

# GENERAL TERMS AND CONDITIONS OF PURCHASE

of botek Präzisionsbohrtechnik GmbH



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## **§ 1 General – Scope of application**

- (1) These General Terms and Conditions of Purchase (hereinafter referred to as "GTCP") shall apply to all business relations with our business partners and suppliers (hereinafter referred to as "Seller"). The GTCP shall only apply if the Seller is an entrepreneur (§ 14 BGB), a legal entity under public law or a special fund under public law.
- (2) The GTCP apply in particular to contracts for the sale and/or delivery of movable goods (hereinafter also referred to as "goods"), regardless of whether the Seller manufactures the goods itself or purchases them from suppliers (§§ 433, 651 BGB). These GTCP also apply to the provision of work and services.
- (3) The GTCP shall also apply to future contracts with the same Seller without botek having to refer to them again in each individual case.
- (4) These GTCP shall apply exclusively. We expressly object to the inclusion of the Seller's general terms and conditions. They shall therefore only become part of the contract if and to the extent that we have expressly agreed to their inclusion in writing. This consent requirement shall apply in any case, for example even if we accept the Seller's deliveries without reservation or make (purchase price) payments to the Seller with knowledge of the Seller's General Terms and Conditions.

## **§ 2 Conclusion of Contract – Force Majeure**

- (1) Our order shall only be binding if it is placed by the Purchasing Department in writing or confirmed in writing. The Seller must point out obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents to us for the purpose of correction or completion before acceptance; otherwise the contract shall be deemed not to have been concluded.
- (2) The Seller is required to confirm our order in writing within a period of 5 days (acceptance). Only with this order confirmation does the delivery contract come into effect. Until acceptance of the offer, we are entitled to revoke it, unless our orders are expressly designated as binding. A delayed acceptance shall be deemed to be a new offer and shall require express acceptance by us. Receipt of the confirmation by us shall be decisive for timely acceptance. Delivery call-offs become binding if the Seller does not object within five working days of receipt.
- (3) Cost estimates and quotations of the Seller are binding and are not to be remunerated unless expressly agreed otherwise.
- (4) We are entitled to terminate the contract at any time by written declaration stating the reason if we can no longer use the ordered products in our business operations due to circumstances occurring after conclusion of the contract. In this case, we shall compensate the Seller for the partial performance rendered by him.
- (5) Force majeure, in particular labour disputes, operational disruptions for which we are not responsible, riots, natural disasters, pandemics and epidemics, official measures and other events that we cannot avoid shall entitle us – without prejudice to our other rights – to withdraw from the contract in whole or in part if the state of force majeure lasts longer than 6 weeks. In the event of force majeure, the assertion of claims for damages by the supplier is excluded.

### **§ 3 Delivery time and delay in delivery – Contractual penalty**

- (1) The delivery date specified by us in the order is binding for the Seller. If the delivery date is not specified in the order and has not been agreed otherwise, the Seller shall deliver within 2 weeks from the conclusion of the contract in accordance with § 2 para. 2 GTCP. The receipt of the goods at the place of delivery named by us shall be decisive for compliance with the delivery date or the delivery period.
- (2) The Seller is obliged to inform us immediately in writing if he is unlikely to be able to meet agreed delivery times – for whatever reason.
- (3) The assertion of claims for damages caused by delay shall not be excluded hereby any more than by a later acceptance of the delayed delivery or service.
- (4) If the Seller is in default, we may demand a contractual penalty of 0.5% of the net price per calendar week commenced, but in total not more than 5% of the net price of the goods delivered late. We are entitled to demand the contractual penalty in addition to performance and as a minimum amount of damages owed by the Seller according to the statutory provisions; the assertion of further damages remains unaffected. The Seller may prove a lesser damage.

