

GENERAL TERMS AND CONDITIONS

PLÜMAT Maschinenbau Vertriebsgesellschaft mbH

Dr.-Max-Igner-Str. 19, D - 32339 Espelkamp,
Managing Directors:
Sven-David Plate, Frank Lübeck
Local Court Bad Oeynhausen - HRB 9354

I. Scope of these General Terms & Conditions

1. These General Terms & Conditions shall apply to all deliveries, services and offers made by PLÜMAT Maschinenbau Vertriebsgesellschaft mbH (hereinafter referred to as PLÜMAT) and all business relations with our business partners (hereinafter referred to as Customer). Purchasing contracts, contracts for the procurement of services, contracts for work and services, and contracts for work, labour and materials shall be covered. These General Terms & Conditions shall be agreed when the first order is placed by the Customer and shall continue to apply (as updated, if applicable) to all future orders even if no reference is made to their applicability. These General Terms & Conditions shall be deemed to have been agreed at the latest on receipt of our delivery or service.
2. These General Terms & Conditions shall apply to the exclusion of all others. We will not be deemed to accept any of the Customer's different terms by failing expressly to object to them. This will also apply when we make deliveries or render services in the knowledge of a Customer's different terms. We hereby object to any counter-confirmations by Customers with reference to their different terms.
3. The written contracts with Customers set out the entire agreement with PLÜMAT relating to the performance of the relevant contract.

II. Offer and acceptance of a contract

1. Our offers are always subject to alteration and are not binding with respect to price, delivery times and execution. Technical specifications are subject to change at any time. Data from brochures, catalogues and information sheets are not binding unless we have expressly described them as binding. Illustrations, drawings and dimensions, and other technical data or specifications, merely describe the contract goods and do not constitute a guarantee of quality and durability.
2. We reserve the right to make changes to the services stated in brochures, catalogues, information sheets and other descriptions, in particular to dimensions, designs and shapes which do not affect contractual purpose, without the Customer being entitled to bring any claims in relation thereto. PLÜMAT in particular reserves the right to make changes to the design at any time but is not obliged to make such changes to products and machinery which have already been delivered.
3. The contract is accepted by PLÜMAT's confirmation of the order. Our written order confirmation shall govern the type and scope of deliveries and performances. If no confirmation of order is given, the delivery or performance or the delivery note issued by PLÜMAT (as applicable), shall be deemed to be the order confirmation.

III. Prices

1. Unless the order confirmation states anything to the contrary, our prices are for delivery *ex works* or, if applicable, *ex warehouse*, and do not include freight, packaging, unloading, payment of duty, insurance, assembly/installation/erection, other ancillary costs or value added tax applicable on the day of delivery. These items are listed separately on the invoice.
2. Unless expressly agreed to the contrary, installation work shall be charged on the basis of time spent and costs incurred, and invoiced according to our charges for installation valid at the time. The agreed charges are net and exclusive of value added tax applicable at the time.
3. The time worked and the work performed shall be acknowledged as having been received by the Customer upon presentation of

the relevant documentation by the installation engineer. On completion of the installation work, the Customer shall issue an acceptance confirmation to the installation engineer on a pre-printed form. We invoice for the installation once the work is completed. We may issue interim bills for longer jobs. Clearing balances are due and payable without deduction upon receipt of invoice. Payments may not be withheld because of, or set-off against, any counterclaims by the Customer disputed by us.

4. We are entitled to increase our prices proportionately if the costs of wages and/or materials increase after acceptance of contract. This does not apply within four (4) months after acceptance of contract or where a binding written fixed-price arrangement has been made.

IV. Estimates and cost limits

1. If the Customer asks PLÜMAT to prepare a written estimate, we shall be entitled to charge for the preparation work in accordance with our rates for installation work (clause III. 2.).
2. If installation work is carried out at a flat rate, the estimate is inclusive of all the work to be carried out as detailed on a separate specification. However, if for any reason the duration of the estimated installation work is extended or additional work is required to be carried out for which the Customer or one of the Customer's suppliers is responsible, and as a result the work of the installation personnel is interrupted or extended, waiting times, additional work times, all living expenses and additional travel costs incurred by the installation personnel shall be charged separately.
3. If the item to be repaired has to be reduced to its component parts and PLÜMAT has pointed this out before work commenced, a claim may only be made for restitution to the original state to the extent this is possible and if the costs are reimbursed by the Customer.
4. Where the Customer does not require an estimate but has instead set a cost limit and the repair cannot be carried out within this limit, PLÜMAT shall obtain the Customer's prior permission if the cost limit is expected to be exceeded by more than ten (10) percent.

