

General Terms and Conditions of Sale and Delivery

August Berger Metallwarenfabrik GmbH

1. General information, scope of application

- 1.1.** The following General Terms and Conditions of Sale and Delivery for August Berger Metallwarenfabrik GmbH shall apply exclusively; any terms and conditions of the customer that conflict with (or deviate from) these General Terms and Conditions of Sale and Delivery for August Berger Metallwarenfabrik GmbH shall not be recognised unless August Berger Metallwarenfabrik GmbH has expressly agreed to their validity in writing. The General Terms and Conditions of Sale and Delivery for August Berger Metallwarenfabrik GmbH shall also apply if August Berger Metallwarenfabrik GmbH renders the delivery or service vis-a-vis the customer without reservation in the knowledge that the customer's terms and conditions conflict with (or deviate from) these prevailing General Terms and Conditions of Sale and Delivery. The General Terms and Conditions of Sale and Delivery for August Berger Metallwarenfabrik GmbH shall also apply to future transactions with the customer.
- 1.2.** Any and all agreements pertaining to deliveries and services (hereinafter referred to as "**services**" or "**contract's subject matter**"), which are agreed between August Berger Metallwarenfabrik GmbH and the customer, must be set out in writing in the relevant contract and any additional agreements. The text form pursuant to Section 126 b German Civil Code (BGB) shall suffice to fulfil the written form requirement within the meaning of this Clause 1.2 and the following provisions. In particular, legally relevant declarations and notifications which are to be made by the customer vis-a-vis August Berger Metallwarenfabrik GmbH subsequent to the conclusion of contract (e.g. setting of deadlines, notification of defects, declaration of cancellation or reduction) must be made in text form, in order to be effective.
- 1.3.** References to the validity of statutory provisions shall be made for clarification purposes only. Even without such clarification, the statutory provisions shall, therefore, apply to the extent that they are not directly amended (or expressly excluded) in these General Terms and Conditions of Sale and Delivery.
- 1.4.** These General Terms and Conditions of Sale and Delivery shall apply only to companies within the meaning of Sections 310 (1) and 14 German Civil Code (BGB).

2. Offer and conclusion of contract

- 2.1.** If an order from a customer is to be qualified as an offer in accordance with Section 145 German Civil Code (BGB), August Berger Metallwarenfabrik GmbH may accept this offer

within four weeks of receipt. Offers from August Berger Metallwarenfabrik GmbH shall be understood as non-binding, unless they are expressly labelled as binding or contain a specific acceptance period.

- 2.2.** The offer may be accepted by August Berger Metallwarenfabrik GmbH by means of a written declaration (order confirmation) or by rendering the underlying services.
- 2.3.** The order confirmation of August Berger Metallwarenfabrik GmbH or – in the case of the order's immediate execution – the service actually rendered together with the delivery note, shall be solely decisive for the scope and purpose of the service. Should an order confirmation be sent by August Berger Metallwarenfabrik GmbH that contains recognisable amendments to the customer's order, the customer shall be deemed to have issued his consent if, in the case of an order confirmation sent by August Berger Metallwarenfabrik GmbH, the customer does not object to this order confirmation in writing within ten (10) working days. In any such a case, however, consent shall be deemed to have been given at the latest when the customer accepts the service without objecting in writing within the scope of his inspection and complaint obligations pursuant to Clause 8.2. Any verbal commitments prior to contract conclusion shall not be considered legally binding, and verbal agreements between the parties shall be replaced by the written contract, unless it is expressly stated in each case that they shall continue to be binding.
- 2.4.** Any additions and amendments to the agreements made – including these General Terms and Conditions of Sale and Delivery – must be made in writing, in order to be effective. With the exception of managing directors or authorised signatories, the employees of August Berger Metallwarenfabrik GmbH shall not be entitled to make agreements that deviate from an agreement that has been established.
- 2.5.** Information provided by August Berger Metallwarenfabrik GmbH pertaining to the subject matter of the service (e.g. weights, dimensions, utility values, load-bearing capacity, tolerances and technical data), as well as any representations made (e.g. drawings and illustrations) shall only be approximate, unless the usability for the contractually intended purpose necessitates exact conformity. They shall not be guaranteed characteristics, but rather descriptions or characterisations of performance. Customary deviations, as well as deviations that occur due to prevailing statutory regulations or which represent technical improvements, alongside the replacement of service parts with equivalent parts, shall be permissible to the extent that they do not impair the usability for the contractually intended purpose.
- 2.6.** August Berger Metallwarenfabrik GmbH hereby reserves the right to make deliveries that exceed (or fall short of) the requested amount in individual cases, taking into account the interests of the customer and within reasonable limits. In particular, August Berger Metallwarenfabrik GmbH shall be entitled to supply and invoice the next larger packaging unit if the packaging unit requested by the customer is not available. In addition, production-related quantity

deviations of up to 10% shall be permitted within the individual packaging units.