### **§ 4 Performance by Third-party services – Delivery – Transfer of risk – Default of acceptance**

- (1) The Seller shall not be entitled to have the performance owed by it rendered by third parties (e.g. subcontractors) without our prior written consent. The Seller shall bear the procurement risk for its services unless otherwise agreed in individual cases.
- (2) Delivery shall be made within Germany DAP (INCOTERMS 2020) to the place specified in the order. If the place of destination is not specified and nothing else has been agreed, the delivery shall be made to our place of business in Riederich (DAP Riederich INCOTERMS 2020). The respective place of destination is also the place of performance (obligation to deliver).
- (3) A delivery note stating the date (issue and dispatch), the content of the delivery (article number and quantity) and our order ID (date and number) must accompany the delivery. If the delivery note is missing or incomplete, we shall not be responsible for any resulting delays in processing and payment.
- (4) Partial deliveries are only permissible with our written consent. In the case of such deliveries, the remaining quantity must be stated in the delivery note. Partial deliveries accepted by us without objection but not requested in writing may not be invoiced separately, but only together with the remaining delivery. Partial deliveries shall be clearly marked as partial deliveries on the delivery note. In the event of unjustified partial deliveries, the Seller shall bear the costs of the subsequent deliveries.
- (5) The risk of accidental loss and accidental deterioration of the item shall pass to us upon handover at the place of performance (cf. § 4 para. 2). Insofar as an inspection and approval has been agreed, this shall be decisive for the transfer of risk. Otherwise, § 640 BGB shall apply accordingly in the event of acceptance. Handover or acceptance shall be deemed equivalent if we are in default of acceptance.
- (6) The statutory provisions shall apply to the occurrence of our default in acceptance. However, the Seller must also expressly offer us his performance if a specific or determinable calendar time has been agreed for an action or cooperation on our part (e.g. provision of material). If we are in default of acceptance, the Seller may demand compensation for his additional expenses in accordance with the statutory provisions (§ 304 BGB). If the contract relates to a non-representable item to be manufactured by the Seller (individual production), the Seller shall only be entitled to further rights if we have undertaken to cooperate and are responsible for the failure to cooperate.

## **§ 5 Prices – Terms of payment**

- (1) The price stated in the order is binding. All prices are exclusive of the statutory value added tax applicable at the time of performance.
- (2) Unless otherwise agreed in the individual case, the price includes all services and ancillary services of the Seller (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance).
- (3) In the interest of environmental protection and the conservation of natural resources, invoices should preferably be sent electronically by e-mail to [lieferant@botek.de](mailto:lieferant@botek.de) with all associated documents and data after delivery has taken place and independently of this. If it is not possible to send the invoice electronically, it must be sent to the invoice address stated in the order together with all the relevant documents and data. The invoice must contain our part designation, the number of the packaging units, the number of items invoiced, gross and net weights, the date of the order, the applicable customs tariff number and our order number. Insofar as certificates on material tests have been agreed, these shall form an essential part of the delivery and shall be sent to us together with the invoice at the latest.
- (4) Unless expressly agreed otherwise, the agreed purchase price shall be due for payment within 60 calendar days of complete delivery and performance (including any agreed acceptance) and receipt of a proper and complete invoice including – if agreed – the certificates of material testing.
- (5) If we make payment within 30 calendar days, the Seller shall grant us a 3% discount on the net amount of the invoice.
- (6) In the case of bank transfer, payment shall be deemed to have been made on time if our transfer order is received by our bank before the expiry of the payment deadline; we shall not be responsible for any delays caused by the banks involved in the payment process.
- (7) We do not owe interest on arrears. The interest on arrears amounts to 5%-points p.a. above the base interest rate. The statutory provisions shall apply to the occurrence of our default, whereby, if applicable, a written reminder by the Seller shall be required in any case.

## **§ 6 Set-off – Right of retention**

- (1) We shall be entitled to rights of set-off and retention as well as the defence of non-performance of the contract to the extent provided by law. In particular, we are entitled to withhold due payments as long as we are still entitled to claims from incomplete or defective performances against the Seller.
- (2) The Seller shall only have a right of set-off or retention on the basis of counterclaims that have been legally established or are undisputed. The assignment or pledging of claims is only permitted with our prior written consent.

## **§ 7 Packaging and shipping regulations**

- (1) The Seller shall pack the goods in environmentally friendly and resource-saving packaging that is safe for transport. The Seller must take back packaging material at our request.
- (2) Our order marks must be clearly visible on the packaging. Advertising material must not be enclosed.
- (3) The goods shall be accompanied by the required delivery documents. In particular, a delivery note shall be enclosed with each delivery. The articles must be listed on the delivery note and invoice in the same order as in the order placement. The consignment must be accompanied by the corresponding delivery note without price indication or, if requested by us, by the invoice. It must be stated how many shipping units the entire consignment consists of. The package with the delivery note must be clearly marked.
- (4) Direct shipments to our customers are to be carried out on our behalf.