V. Duty to inform

1. If the item to be repaired was not supplied by PLÜMAT, the Customer shall notify PLÜMAT of any existing industrial property rights with regard to this item. If PLÜMAT breaches the industrial property rights of third parties without intention or negligence, the Customer shall indemnify PLÜMAT against any claims made by such third parties.
2. If the item to be repaired is not the Customer's joint or sole property, the Customer shall inform PLÜMAT accordingly. In the business relationship between the Customer and PLÜMAT, the Customer shall have sole responsibility for payment, notwithstanding the underlying ownership. The Customer shall indemnify PLÜMAT against any claims arising therefrom.

VI. Customer's duty to cooperate

1. The Customer shall co-operate to the extent required for the installation work performed by PLÜMAT to commence and be carried out in accordance with the contract. The Customer shall support PLÜMAT at the Customer's own expense, in particular when taking the following preparatory measures which are to be carried out by the Customer:
 - 1.1. Clarification of the combination of the contract goods with existing accessories or third party machinery;
 - 1.2. Notification of desired specifications and special features of the machine location;
 - 1.3. Unpacking of the machine and machine parts and moving to the installation site;
 - 1.4. Provision of the materials to be filled and/or packed, and products and packaging materials, e.g. foils, bags, bottles, closures etc., in the quantities required by PLÜMAT before commencement of installation;
 - 1.5. Provision of printing documentation and printing copy for packaging, and consent to the execution documentation;

- 1.6. Provision of the required devices and tools and the required utilities and materials, in particular heating, lighting, electricity, water, compressed air, gas, vacuum pump, steam, cooling water etc., all with the appropriate connections;
 - 1.7. Provision of suitable assistant labour for repairs, commissioning or installation of the machine, to the extent requested by PLÜMAT;
 - 1.8. Provision of materials and performing of all other actions required for the running in of the delivered/repared machine and for conducting a trial run as stipulated in the contract;
 - 1.9. Provision of the future operating personnel of the delivered machine for training by PLÜMAT.
2. If the Customer does not meet its obligation to co-operate despite being requested to do so, PLÜMAT shall, after prior notification, be entitled to take any necessary measures on behalf of the Customer and at the Customer's expense.
 3. The Customer shall provide the technical documentation and its operating log and control logs and appropriate documentation required for carrying out the repair or installation.
 4. The Customer shall take all measures necessary for the protection of people and property at the workplace. The Customer shall inform PLÜMAT about existing safety and hygiene regulations insofar as these are important for carrying out the order.
 5. The Customer is not entitled to claim for damage to machines, or machine or installation parts, which has been caused by the Customer's personnel during the unpacking and moving of the machines, or machine or installation parts, to the installation site. PLÜMAT will not be liable for any such damage caused by the Customer or its agents or third parties.
 6. The Customer shall inspect delivered machines, machine parts, tools, packaging materials for processing and other contract goods immediately after delivery and shall forthwith report any defects or damage to PLÜMAT and the haulage contractor and carrier.

VII. Delivery and passing of risk

1. Delivery is made *ex works* on the Customer's account. The risk shall pass to the Customer when the delivered parts are loaded onto transport at PLÜMAT.
2. Delivery will be made at the Customer's risk even where carriage-free delivery or transport with our own means of transport has been agreed. Unless otherwise agreed, the forwarding route and means of transport shall be determined by PLÜMAT. The passing of risk to the Customer takes place when the contract goods are handed over to a haulage contractor or carrier by PLÜMAT, or when being loaded on to PLÜMAT's own vehicles for transportation to the Customer.
3. If dispatch is not possible through no fault of ours, particularly if it is delayed at the Customer's request or through the Customer's fault, the risk shall pass to the Customer upon notification of readiness for dispatch. If dispatch or acceptance of the goods to be delivered is delayed for reasons for which the Customer is responsible, PLÜMAT is entitled to charge the Customer for the costs incurred as a result of the delay starting one (1) month after notification of readiness for dispatch.
4. Delivery times or deadlines which may be agreed as binding or not binding must be in writing. The delivery time commences at the earliest with the dispatch of the order confirmation but not before the

customer has met all obligations for which it is responsible, e.g. the provision of documentation, permits, approvals and releases, and not before all commercial and technical queries have been clarified and the agreed down payment is received.

