance of such contracts would be unduly burdensome for ILLIG taking into consideration the circumstances of the particular case. In case of continuing obligations (Dauerschuldverhältnisse), ILLIG shall have the right to terminate the contract for good cause without notice.

## 18. Final Provisions

18.1 The Contract Partner may not assign its claims against ILLIG to any third parties, except with the written consent of ILLIG.

18.2 All legally binding representations or notices related to the contract (e.g., notice of deadline, notice of defect, notice of rescission, or notice of purchase price reduction) must be effected in written, signed or unsigned, form (e.g., by letter, email, but excluding telefax). Applicable legal form requirements shall remain unaffected thereby.

18.3 If any provision of a contract and/or these Terms and Conditions of Sale and Delivery are invalid, unlawful, or unenforceable, in whole or in part, the validity of the remaining provisions shall remain unaffected thereby. In such case the parties shall replace the invalid, unlawful, or unenforceable provision with such valid, lawful, and enforceable provision as most closely reflects the economic intent and purpose of the original provision.

18.4 The place of performance for all mutual claims of the parties shall be Heilbronn, Germany. If ILLIG has also agreed to provide setup or similar services (e.g., installation, startup, setup/adjustment), the place of performance shall be – to such extent – the place where such services are to be rendered under the terms of the contract.

18.5 Exclusive venue and jurisdiction for any and all disputes arising from or in connection with contracts between ILLIG and the Contract Partner shall be in the courts of Heilbronn, Germany. However, ILLIG shall also have the right to file legal action against the Contract Partner in any other court of competent venue and jurisdiction. Mandatory provisions of applicable law governing exclusive venue and jurisdiction shall remain unaffected thereby.

18.6 The business relationship of ILLIG and the Contract Partner shall be subject to the laws of the Federal Republic of Germany, with the exception of the UN Convention on Contracts for the International Sale of Goods (CISG).