- 2.7.** Specific customer requirements with regard to processes, as well as testing and quality measures, shall only become part of the contract if they have been agreed in writing between the customer and August Berger Metallwarenfabrik GmbH – excluding the text form.
- 2.8.** August Berger Metallwarenfabrik GmbH shall only assume liability for a specific application/use or a specific suitability insofar as this has been expressly agreed in writing – excluding the text form. This shall also apply if August Berger Metallwarenfabrik GmbH renders a service according to drawings, specifications, samples, plans, etc. of the customer.
- 2.9.** Should August Berger Metallwarenfabrik GmbH supply a sample (or initial sample) and this is approved by the customer, the service rendered by August Berger Metallwarenfabrik GmbH in accordance with the approved sample shall be deemed to be a contractual service. Should the customer request August Berger Metallwarenfabrik GmbH to render the service in the case of an agreed initial sample even without its explicit initial sample approval and / or before completion of the initial sample tests, said initial sample approval for the service shall be deemed to have been granted by the customer. The services corresponding to the initial samples shall then be deemed to be in accordance with the contract. Should the customer request August Berger Metallwarenfabrik GmbH to make changes to the initial sample, the associated costs shall be remunerated separately by the customer, unless the change serves to rectify defects in the initial sample. The customer must declare any change requests to August Berger Metallwarenfabrik GmbH in writing.
- 2.10.** August Berger Metallwarenfabrik GmbH hereby reserves the right of ownership or copyright to all offers and cost estimates submitted by August Berger Metallwarenfabrik GmbH, as well as drawings, illustrations, calculations, brochures, catalogues, models, printing plates, tools and other documents and aids made available to the customer. Without the express prior consent of August Berger Metallwarenfabrik GmbH, the customer may not make these items accessible to third parties, either as such or in terms of their content, disclose them, use them himself or through third parties or reproduce them. At the request of August Berger Metallwarenfabrik GmbH, the customer must return these items in full to August Berger Metallwarenfabrik GmbH and destroy any copies made if they are no longer required by him in his ordinary course of business, or if negotiations do not lead to the conclusion of a contract. An exception to this shall concern the storage of electronically provided data for the purpose of standard data backup.

3. Delivery, delivery and performance time, delay in delivery

- 3.1.** Partial deliveries shall be permissible, and shall obligate the customer to pay proportionate remuneration if
- the partial delivery can be used by the customer for the contractually intended purpose,
 - the delivery of the remaining contractual items subject to order is ensured and
 - the customer does not incur any significant additional work or costs as a result thereof (unless August Berger Metallwarenfabrik GmbH agrees to bear these costs).
- 3.2.** To the extent that services are to be rendered by August Berger Metallwarenfabrik GmbH on call by the customer, the customer shall be obligated – unless otherwise agreed – to accept partial deliveries in approximately equal quantities. Otherwise, the entire service shall be deemed to have been called by the customer one calendar month after expiry of the period agreed for said call or – in the absence of an agreed period – six calendar months after conclusion of the contract.
- 3.3.** Only the quantity determined by August Berger Metallwarenfabrik shall be decisive for the price calculation.
- 3.4.** The performance deadlines specified by August Berger Metallwarenfabrik GmbH shall be non-binding and subject to change, unless otherwise expressly stipulated in the agreement reached.
- 3.5.** The start of a delivery period specified by August Berger Metallwarenfabrik GmbH presupposes that all technical matters and issues have been clarified.
- 3.6.** Compliance with the delivery obligation further presupposes the timely and proper fulfilment of the customer's obligation. The defence of contractual non-performance hereby remains reserved.
- 3.7.** Should a sale by dispatch (Clause 6.1) have been agreed, delivery periods and delivery dates shall be understood to refer to the time of handover to the forwarding agent, carrier or other third party commissioned with the transport.
- 3.8.** Should August Berger Metallwarenfabrik GmbH itself not be supplied, not supplied correctly or not supplied on time – although August Berger Metallwarenfabrik GmbH has placed congruent orders with reliable upstream suppliers – August Berger Metallwarenfabrik GmbH shall be released from its contractual obligation to perform and may withdraw from the contract with the customer. August Berger Metallwarenfabrik GmbH shall be obligated to inform the customer immediately regarding the non-availability of a service, and to reimburse any payments already made.