5. The delivery deadline shall be delayed for as long as the Customer fails to meet its contractual obligations in full. These include, amongst others and if no agreements to the contrary have been made, the timely provision of suitable samples for a trial run of the machine.
6. We will not be liable for delivery and performance delays due to force majeure or due to events which impede delivery or make delivery for PLÜMAT impossible, whether temporarily or permanently – these include strikes, lockouts, orders issued by the authorities etc, including those which occur at PLÜMAT's suppliers or subcontractors – even if deadlines and delivery times have been agreed as binding. Such events entitle us to postpone the delivery or performance, as applicable, for the period of the delay plus a reasonable start-up time, or to cancel the contract in full or in part.
7. PLÜMAT shall be entitled to make part deliveries or part performances and – insofar as this is notified in advance – to make early deliveries. If the Customer is in default in the performance of any duty to co-operate (see clause VI.1) or has not accepted partial delivery, PLÜMAT shall be entitled – after the expiry of a two (2) week extension period – to take any measures which may be necessary and practicable and to store or dispatch the contract goods at the Customer's expense and risk, or to withdraw from the overall agreement or parts thereof and to claim damages instead of continuing to perform the entire contract or parts thereof. PLÜMAT's right to sell the goods will not be affected.
8. The fulfilment of the delivery and performance obligations by PLÜMAT requires the timely and proper fulfilment of all the Customer's obligations. Furthermore, meeting the delivery deadline is subject to correct and timely deliveries being received by PLÜMAT. PLÜMAT shall notify the Customer of any foreseeable delay as soon as possible.
9. If the Customer fails to accept the contract goods, PLÜMAT shall be entitled to claim compensation for the resulting loss. Upon failure to accept, the risk of accidental deterioration and accidental loss shall pass to the Customer. This shall also apply in the case of unjustified refusal to take delivery.

VIII. Acceptance

1. The Customer is obliged, at PLÜMAT's request, to accept the contract goods at PLÜMAT's production facilities prior to delivery and to produce an acceptance report. PLÜMAT shall agree to any product tests requested by the Customer at its own expense for this purpose.
2. PLÜMAT may set a reasonable deadline of two (2) weeks for the acceptance. If the contract goods are not accepted within this period, PLÜMAT shall be entitled to cancel the contract or to claim compensation for non-performance, notwithstanding PLÜMAT's right to require performance of the contract. In any event and without providing evidence of the loss actually suffered, and notwithstanding the possibility of claiming higher actual damages, PLÜMAT shall be entitled to claim liquidated damages

of 70 percent of the net order value in the case of standardised small machinery and of 100 percent in the case of other machines and tools. The Customer is entitled to prove no or smaller damages.

3. If acceptance is agreed or imperative, PLÜMAT shall be entitled to demand acceptance if material defects are no longer present and fitness for service and operationability are guaranteed. Substantial defects are defects which call into question or considerably impair fitness for purpose. In such event, PLÜMAT shall suggest to the Customer several possible acceptance dates. The suggestion must be sent to the Customer at the latest one (1) week prior to the dates proposed. If none of the suggested acceptance dates is accepted by the Customer at least two (2) days prior to such date and if the Customer in turn does not suggest any other date within two (2) weeks following receipt of the proposed dates from PLÜMAT, the acceptance shall be deemed to have taken place.