## **§ 8 Retention of title**

The transfer of ownership of the goods to us shall be unconditional and without regard to the payment of the price. However, if in individual cases we accept an offer of the Seller to transfer ownership conditional on payment of the purchase price, the Seller's retention of title shall expire at the latest upon payment of the purchase price for the goods delivered. We shall remain authorised to resell the goods in the ordinary course of business even before payment of the purchase price with advance assignment of the claim arising therefrom (alternatively validity of the simple reservation of title extended to the resale). This excludes all other forms of retention of title, in particular the extended retention of title, the passed-on retention of title and the retention of title extended to further processing.

## **§ 9 Assurance of (quality) characteristics – Quality testing and assurance – Third party rights**

- (1) The technical specifications, properties and standards stated in our orders are part of the contract and describe the quality contractually agreed and owed by the Seller. They also apply to repeat orders, order amendments and supplements. If the Seller has reservations about the type of execution requested by us, he must inform us of this in writing immediately.
- (2) When ordering according to sample, the delivery and performance must comply with the specifications, properties and standards of the sample.
- (3) We are entitled to inspect the material procured by the Seller for the fulfilment of the order, the manufacturing process and the goods ready for delivery at the Seller's premises, at the premises of its upstream suppliers and subcontractors or to have them inspected by third parties.
- (4) Irrespective of the aforementioned conditions, the Seller shall constantly check the quality of its deliveries and services on its own responsibility maintain a corresponding quality assurance system and submit the records thereof to us upon request. The Seller shall carry out quality assurance of a suitable type and scope and in accordance with the latest state of the art and shall provide evidence thereof upon request. To the extent, we deem it necessary; the Seller shall conclude a corresponding quality assurance agreement ("QAA") with us. Insofar as we have concluded a QAA with the Seller, its provisions shall take precedence over the provisions of these GTCP in the event of any contradictions.
- (5) Unless otherwise agreed, the Seller is obliged to mark its delivery items in such a way that they are permanently recognisable as its products. The Seller guarantees that any necessary CE marking will be carried out before delivery.

- (6) Patents or utility models, which exist in respect of the goods delivered by the Seller, shall be disclosed to us by the Seller without being requested to do so.
- (7) The Seller warrants that no industrial property rights of third parties are infringed in connection with its delivery in countries of the European Union, North America or other countries in which it manufactures the products or has them manufactured. The Seller is obliged to indemnify us against all claims made by third parties against us due to the infringement of industrial property rights and to reimburse us for all necessary expenses in connection with this claim. This claim arises irrespective of any fault on the part of the Seller. The Seller agrees to provide us with unrestricted support at our request in any legal action brought against us because of such infringement of industrial property rights. The Seller further agrees to enter into this legal dispute at its own expense at our request.

## **§ 10 Warranty claims**

- (1) The statutory provisions shall apply to our rights in the event of material defects and defects of title of the goods (including wrong delivery and short delivery as well as improper assembly, defective assembly, operating or operating instructions) and in the event of other breaches of duty by the Seller, unless otherwise stipulated below.
- (2) In accordance with the statutory provisions, the Seller is liable in particular for ensuring that the goods have the agreed quality when the risk passes to us. In addition to § 9 (1) and (2), the product descriptions which have become the subject matter of the respective contract – in particular by designation or reference in our order – shall also be deemed to be an agreement on the quality. It makes no difference whether the product description originates from us, from the Seller or from the manufacturer.
- (3) Notwithstanding Section 442 (1) sentence 2 of the German Civil Code (BGB), we shall also be entitled to unlimited claims for defects if the defect remained unknown to us at the time of conclusion of the contract due to gross negligence.
- (4) The statutory provisions (§§ 377, 381 HGB) shall apply to the commercial duty to inspect and give notice of defects, subject to the following proviso: Our duty to inspect shall be limited to defects, which become apparent during our incoming goods inspection upon external examination of the goods including the delivery documents (e.g. transport damage, wrong delivery and short delivery). If inspection and approval has been agreed, there shall be no obligation to inspect the goods. In all cases, our complaint (notice of defect) shall be deemed to have been made immediately and in good time if it is received by the Seller within 10 working days of discovery of the defect.
- (5) If a defect becomes apparent within the first six months after the transfer of risk, it shall be presumed that the item was already defective at the time of the transfer of risk.
- (6) The costs incurred by the Seller for the purpose of inspection and rectification (including any removal and installation costs) shall be borne by the Seller even if it turns out that there was actually no defect. In the event of an unjustified request to remedy a defect, we shall only be liable to the extent that we recognised at the time of the request or failed to recognise due to gross negligence that there was no defect.
- (7) If the Seller fails to fulfil its obligation to provide subsequent performance – at our discretion by remedying the defect (rectification) or by delivering a defect-free item (replacement) – within a reasonable period set by us, we may remedy the defect ourselves and demand reimbursement of the expenses required for this purpose or a corresponding advance payment from the Seller. If subsequent performance by the Seller has failed or is unreasonable for us (e.g. due to particular urgency, risk to operational safety or imminent occurrence of disproportionate damage), no deadline need be set; we shall inform the Seller of such circumstances immediately, if possible in advance.