The customer's consideration shall be refunded immediately. In such a case, there shall be no fault on the part of August Berger Metallwarenfabrik GmbH.

- 3.9.** Serious events – such as, in particular, force majeure, labour disputes, unrest, armed or terrorist conflicts and pandemics – which entail unforeseeable consequences for the performance of services (including and, in particular, by affecting suppliers), shall release the parties from their performance obligations for the duration of the disruption and to the extent of its effect, even if they are deemed to be in default. An automatic cancellation of the contract shall not be associated with this, unless the delivery subsequently becomes unreasonable for one of the parties due to such events. August Berger Metallwarenfabrik GmbH shall consider it unreasonable in the above sense, in particular, if an alternative procurement for the fulfilment of the contract results in a price increase on the procurement side of August Berger Metallwarenfabrik GmbH, subsequently leading to the new procurement price being more than 5% higher than the price previously agreed between the customer and August Berger Metallwarenfabrik GmbH.

Furthermore, the parties hereby agree to adjust their obligations to the amended circumstances in good faith in the event of such a hindrance. In any such case, the parties must notify each other immediately after becoming aware of such an obstacle or event.

- 3.10.** Should August Berger Metallwarenfabrik GmbH be in default with a delivery or service, or if a delivery or service becomes impossible for August Berger Metallwarenfabrik GmbH, irrespective of the underlying reason, the liability of August Berger Metallwarenfabrik GmbH shall be limited to damages in accordance with Clause 10 of these Terms and Conditions of Sale and Delivery.
- 3.11.** Should the customer be in default of acceptance or violate other duties to co-operate, August Berger Metallwarenfabrik GmbH shall be entitled to demand compensation for the damage incurred, including any additional expenses. The risk of accidental loss (or accidental deterioration) of the contract's subject matter shall pass to the customer at the point in time at which the customer is in default of acceptance. Storage costs after transfer of risk shall be borne by the customer. In the case of storage by August Berger Metallwarenfabrik GmbH, the storage costs shall amount to 0.25 % of the invoice amount of the delivery items to be stored per elapsed week. We hereby reserve the right to assert and prove further or lower storage costs.

4. Prices, terms of payment, default of payment, offsetting, right of retention

- 4.1.** The prices shall apply to the scope of services and deliveries listed in the order confirmation. Additional (or special) services shall be charged separately. The prices are quoted ex works for August Berger Metallwarenfabrik GmbH plus packaging and the statutory value-added tax applicable at the time of service performance. Should the parties have agreed on a sale by dispatch (Clause 6.1), the customer shall bear the transport costs ex works and the costs of any transport insurance requested by the

customer. Unless otherwise agreed, August Berger Metallwarenfabrik GmbH shall be entitled to determine the type of dispatch itself, in particular, the transport company, dispatch route and packaging. Any customs duties, fees, taxes and other public charges shall be borne by the customer.