IX. Delay, impossibility, force majeure

1. If PLÜMAT is in default of its delivery obligations, the Customer may demand compensation for each week of default of 0.5 percent of the value of that part of the total delivery which due to impossibility or delay cannot be used at all or cannot be used in time as stipulated in the contract, subject to a maximum of 5 percent of such value. These damages may be lower or higher if PLÜMAT proves lower damages or the Customer proves higher damages.
2. Notwithstanding the right of cancellation of the contract in case of defects, the Customer shall only be entitled to avail itself of the right of rescission in the case of impossibility of performance or delay if PLÜMAT is in breach of its obligations.
3. In the case of delay, the remedies of rescission or damages require that the Customer has given PLÜMAT a reasonable period of notice of at least four (4) weeks in writing, expressly stating that the Customer will cancel the contract and/or claim damages. The fixing of a time limit is unnecessary if PLÜMAT seriously or finally refuses to perform the service as specified in the contract or in the case of special circumstances which, after considering the mutual interests of both parties, justify immediate cancellation. The Customer is obliged, after the above deadline has passed, at PLÜMAT's request to state whether the Customer continues to insist on the performance or claims damages or cancels the contract. If the Customer does not make such a statement within the reasonable time limit set by PLÜMAT, the Customer will not be entitled to refuse to take delivery and will not be able to assert the rights mentioned above.
4. The Customer may not cancel the contract before the due date of performance or when PLÜMAT commits a non-material breach of obligations. Furthermore, no cancellation is allowed if the Customer, solely or primarily, is responsible for the circumstances giving rise to a cancellation or if circumstances arise during the delay in accepting delivery by the Customer for which PLÜMAT is not responsible.
5. If delays in delivery or performance occur due to force majeure or due to events which impede delivery or make delivery for PLÜMAT impossible without PLÜMAT being responsible for such events, e.g. subsequent unforeseeable difficulties in procuring materials, breaks in production, strikes, lockouts, shortage of personnel, shortage of means of transport, commercial directives etc., including those which occur at PLÜMAT's suppliers or their subcontractors, PLÜMAT shall be entitled to postpone the delivery and/or performance for the duration of the delay plus a reasonable start-up time or to cancel the contract wholly or in part in respect of the part of the contract not yet performed. If the delay lasts more than three (3) months the Customer shall be entitled, after setting a reasonable deadline, to cancel the contract with regard to the part of the contract not yet performed and, to the exclusion of any further rights, to

demand the return of any part payments that may have been made. In the case of part delivery, the Customer may only cancel the contract if the part performance is of no commercial benefit to the Customer.

6. The Customer may cancel the contract without notice if PLÜMAT makes the entire performance impossible before the risk is passed. The Customer can furthermore cancel the contract if part delivery becomes impossible at the time the order is placed or if the Customer has a justifiable interest in refusing to accept the part delivery. If this is not the case, the Customer shall pay the contract price due for the part delivery. The same applies in the case of a supplier's inability to comply. If the impossibility or inability to comply arises during the delay in acceptance or if the Customer is solely or largely responsible for the prevailing circumstances, the Customer shall continue to be responsible for non-performance.

X. Terms of payment

1. In the absence of any other express agreement, payments shall be made after invoicing without deduction for the account of PLÜMAT in accordance with the following:
 - 1.1. 40 percent down payment upon receipt of the order confirmation
 - 1.2. 50 percent on notification of readiness for dispatch
 - 1.3. 10 percent no later than thirty (30) days after passing of risk unless the order confirmation stipulates other payment terms.
2. Installation work and services and deliveries of spare parts are due for payment upon receipt of the invoice by the Customer.
3. We only accept bills of exchange and cheques as conditional payments and we reserve all rights in relation thereto and do not guarantee timely presentation. Payment shall be deemed to have been made only when we are in possession of the funds. In the case of payments by cheque, payment is deemed to have been made once the cheque is cashed and credited.
4. An agreement may be made between PLÜMAT and the Customer to the effect that the Customer shall have to open a letter of credit at its own expense at a bank accepted by PLÜMAT. In this case it is agreed that the opening of the letter of credit is made in accordance with ERA (Revision 1993, ICC Publ no 600).

If the Customer does not meet its payment obligations on the day they are due, PLÜMAT may – without waiving any rights or giving up any claims it may be entitled to – at its discretion either cancel the contract or suspend temporarily any further deliveries and performances or charge interest on arrears in accordance with clause X. 7. until such time as full payment is made. It is the Customer's responsibility to prove that the delay in payment has resulted in no damage or less damage.
5. PLÜMAT is entitled, notwithstanding any stipulations by the Customer to the contrary, to count payments initially towards the Customer's older debts, i.e. first towards costs incurred, then towards interest and finally towards the principal amount.
6. The Customer shall only be entitled to set-off – even if complaints or counterclaims are made – if such counterclaims are finally adjudicated and recognized, have been accepted by PLÜMAT or are undisputed. The Customer is only entitled to a lien insofar as the Customer's counterclaims are accepted by PLÜMAT or have been finally adjudicated and recognized and insofar as the counterclaims are based on the same contractual relationship.
7. The Customer is in breach of its obligation to pay after a demand for payment is sent by PLÜMAT. A demand for payment is not required if a specific date has been set for payment or if payment is to be made after the occurrence of an event within a particular period of time. However, the Customer shall be in breach even without a demand for payment no later than thirty (30) days after receipt of invoice or, if the date of receipt of the invoice cannot be established, thirty (30)

days after receipt of the delivered goods. Once the Customer is in breach, PLÜMAT is entitled to charge interest on amounts owing at 8 percentage points above the bank rate. This does not affect any other claims for compensation for delayed performance by PLÜMAT.