- (8) Otherwise, in the event of a material defect or defect of title, we shall be entitled to reduce the purchase price or to withdraw from the contract in accordance with the statutory provisions. In addition, we shall be entitled to claim damages and reimbursement of expenses in accordance with the statutory provisions.

## **§ 11 Product safety – Producer liability – Product liability**

- (1) The Seller guarantees that the goods delivered by him comply with all relevant national as well as European legal regulations with regard to product safety. We shall receive the required documents, such as the declaration of conformity or manufacturer's declaration, with the invoice at the latest. The required technical documentation in accordance with the Machinery Directive, in particular safety instructions, hazard information, technical data sheets and assembly instructions shall be enclosed with the delivery. If necessary, this documentation is owed in the respective national language of the country supplied by us.
- (2) If the Seller is responsible for product damage, he shall indemnify us against claims by third parties to the extent that the cause lies within his sphere of control and organisation. In the event of liability based on fault, this shall only apply if and insofar as the Seller is at fault.
- (3) Within the scope of its indemnification obligation, the Seller shall reimburse expenses pursuant to Sections 683, 670 of the German Civil Code (BGB) arising from or in connection with a claim by third parties including recall actions carried out by us. We shall inform the Seller about the content and scope of recall measures – insofar as this is possible and reasonable – and give him the opportunity to comment. Further legal Claims remain unaffected.
- (4) The Seller shall take out and maintain product liability insurance with a lump sum coverage of at least EUR 5.0 million per personal injury/property damage and worldwide coverage.

## **§ 12 Confidentiality – Rights to documents**

- (1) We reserve the property rights and copyrights to illustrations, plans, drawings, calculations, implementation instructions, product descriptions and other documents. Such documents are to be used exclusively for the contractual performance and returned to us after completion of the contract.
- (2) The above provision shall apply mutatis mutandis to substances and materials (e.g. software, finished and semi-finished products) as well as to tools, templates, samples and other items that we provide to the Seller for production. Such items shall – as long as they are not processed – be stored separately at the Seller's expense and insured to a reasonable extent against destruction and loss.
- (3) The Seller is obliged to keep all illustrations, drawings, calculations and other documents, information and objects received strictly secret. They may only be disclosed to third parties with our written consent.
- (4) The Seller may only supply to third parties items that it manufactures or develops according to our specifications or using documents provided by us with our written consent.
- (5) The Seller shall maintain secrecy vis-à-vis third parties regarding the content of orders placed with us, in particular regarding prices and quantities. All documents made available by us (e.g. drawings, samples, etc.), as well as the goods manufactured thereafter, may not be passed on to third parties or used for advertising for our own or third parties' purposes without our consent. Unless otherwise agreed, they must be returned with the last delivery at the latest.
- (6) Samples, drawings, standard sheets, printing templates, gauges, tools, as well as the goods manufactured according to them, may not be passed on to third parties or used for them or for advertising purposes or for the supplier's own purposes without our written consent. They must be secured against unauthorised inspection or use. Infringements oblige us to pay full compensation and entitle us to withdraw from the contract in whole or in part without further ado and without compensation.

- (7) Reference may only be made to the business relationship with us in the Seller's advertising if we have agreed to this in writing. The Seller shall oblige his sub-suppliers accordingly.
- (8) Our company and trademarks shall be affixed to the goods ordered by us at our request. The goods so marked may only be delivered to us. Accordingly, the company and trademark labels are to be removed from the goods returned to the free disposal of the Seller.
- (9) The aforementioned confidentiality obligations shall also apply after completion of the contract. They shall expire – subject to other rights to which we are entitled – at the earliest when and insofar as the production knowledge contained in the illustrations, drawings, calculations and other documents provided has become generally known, but at the latest after the expiry of 3 years after termination of the business relationship with the supplier.
- (10) If there are contradictions between the provisions of these GTCP and the provisions of a written non-disclosure agreement concluded between the parties, the separate non-disclosure agreement shall prevail.