- 4.2** If the agreed performance period is more than four months subsequent to the conclusion of contract, August Berger Metallwarenfabrik GmbH hereby reserves the right to amend its prices appropriately with a notice period of one month if, after contract conclusion, changes in procurement costs occur due to fluctuations in raw material prices, utilisation of manufacturing capacities, exchange rates, transport costs, wage agreements, tariffs or comparable cost-driving factors beyond the control of August Berger Metallwarenfabrik GmbH. August Berger Metallwarenfabrik GmbH shall provide evidence of the increase factors at the customer's request. If the price increases by more than 20%, the customer may withdraw from the contract.
- 4.3.** The remuneration due shall be payable without deduction on the 30th calendar day after the invoice date. The crediting of the respective amount to the account of August Berger Metallwarenfabrik GmbH stated on the invoice shall be decisive for the timeliness of payment. Payment by cheque or bill of exchange is hereby expressly excluded unless agreed separately in individual cases. Upon expiry of the aforementioned payment deadline, the customer shall be in default without the need for a reminder. The remuneration owed shall bear interest at the applicable statutory default interest rate during the period of default. Furthermore, August Berger Metallwarenfabrik GmbH shall be entitled to charge the customer a flat-rate reminder fee of EUR 40.00. August Berger Metallwarenfabrik GmbH hereby reserves the right to assert further claims for damages attributable to the delay.
- 4.4.** If – subsequent to the conclusion of contract – concerns arise regarding the solvency (or creditworthiness) of the customer with the result that the payment claims of August Berger Metallwarenfabrik GmbH appear to be in jeopardy, August Berger Metallwarenfabrik GmbH shall be entitled to demand performance concurrently or against the provision of a security in the form of a directly enforceable, irrevocable guarantee from a major German bank. Should the customer fail to comply with this request despite the setting of a deadline with a threat of cancellation, August Berger Metallwarenfabrik GmbH may withdraw from the contract to the exclusion of any claims for compensation by the customer.
- 4.5.** Offsetting against any counter-claims of the customer or the retention of payments due to such claims shall only be permitted if said counter-claims are undisputed or have been legally established.

5. Obligations of the customer to co-operate

- 5.1.** The customer shall be obligated to provide August Berger Metallwarenfabrik GmbH with all documents required for the provision of services free of charge and in good time. Unless expressly agreed otherwise, August Berger Metallwarenfabrik GmbH shall not be obligated to review the content of the documents provided by the customer and the desired requirements (specifications, functions and technical details) for possible errors or the infringement of the rights of third parties caused by the implementation of the described requirements.
- 5.2.** To the extent that the customer renders its own services, or services are provided by third parties (including the delivery of goods), the customer shall be responsible for the coordination of the individual work processes and for compliance with the relevant safety regulations and accident prevention regulations.
- 5.3.** Should the customer fail to fulfil its obligations to cooperate to the extent required, or if August Berger Metallwarenfabrik GmbH is prevented from rendering the services incumbent on August Berger Metallwarenfabrik GmbH due to circumstances within the customer's sphere of risk, August Berger Metallwarenfabrik GmbH shall be released from its obligations to perform for the duration of the disruption and to the extent of its effect, and may demand reasonable compensation for any additional expenses incurred as a result. In such an instance, August Berger Metallwarenfabrik GmbH shall take into account what August Berger Metallwarenfabrik GmbH saves in expenses or can otherwise acquire through other orders. The risk of accidental loss or accidental deterioration of the service shall pass to the customer at the point in time at which the customer is in default of acceptance.

6. Place of fulfilment, dispatch, packaging, transfer of risk, transport insurance

- 6.1.** Delivery shall be ex works August Berger Metallwarenfabrik GmbH, which shall also serve as the place of fulfilment. At the customer's request and expense, the goods shall be dispatched to another destination (sale by dispatch). The mode of dispatch and packaging shall remain at the dutiful discretion of August Berger Metallwarenfabrik GmbH.
- 6.2.** The risk of accidental loss and accidental deterioration of the contract's subject matter shall pass to the customer at the latest upon handover. In the case of sale by dispatch, however, the risk of accidental loss, accidental deterioration of the goods and the risk of delay shall pass to the customer upon delivery of the contract's subject matter (whereby the start of the loading process shall be decisive) to the forwarding agent, carrier or other third party appointed to carry out the dispatch. This shall also apply if partial deliveries are made. If dispatch or handover is delayed due to a circumstance attributable to the customer, the risk shall pass to the customer from the day on which the contract's subject matter is ready for dispatch and August Berger Metallwarenfabrik GmbH has notified the customer of this.
- 6.3.** The consignment shall only be insured by August Berger Metallwarenfabrik GmbH against

theft, breakage, transport, fire and water damage or other insurable risks at the express request and expense of the customer.