8. At year end PLÜMAT may notify the Customer of outstanding amounts from the current year. Objections because of inaccuracies or incompleteness of this notification must be raised by the Customer no later than four (4) weeks after receipt of the notification. Failure to object in time is deemed to constitute approval of the notification of confirmation of amounts due and payable.
 9. If a substantial deterioration in the financial circumstances of the Customer becomes known or if the Customer falls into arrears, PLÜMAT shall be entitled to demand immediate payment for any machines, tools or packaging materials already produced but not yet delivered and of any invoices not yet due. PLÜMAT is furthermore entitled to cease delivery of packaging material or make it dependent on the provision of security or prepayments.
7. Any claims by the Customer for compensation or damages which arise after delivery of the packaging material shall be excluded; this applies in particular to any claims for loss of profit or production loss irrespective of the legal grounds of such claims.
 8. The Customer alone is responsible for the printing (text and design), colour and shape of the packaging material. The Customer shall indemnify PLÜMAT against any claims of whatever nature arising from the use of any drawings, imprinting/overprinting, labels and brands which the Customer causes to be affixed to the packaging material. PLÜMAT shall retain ownership of any hectographs, printing plates, film copy, block matrices, blocking/stamping types, punching tools and outlines, printing cylinders, form tools and similar items. The period of storage for third party printing documentation and other items provided ends twelve (12) months after delivery of the last order produced with these items.
 9. PLÜMAT is entitled to affix to the packaging material a company text, its company logo or a factory code by arrangement with the Customer in accordance with the relevant rules and regulations.

XI. Packaging material for packaging machines

1. To the extent that PLÜMAT is requested so to do, it will deliver the required packaging material for the normal operation and optimal use of the packaging system. The Customer undertakes to use only original packaging material for the production of packaging which has been produced by either PLÜMAT or an authorized licensee or is labelled with the PLÜMAT mark and brand.
2. Packaging material is supplied at the prices prevailing at the time of acceptance of the order.
3. The Customer shall order deliveries of packaging material no later than twelve (12) weeks prior to the required delivery date. Adherence to the agreed delivery date requires that the Customer will discharge its duty to co-operate (provision of printing copy and documentation and agreement to and passing of the documentation for production) on time.
4. The order shall be executed in merchantable quality in accordance with current market practices and within the bounds of the tolerances that are technically necessary and caused by the process.
5. The delivered packaging material shall be inspected by the Customer immediately upon arrival at the destination. The inspection shall extend to all properties which are required and essential for the use of the packaging material. The customer shall make a written complaint about obvious defects immediately after detection but in any case no later than one (1) week after receipt of the defect material. Hidden defects shall be notified to PLÜMAT within one (1) week upon being discovered but in any event no later than six (6) months after delivery. Defects of part of the consignment do not allow the entire consignment to be rejected if it is reasonably possible to separate the non-defective and the defective packaging material or the packaging already filled. It is only possible to require the exchange of the defective packaging material for packaging material which is free from defects by way of subsequent performance. No other claims will be entertained. PLÜMAT does not guarantee that the delivered packaging material is suitable for anything other than the expressly agreed purposes. Any liability for defects is subject to the Customer meticulously observing all current instructions for the use of the packaging material, in particular with regard to hygienic treatment and proper storage.
6. The expert and specialist processing of the products to be filled, the sterility or pasteurisation and the careful packaging of the products is the Customer's responsibility alone. It is the Customer's duty to ensure that local regulations pertaining to the correct filling of the products are adhered to and that regular spot checks are carried out.