### **§ 13 Spare parts**

- (1) The Seller is obliged to ensure the availability of spare parts for the machines and systems delivered to us for a period of at least 10 years after delivery of the machine or system.
- (2) If the Seller intends to discontinue the production of spare parts for the products delivered to us, it shall notify us thereof without undue delay after the decision on the discontinuation, but at least 12 months before the intended discontinuation of production.

### **§ 14 Provision of goods and means of production – Ownership of provided objects**

- (1) Goods, means of production provided by us, in particular models, matrices, templates, samples, tools and other means of production as well as material shall remain our property. Production equipment provided by us may not be used for deliveries and services to third parties. Material provided by us remains our property – even if it is charged to the Seller. It may only be used for our orders.
- (2) The gauges provided by us for the execution of the order are only control gauges. Working gauges must be made by the Seller himself.
- (3) Tools, moulds and the like which are manufactured in whole or in part at our expense, including those for which the Seller remunerates a set amount per invoice or delivered number of items, shall become our property upon manufacture. They shall be carefully stored by the Seller and maintained or renewed free of charge so that they can be used at any time. In the event of a reduction in value or loss, the Seller shall provide compensation. In the event of delivery difficulties on the part of the Seller, we shall be entitled to demand the free transfer of moulds or the like paid for in full or in part.
- (4) The Seller shall handle the goods, materials and means of production with care, maintain them and insure them at its own expense against damage by fire, water and theft at replacement value.
- (5) At our request, the Seller shall determine the actual stock of the goods, materials and means of production provided by us for our annual financial statements annually or more frequently if there is a justified reason, and notify us thereof.

## § 15 Special regulations for contracts for work and services

For contracts for work and services to which the law on contracts for work and services of the BGB applies, the following provisions shall apply in addition to the provisions of the GTCP. Insofar as the provisions of the GTCP conflict with the following provisions, the following provisions shall take precedence:

- (1) **Acceptance:** The acceptance of the work performance shall take place after completion. Partial acceptance shall not take place. A protocol shall be drawn up on the acceptance, which shall be signed by both parties. If the work performance is not in accordance with the contract, botek can refuse acceptance. If an inspection and approval takes place subject to the elimination of defects to be named in the protocol, the Seller shall be obliged to immediately provide a work performance in accordance with the contract and to eliminate the defects, to notify the expected duration of the elimination of the defects and to notify the elimination of the defects after completion of the reworking.
- (2) **Changes in performance:** botek shall be entitled to demand changes to the content and scope of the work performances. The Seller shall, if the changes are not only insignificant, determine the time delays and the additional expenditure occurring because of the desired changes and the parties shall agree on a corresponding adjustment of the contract. If the parties fail to reach agreement, the Seller shall be entitled to reject the request for change. The Seller shall not be entitled to claim additional remuneration for changes in performance for which botek is not responsible. All changes in performance shall be regulated in a written supplementary agreement prior to the commencement of performance, in which the additional remuneration and any changes in the time schedule are to be recorded.
- (3) **Warranty:** The Seller shall be liable for material defects and defects of title in accordance with the provisions of the BGB for the contract for work and services.
- (4) **Termination:** botek is entitled at any time to make use of its right of termination in accordance with § 648 S. 1 BGB (German Civil Code).

## § 16 Factory regulations

Persons who carry out work on botek's factory premises in fulfilment of the contract shall observe the provisions of the respective factory regulations. Liability for accidents that occur to these persons on the factory premises shall be excluded, insofar as these were not caused by intentional or grossly negligent breach of duty on the part of our legal representatives or vicarious agents.