7. Retention of title

- 7.1.** August Berger Metallwarenfabrik GmbH shall retain title to the contract's subject matter until all payments arising from the delivery contract have been received. If the customer acts in breach of contract – in particular, in the event of default in payment – August Berger Metallwarenfabrik GmbH shall be entitled to take back the contract's subject matter, whereby said taking back by August Berger Metallwarenfabrik GmbH shall constitute a cancellation of the contract. August Berger Metallwarenfabrik GmbH shall be authorised to realise the contract's subject matter after taking it back; the realisation proceeds shall be credited against the customer's liabilities – less reasonable costs associated with the realisation thereof.
- 7.2.** The customer shall be obligated to treat the contract's subject matter with care; in particular, he shall be obligated to insure it sufficiently at his own expense against fire, water damage and theft at replacement value. If maintenance and inspection work is required, the customer must perform this in good time at his own expense.
- 7.3.** In the event of seizure or other forms of intervention by third parties, the customer must inform August Berger Metallwarenfabrik GmbH immediately in writing, in order that August Berger Metallwarenfabrik GmbH can bring an action in accordance with Section 771 German Code of Civil Procedure (ZPO). If the third party is not in a position to reimburse August Berger Metallwarenfabrik GmbH for the judicial and extra-judicial costs of a particular action pursuant to Section 771 German Code of Civil Procedure (ZPO), the customer shall be liable for the loss incurred by August Berger Metallwarenfabrik GmbH.
- 7.4.** The customer shall be entitled to resell the contract's subject matter in the ordinary course of business; however, he hereby assigns to August Berger Metallwarenfabrik GmbH all claims in the amount of the final invoice amount (including VAT) of the claim of August Berger Metallwarenfabrik GmbH which accrue to him from the resale against his customers or third parties, irrespective of whether the contract's subject matter has been resold without (or after) processing. The customer shall remain authorised to collect this claim even after the assignment. The authorisation of August Berger Metallwarenfabrik GmbH to collect the claim itself shall hereby remain unaffected by this. However, August Berger Metallwarenfabrik GmbH hereby undertakes not to collect the claim as long as the customer fulfils his payment obligations from the agreed proceeds, is not in default of payment and, in particular, no petition for the opening of insolvency proceedings has been filed or payment has been suspended. Should this, however, be the case, August Berger Metallwarenfabrik GmbH may demand that the customer informs August Berger Metallwarenfabrik GmbH of the assigned claims and their debtors, provides all information necessary for collection, hands over the relevant documents and informs the debtors (third parties) of the assignment.

- 7.5.** The processing or transformation of the contract's subject matter by the customer shall always be performed on behalf of August Berger Metallwarenfabrik GmbH. Should the contract's subject matter be processed with other items not belonging to August Berger Metallwarenfabrik GmbH, August Berger Metallwarenfabrik GmbH shall acquire co-ownership of the new item in the proportional share of the value of the contract's subject matter (final invoice amount, including VAT) to the other processed items at the time of processing. In all other respects, the same shall apply to the item created by processing as to the contractual item delivered under reservation of title.
- 7.6.** Should the contract's subject matter be inseparably mixed with other items not belonging to August Berger Metallwarenfabrik GmbH, August Berger Metallwarenfabrik GmbH shall acquire co-ownership of the new item in the proportional share of the value of the contract's subject matter (final invoice amount, including VAT) to the other mixed items at the time of mixing. If said mixing takes place in such a way that the customer's item is to be regarded as the primary item, it is hereby agreed that the customer shall transfer proportionate co-ownership to August Berger Metallwarenfabrik GmbH. The customer shall hold the resulting sole ownership or co-ownership for August Berger Metallwarenfabrik GmbH.
- 7.7.** The customer shall also assign to August Berger Metallwarenfabrik GmbH the claims to secure the claims to which August Berger Metallwarenfabrik GmbH is entitled vis-a-vis the customer, which accrue to the customer against a third party through the connection of the contract's subject matter with a property.
- 7.8.** August Berger Metallwarenfabrik GmbH hereby undertakes to release the securities to which August Berger Metallwarenfabrik GmbH is entitled at the request of the customer to the extent that the securities' realisable value for August Berger Metallwarenfabrik GmbH exceeds the claims to be secured by more than 10%; August Berger Metallwarenfabrik GmbH shall be responsible for selecting the securities to be released.