XII. Reservation of ownership

1. PLÜMAT reserves ownership in the contract goods delivered until all payments from the Customer have been received including all unpaid invoices.
2. Unless anything is agreed to the contrary, PLÜMAT shall remain the owner of the tools produced for a particular Customer. These tools will be used only for the Customer's contracts as long as the Customer meets its payment and purchase commitments. PLÜMAT's storage obligation ceases two (2) years after the final delivery from the tool. PLÜMAT shall notify the Customer prior to any destruction, reworking/conversion/alteration or other utilization of the tool.
3. If, on the basis of a separate written agreement, the Customer is to assume ownership of the tools, title shall only pass to the Customer after the purchase price for the tools has been paid in full. The tools may be stored by PLÜMAT instead of being transferred to the Customer. PLÜMAT is entitled to retain exclusive ownership and to use the tools for their intended purpose until a minimum number of products as agreed have been purchased and/or until a specified period of time has expired, irrespective of the Customer's legal claim for possession and irrespective of the life of the tools. PLÜMAT's responsibilities with regard to storage and care for the Customer's tools and/or tools lent by the Customer shall be limited to the level of care exercised in its own business. The costs of maintenance and insurance of the tools shall be paid for by the Customer. PLÜMAT's duty in this respect shall cease if the Customer does not collect the tools once the work is finished and after being requested to do so. PLÜMAT has a retaining lien over the tools until the Customer has met its contractual obligations in full.
4. PLÜMAT shall retain ownership of the delivered packaging material until it has been paid for in full. For current invoices the retaining lien serves to secure the outstanding balances owed to PLÜMAT. PLÜMAT acquires co-ownership in the packaging produced and filled by the Customer at the ratio of the invoice value of the delivered packaging material to the value of the filled packaging. If the filled packaging is sold on, the counterclaim for this delivery to a third party is deemed to have been assigned preferentially to PLÜMAT in accordance with the co-ownership ratio. If the value of the aforementioned security exceeds the total

claims against the Customer by more than 10 percent, PLÜMAT will, at the Customer's request, release such security at its sole discretion.

5. PLÜMAT shall furthermore remain the sole owner of all titles, proprietary rights and other industrial property rights in supplied samples, designs, programs, estimates, illustrations, sketches, drawings, offer information and documents of any type including those in electronic form. They shall not be made available to third parties without our prior written consent. This shall apply irrespective of whether or not we have marked them as confidential. They shall be surrendered immediately upon request and no retaining lien shall apply.
6. If the Customer has purchased the contract item for selling to third parties, the Customer is only entitled to dispose of the contract item as part of the Customer's ordinary course of business. Any other disposal is not permitted. The Customer will pre-assign to PLÜMAT any receivables due from the reselling and the business relationship with its buyers including secondary rights to the extent of the invoice value of the reserved goods. PLÜMAT is entitled to notify the Customer's buyers of the assignment of such debts at any time. The Customer shall forthwith inform PLÜMAT on request of the names and addresses of the buyers.
7. If the goods are processed or utilized by the Customer, such processing/utilization shall be deemed to be done on behalf of PLÜMAT. PLÜMAT is thus deemed to be the manufacturer for the purposes of section 950 German Civil Code and assumes ownership of the intermediate product or final product. If the processing is done with items which do not belong to the Customer, PLÜMAT shall acquire co-ownership of the new items at the ratio of the value of the goods delivered by PLÜMAT to the value of the third party goods at the time of processing.
8. The Customer shall neither pledge the delivered item nor transfer ownership by way of security in it. The Customer shall inform PLÜMAT immediately of any levying of execution, seizure or other disposal by third parties and shall separate the goods. If PLÜMAT suffers any loss due to the failure to notify or due to late notification or separation, the Customer shall be liable to pay compensation. An application for bankruptcy proceedings on the Customer's assets entitles PLÜMAT to cancel the contract and to demand the surrender of the delivered contract goods insofar as there are any unpaid debts.
9. If the Customer is in breach of contract, in particular in the case of undue delay in payment, PLÜMAT shall be entitled to take back the goods after issuing a reminder and the Customer shall be obliged to hand over the goods. The assertion of retention of title and the seizure of the delivered items by the supplier by way of execution are not deemed to be a cancellation of the contract.
10. All contract goods which are subject to retention of title shall be insured by the Customer at the Customer's expense, in particular against fire and theft. All claims against the relevant insurer in respect of the goods and materials which are subject to retention of title are hereby assigned to PLÜMAT. PLÜMAT hereby accepts this assignment.