## § 17 Limitation

- (1) The mutual claims of the contracting parties shall become statute-barred in accordance with the statutory provisions, unless otherwise stipulated below.
- (2) Notwithstanding §§ 438 para. 1 no. 3 BGB, the general limitation period for claims for defects is 3 years from the transfer of risk. Insofar as acceptance has been agreed, the limitation period shall begin with acceptance. In the case of defects of title, a limitation period of 10 years from the transfer of risk shall apply.
- (3) For parts repaired or delivered as replacements, the limitation period for this part shall start anew with the repair or replacement delivery. For parts that are not in operation during an inspection for defects and/or the rectification of defects, the warranty period is suspended for the period of the interruption of operation.
- (4) The limitation period for our warranty claims is suspended from the date of dispatch of the notice of defect until the Seller, who checks for the existence of a defect, informs us of the result of this check and rejects warranty claims or declares the defect to be settled or provides a remedy. Our claims shall become time-barred at the earliest six months after the end of the suspension.

- (5) The limitation periods of the law on sales including the above extension shall apply – to the statutory extent – to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (§§ 195, 199 BGB) shall apply for this, unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.

## **§ 18 Compliance with REACH, RoHS and other legal requirements**

- (1) The Seller shall ensure that the goods delivered by him comply with all relevant requirements for placing on the market in the European Union and the European Economic Area. Upon request, he shall provide us with evidence of conformity by submitting suitable documents.
- (2) Environmental protection has a high priority within botek's understanding of quality. botek therefore also expects a corresponding environmental awareness from the Sellers. The Seller undertakes to comply with the applicable official and statutory environmental regulations of a national and international nature in his deliveries, e.g. such as the Ordinance on Hazardous Substances, the REACH Regulation (Regulation EC No. 1907/2006), the Law on the Return and Environmentally Sound Disposal of Electrical and Electronic Equipment (ElektroG) as the national implementation of Directive 2002/95/EC (RoHS) and Directive 2002/96/EC (WEEE), etc..
- (3) The Seller warrants in particular that the products supplied by it do not contain any substances on the so-called candidate list pursuant to Art. 59 (1, 10) of Regulation (EC) 1907/2006 ("REACH"). The Seller undertakes to inform botek in writing immediately if – for whatever reason – products delivered by it contain substances on the candidate list; this shall apply in particular in the event of an extension/addition to the candidate list. The Seller shall name the individual substances and state the mass percentage as precisely as possible. We shall not be obliged to accept products containing substances on the candidate list.
- (4) The Seller is obliged to provide botek with all information within the meaning of Section 1502 of the Dodd-Frank Act. Section 1502 of the Dodd-Frank Act on the use and origin of conflict materials as defined by the Dodd-Frank Act. Dodd-Frank-Act in the goods delivered by the Seller.
- (5) Likewise, the Seller undertakes to inform us without delay of any relevant changes to the goods, their deliverability, usability or quality caused by the statutory regulations referred to in Clause 1 and to coordinate suitable measures with botek in individual cases.

## **§ 19 Jurisdiction – Applicable law**

- (1) The exclusive place of jurisdiction shall be the court responsible for the registered office of botek in Riederich, Germany, if the Seller is a merchant, a legal entity under public law or a special fund under public law.
- (2) botek is furthermore entitled to sue the plaintiff at the plaintiff's general place of jurisdiction.
- (3) The law of the Federal Republic of Germany shall apply.

## § 20 Writing

- (1) All amendments and supplements to these GTCP as well as the waiver of their validity must be made in writing. This also applies with regard to a possible waiver of the written form requirement.
- (2) Individual agreements made with the Seller in individual cases (including ancillary agreements, supplements and amendments) shall in all cases take precedence over these GTCP. A written contract or our written confirmation shall be authoritative for the content of such agreements.
- (3) Legally relevant declarations and notifications to be made to us by the Seller after conclusion of the contract (e.g. setting of deadlines, reminders, declaration of withdrawal) must be made in writing to be effective; e-mail is sufficient for compliance with the written form. The same applies to delivery schedules and changes thereto. Delivery schedules can also be made by remote data transmission or by fax.

## § 21 Severability clause

- (1) Should one or more provisions of these GTCP or parts of a provision be invalid, this invalidity shall not affect the validity of the remaining provisions or the contract as a whole. However, in knowledge of the case law of the Federal Court of Justice, according to which a severability clause only leads to a reversal of the burden of proof, it is the express intention of the parties to maintain the validity of the remaining provisions of these GTCP in all circumstances.
- (2) The parties undertake to agree by mutual consent on a valid provision in place of the invalid provision that comes closest to the invalid provision in economic terms.
- (3) Clauses 1 and 2 shall apply accordingly in the event of a loophole.