8. Warranty, material defects

- 8.1.** The warranty period shall be one year from delivery or, if acceptance is required, from the point in time of acceptance. This period shall not apply to claims for damages by the customer arising from product liability, injury to life, limb or health or from intentional or grossly negligent breaches of duty by August Berger Metallwarenfabrik GmbH or its vicarious agents, which shall, in each case, become statute-barred in accordance with prevailing statutory provisions.
- 8.2.** The delivered contractual items must be carefully inspected immediately after delivery to the customer or to a third party designated by the customer. With regard to obvious (or other) defects that would have been recognisable during an immediate, careful inspection, they shall be deemed to have been approved by the customer if August Berger Metallwarenfabrik GmbH does not receive a written notification of defects within seven working days of delivery. With regard to other defects, the contractual items shall be deemed to have been approved by the customer if the notice of defects is not received by August Berger Metallwarenfabrik GmbH within seven working days of the time at which the defect became apparent; however, if the defect was already recognisable to the customer at an earlier time during normal use, this earlier time shall be decisive for the start of the notice period. At the request of August Berger Metallwarenfabrik GmbH, a rejected contractual item must be returned to August Berger Metallwarenfabrik GmbH, carriage paid. In the event of a justified complaint, August Berger Metallwarenfabrik GmbH shall reimburse the costs associated with the most favourable shipping route; this shall not apply if the costs increase due to the fact that the contract's subject matter is located at a place other than the place of intended use.
- 8.3.** If the contract's subject matter is defective, August Berger Metallwarenfabrik GmbH may initially determine whether to provide subsequent fulfilment by remedying the defect (subsequent improvement) or by delivering a defect-free item (replacement delivery). The right of August Berger Metallwarenfabrik GmbH to refuse subsequent fulfilment under prevailing statutory conditions shall remain unaffected. The place of subsequent fulfilment shall be the place of performance; August Berger Metallwarenfabrik GmbH shall also be free to provide subsequent fulfilment at the current location, provided that no legitimate interests of the customer conflict with this. The customer must provide August Berger Metallwarenfabrik GmbH with the time and opportunity required for the subsequent fulfilment owed, in particular, to hand over the contractual object subject to complaint, for inspection purposes. In the event of a replacement delivery, the customer shall return the defective item to August Berger Metallwarenfabrik GmbH in accordance with prevailing statutory provisions, unless otherwise agreed in individual cases. August Berger Metallwarenfabrik GmbH shall bear the expenses deemed necessary for the purpose of inspection and subsequent performance, in particular, transport, travel, labour and material costs, if a defect actually exists. If, however, a request by the customer to remedy a defect proves to be unjustified, August Berger Metallwarenfabrik GmbH may demand reimbursement of the costs incurred as a result from the customer. In the event of failure, i.e. impossibility,

unreasonableness, refusal or unreasonable delay in subsequent fulfilment, the customer may withdraw from the contract or reduce the purchase price appropriately. However, there shall be no right of cancellation for insignificant defects.

- 8.4.** If a defect is attributable to a fault on the part of August Berger Metallwarenfabrik GmbH, the customer may demand compensation under the conditions set out in Clause 10 of these General Terms and Conditions of Sale and Delivery.
- 8.5.** In the event of any defects in the services of other manufacturers which August Berger Metallwarenfabrik GmbH is unable to rectify due to licence-related or other factual reasons, August Berger Metallwarenfabrik GmbH shall – at its discretion – assert its warranty claims against the manufacturers and suppliers for the account of the customer or assign them to the customer. Warranty claims against August Berger Metallwarenfabrik GmbH shall only exist for such defects under the other conditions (and in accordance with) these General Terms and Conditions of Sale and Delivery if the legal enforcement of the aforementioned claims against the manufacturer and supplier was unsuccessful or is futile, for example, due to insolvency. For the duration of a legal dispute, the limitation period for the relevant warranty claims of the customer against August Berger Metallwarenfabrik GmbH shall be suspended.
- 8.6.** The warranty shall not apply if the customer modifies the contract's subject matter, or has it modified by a third party without the consent of August Berger Metallwarenfabrik GmbH and this renders it impossible (or unreasonably difficult) to remedy the defect. In any case, the customer shall bear the additional costs of remedying the defect resulting from the change.
- 8.7.** Any delivery of used items agreed with the customer in individual cases shall be made to the exclusion of any warranty for material defects.

9. Property rights

- 9.1.** August Berger Metallwarenfabrik GmbH hereby warrants in accordance with this Clause 9 that the contract's subject matter is free from industrial property rights of third parties in the country of the place of manufacture and the place of delivery. Property rights shall be understood here to include patents, utility models and registered designs, as well as designs, trademarks – including their respective applications – and copyrights. Each party shall immediately notify the other party in writing if claims are asserted against it due to the violation of such rights.