XIII. Warranty claims and compensation

1. The Customer shall be obliged to check the delivered goods immediately for any obvious defects which would be apparent to an average customer. Obvious defects include lack of manuals and substantial, easily visible damage, the delivery of a different item or insufficient quantities. The Customer shall make a written complaint about such obvious defects straightaway. The Customer shall only be entitled to make warranty claims if it has fulfilled its obligations in respect of the duty to inspect and complain in accordance with section 377 German Commercial Code. Failure to inspect and

complain is deemed to be an acceptance of the relevant defect.

Defects which only become apparent later shall also be notified to PLÜMAT within one (1) week following detection by the Customer and no later than six (6) months after delivery.

2. In the event of defects PLÜMAT, at its own discretion and assuming that the complaint was made within the specified time, will either make good the defect (repair) or supply a replacement, if the Customer proves that the defect was already present when risk passed.
3. If it is not possible to rectify the defect after either two attempts at repair or one replacement delivery and in the event that PLÜMAT unjustifiably refuses to perform the required repair or deliver the replacement, or delays the repair or the delivery of the replacement item unreasonably, or if the Customer cannot reasonably be expected to agree to a repair for other reasons and if the conditions of section 280 subsection 2 German Civil Code or section 323 subsection 2 German Civil Code apply, the Customer, instead of repair or replacement, may avail itself of the statutory legal remedies for cancellation and diminution of the purchase price due to defect as well as damages and claims for reimbursement of expenses in accordance with the conditions set out below (clause XIV).
4. In the case of third party products, our liability for defects is limited to the assignment of claims which PLÜMAT makes against the supplier of the third party products. In the event that the Customer can not assert its rights with regard to the defects against the supplier, PLÜMAT shall assume responsibility to the extent stipulated in these General Terms & Conditions.
5. The Customer shall allow PLÜMAT the required time and opportunity to effect repairs or replacements. PLÜMAT will not be required to make the subsequent repair or replacement delivery requested by the Customer if this entails unreasonable costs. Costs shall be deemed to be unreasonable if they exceed 25 percent of the price of the delivered item. Any parts replaced under warranty shall become PLÜMAT's property.
6. If the contract item was subsequently taken to a location other than the Customer's branch office with a resulting increase in the cost, in particular transport, travel, labour and material costs, of the repair or replacement delivery, the Customer shall not be reimbursed for such increased costs unless the transportation to another location is in accordance with the agreed use of the contract item.
7. If the complaint was made without justification, PLÜMAT shall be entitled to demand reimbursement of costs from the Customer.
8. PLÜMAT will not be responsible for any non-material deviation from the agreed quality or for non-material impairment of usability or for damage arising for the following reasons:
 - 8.1. unsuitable and improper use;
 - 8.2. faulty assembly/installation or, if applicable, incorrect commissioning by the Customer or third parties;
 - 8.3. non-compliance with the PLÜMAT operating or service/maintenance instructions;
 - 8.4. alterations to products or parts thereof by the Customer or third parties;
 - 8.5. natural wear and tear;
 - 8.6. incorrect or careless treatment, in particular excessive stress;
 - 8.7. unsuitable production equipment and facilities;
 - 8.8. replacement materials;
 - 8.9. poor and inadequate building work or unsuitable building site;
 - 8.10. chemical or electrical influences;
 insofar as such reasons are not caused by PLÜMAT, in which event PLÜMAT shall be responsible for intentional or gross negligence only.

9. If the Customer or a third party remedies defects improperly, PLÜMAT will not be liable for any consequential loss. The same applies in the event of changes made without PLÜMAT's prior consent to the delivered contract item.
10. The Customer's claims under the warranty become statute-barred one (1) year after delivery of the contract item unless PLÜMAT was guilty of malicious nondisclosure in which case the statutory provisions shall apply.
11. We are obliged in accordance with statutory provisions to take back defective products or, if appropriate, reduce the purchase price without the fixing of a time limit that would otherwise be required if the Customer's buyer, as a purchaser of consumer goods, due to the defective nature of the product was able to demand that the Customer take back the product or reduce the purchase price or the Customer is faced with a similar claim under a resultant right of recourse. We are furthermore obliged to reimburse costs, in particular transport, travel, labour and material costs, which the Customer had to pay in relation to the end user as part of the subsequent performance due to any defect in the product which was present at the time of the passing of risk from us to the Customer. This claim shall be rejected if the Customer did not fulfil its duties to inspect and complain under section 377 German Commercial Code.
12. The obligation under subclause 11 above will not apply if the defect is due to advertising claims or other contractual agreements which do not originate with us or if the Customer has given a special guarantee to the end user. The obligation shall also not apply if the Customer, due to statutory provisions, is not obliged to exercise the warranty rights towards the end user or if it did not make the relevant complaint at the time of implementation. This shall also apply in cases where the Customer has assumed warranties towards the end user which exceed the statutory requirements.
13. Personal liability of PLÜMAT's legal representatives, vicarious agents and employees for damage caused by them as a result of ordinary negligence shall be excluded.

XIV. Damages

1. Unless anything is agreed to the contrary in these General Terms & Conditions, all claims for damages of any kind by the Customer including reimbursement of expenses and indirect damage are excluded, in particular those arising from any breaches of duty, breaches of obligations and from wrongful acts. The exemption from liability shall also apply if PLÜMAT has used contractors for which the employer is not vicariously liable.
2. In such cases, PLÜMAT shall only be liable if its executives or vicarious agents have culpably breached fundamental contractual obligations and as a result the purpose of the agreement as a whole is put at risk.
3. We will not be liable for ordinarily negligent breaches of duty if these do not relate to fundamental contractual obligations, damages resulting from loss of life, injury to body or health, or guarantees or claims under the product liability act. The same applies to any breaches of duty by our vicarious agents.
4. We will only be liable if fundamental contractual obligations are breached and our liability will be limited to the damage reasonably foreseeable at the time the contract was concluded. If such fundamental contractual duties are breached, PLÜMAT's liability shall be limited in the case of ordinary negligence to the total order value. If in the latter case the total order value

does not cover the reasonably foreseeable damage, PLÜMAT's liability shall be limited to the amount of the reasonably foreseeable damage.

5. The exclusion of liability does not apply in the case of loss of life and injury to body or health. Insofar as the damage is covered by an insurance policy taken out by the Customer or the injured party for the damaging event, PLÜMAT shall only be liable for any of the Customer's losses, e.g. interest, until the claim is met by the insurance company.
6. Contractual liability and liability for damage arising from wrongful acts not as a result of intentional or gross negligence and not in connection with loss of life or injury to body and health is limited to a total of 2.5 million euros for personal injury and/or damage to property and to 50,000 euros for pecuniary loss.

XV. Provision of security

1. If circumstances become known to us after the acceptance of the contract which substantially reduce the Customer's creditworthiness or if reasonable doubts arise as to the Customer's ability to pay or if the Customer has provided incorrect information about its financial situation and as a result the Customer's meeting of obligations towards PLÜMAT is put at risk or the Customer does not meet the agreed payment deadlines, all debts from the Customer shall immediately become due and payable on written notice from PLÜMAT. In such cases, PLÜMAT is entitled to request the provision of or increase in security within a reasonable period of time or to cancel the contract.
2. Provided that PLÜMAT retains ownership due to reservation of title (clause XII.), PLÜMAT may, instead of the surrender of the delivered contract item, demand the assignment of all claims by the Customer against third parties in relation to the items subject to the reservation of title.
3. PLÜMAT is entitled, in the case of a justifiable claim requesting the surrender of the delivered contract item, to dispose of it in the best possible way by private sale for the account and risk of the Customer. The proceeds from the disposal less reasonable disposal costs will be set-off against the Customer's debts.

XVI. Applicable law, place of jurisdiction, separability

1. The law of the Federal Republic of Germany shall apply to these General Terms & Conditions and the entire legal relations between PLÜMAT and the Customer. We herewith expressly object to the UN Convention on the International Sale of Goods (CISG).
2. Insofar as the Customer is a businessman, legal entity of public law or public separate estate, PLÜMAT's place of business shall be the sole and exclusive place of jurisdiction for any disputes arising directly or indirectly from the contractual relationship. The plaintiff shall be entitled to take legal action at the defendant's place of business.
3. If any provision in these General Terms & Conditions or a provision in any other related agreement is or becomes invalid, the other provisions or agreements shall continue in full force and effect.
4. This document is a translation of an original German text. In the case of any ambiguity, inconsistency, conflict or dispute, the provisions of the original German text shall take precedence.

Updated: January 2009