- 9.2.** In the event that the contract's subject matter infringes an industrial property right of a third party, August Berger Metallwarenfabrik GmbH shall – at its discretion and at its own expense – modify (or replace) the contract's subject matter in such a way that no rights of third parties are infringed, but the contract's subject matter continues to fulfil the contractually agreed functions, or procure the right of use for the customer by concluding a licence agreement. Should August Berger Metallwarenfabrik GmbH remain unsuccessful in doing so within a reasonable period of time, the customer shall be entitled to withdraw from the contract or to reduce the purchase price appropriately. Any claims for damages on the part of the customer shall be subject to the limitations of Clause 10 of these General Terms and Conditions of Sale and Delivery.
- 9.3.** In the event of any infringement of rights by products of other manufacturers supplied by August Berger Metallwarenfabrik GmbH, August Berger Metallwarenfabrik GmbH shall – at its own discretion – assert its claims against the manufacturers and upstream suppliers for the account of the customer or assign them to the customer. In such cases, any claims against August Berger Metallwarenfabrik GmbH shall only exist in accordance with this Clause 9 if the judicial enforcement of the aforementioned claims against the manufacturers and upstream suppliers was unsuccessful, or has no prospect of success, for example, due to insolvency.

10. Liability

- 10.1.** The liability of August Berger Metallwarenfabrik GmbH for damages, irrespective of the legal grounds – in particular, due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and unauthorised action – shall be limited in accordance with this Clause 10, insofar as fault is involved in each case.
- 10.2.** To the extent that August Berger Metallwarenfabrik GmbH is deemed liable for any damages, this liability shall be limited to damages which August Berger Metallwarenfabrik GmbH foresaw as a potential consequence of a breach of contract at the time the contract was concluded, or which August Berger Metallwarenfabrik GmbH should have foreseen, had it exercised due care. Indirect damage and consequential damage resulting from defects in the delivery item shall also only be eligible for compensation if such damage is typically to be expected when the delivery item is used as intended.
- 10.3.** In the event of liability attributable to simple negligence, August Berger Metallwarenfabrik GmbH's obligation to pay compensation for property damage and any further financial losses resulting therefrom shall be limited to an amount of EUR 5.0 million in the event of damage, even if this involves a breach of material contractual obligations.

- 10.4.** The above exclusions and limitations of liability shall apply to the same extent in favour of the executive bodies, legal representatives, employees and other vicarious agents of August Berger Metallwarenfabrik GmbH.
- 10.5.** To the extent that August Berger Metallwarenfabrik GmbH provides technical information (or acts in an advisory capacity), and this information or advice is not part of the contractually agreed scope of services owed by August Berger Metallwarenfabrik GmbH, this shall be provided free of charge and to the exclusion of any liability.
- 10.6.** The limitations of this Clause 10 shall not apply to liability for wilful conduct, for guaranteed characteristics, for injury to life, limb or health or under the German Product Liability Act (ProdhG).
- 10.7** The customer may only withdraw from (or cancel) the contract due to a breach of duty that does not consist of a defect if August Berger Metallwarenfabrik GmbH is deemed responsible for the breach of duty. A free right of cancellation of the customer (in particular, in accordance with Section 650, 648 German Commercial Code [BGB]) is hereby excluded. In all other respects, the statutory requirements and legal consequences shall apply.

11. Compensation for futile expenditure

Claims of the customer for reimbursement of futile expenses in accordance with Section 284 German Commercial Code (BGB) are hereby excluded.

12. Intellectual property

Should inventions be made by August Berger Metallwarenfabrik GmbH within the scope of the business relationship with the customer, August Berger Metallwarenfabrik GmbH shall be entitled to the sole utilisation of the rights derivable therefrom, in particular, of patents.

13. Liability for conflict and hazardous substances

August Berger Metallwarenfabrik GmbH endeavours to keep all contractual items manufactured by August Berger Metallwarenfabrik GmbH free from conflict minerals within the meaning of the current version of the Dodd-Frank Act (tantalum, tin, gold and tungsten from the DR Congo or its neighbouring countries), as well as from hazardous substances in impermissible concentrations (e.g. in accordance with the Electrical Substances Ordinance). It is, therefore, the stated aim of August Berger Metallwarenfabrik GmbH to obligate the suppliers of August Berger Metallwarenfabrik GmbH to ensure that the goods purchased from the suppliers of August Berger Metallwarenfabrik GmbH do not contain any of the above-mentioned conflict materials or hazardous substances in unauthorised concentrations. However, August Berger Metallwarenfabrik GmbH shall not accept any duty to indemnify or liability for the materials

used by suppliers of August Berger Metallwarenfabrik GmbH or their subcontractors, insofar as this is permissible.

14. Special instructions relating to: storage, contact with food, export regulations

- 14.1.** The customer is hereby expressly advised that the contract's subject matter must be stored professionally in protected warehouses under dry conditions. Failure to comply with this requirement may result in damage to the contractual items, for which August Berger Metallwarenfabrik GmbH shall not be responsible.
- 14.2.** The customer is hereby expressly advised that if the contract's subject matter is to be used for contact with foodstuffs, the customer must check the suitability of the material for the specific foodstuff in advance on his own responsibility.
- 14.3** When handling contractual products, the customer must comply with all statutory regulations and official requirements and provisions – including the laws of the country in which the customer does business. The customer shall obtain, in good time, all necessary authorisations and all other permits required for the use or export of the contractual products in accordance with all such applicable laws and shall provide August Berger Metallwarenfabrik GmbH with proof thereof upon request. August Berger Metallwarenfabrik GmbH shall be entitled to withhold delivery to the customer until the customer has provided the requested evidence. The same shall apply if August Berger Metallwarenfabrik becomes aware that the customer would violate such applicable laws, or that not all necessary authorisations are available, and this is not due to the fault or responsibility of August Berger Metallwarenfabrik GmbH.

15. Compliance, Supplier Code of Conduct

- 15.1** August Berger Metallwarenfabrik GmbH fulfils the requirements stipulated by ethical and law-abiding behaviour in its own internal company processes. August Berger Metallwarenfabrik GmbH expects the same from its own suppliers, and hereby refers its own suppliers to the validity of the Supplier Code of Conduct of Ringmetall SE, which August Berger Metallwarenfabrik GmbH has undertaken to comply with, in all orders and order confirmations by referring to the General Terms and Conditions of Purchase of August Berger Metallwarenfabrik GmbH. In the General Terms and Conditions of Purchase of August Berger Metallwarenfabrik GmbH, the supplier shall be obligated to comply with the Supplier Code of Conduct of Ringmetall SE. The inclusion of the Supplier Code of Conduct described above is intended to ensure that the requirements for ethical and law-abiding behaviour are met, necessary duties of care are fulfilled, risk analyses are performed and risks can be identified within the company. The suppliers of August Berger Metallwarenfabrik GmbH shall also be obligated as per the August Berger Metallwarenfabrik GmbH Terms and Conditions of Purchase to report violations of the requirements set out in the Supplier Code of Conduct of Ringmetall SE to August Berger Metallwarenfabrik GmbH, and are advised that any such violations may result in the

immediate termination of the business relationship, depending on the severity.

- 15.2** The customer hereby undertakes to comply with the requirements of the Supplier Code of Conduct of Ringmetall SE when handling the delivery items purchased from August Berger Metallwarenfabrik GmbH.
- 15.3** The current version of the Supplier Code of Conduct of Ringmetall SE is available for viewing at any time at www.berger.global and can also be sent to the customer upon request.

16. Miscellaneous

- 16.1.** Should individual provisions of these General Terms and Conditions of Sale and Delivery be or become invalid or ineffective in whole or in part, this shall not affect the validity of the remaining provisions. In such an instance, the parties shall be obligated to replace the void or ineffective provision with an effective provision that comes as close as possible to the economic purpose of the ineffective provision. The same shall apply in the event of a loophole in these General Terms and Conditions of Sale and Delivery.
- 16.2.** These business relations and all legal relations between August Berger Metallwarenfabrik GmbH and the customer shall be governed by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular, the UN Convention on Contracts for the International Sale of Goods (CISG). The conditions and effects of the retention of title in accordance with Clause 7 shall be subject to the law of the respective location of the contract's subject matter, insofar as the choice of law made in favour of German law is inadmissible or ineffective.
- 16.3.** If the customer is a merchant within the meaning of The German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the exclusive – including international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship shall be the registered office of August Berger Metallwarenfabrik GmbH in Berg/Pfalz. However, August Berger Metallwarenfabrik GmbH shall also be entitled to bring legal action at the customer's general place of jurisdiction.