



General Terms and Conditions of Delivery and Payment of Harz Guss Zorge GmbH

1. Scope of application, general provisions

- 1.1 These General Terms and Conditions of Delivery and Payment (hereinafter "Terms and Conditions") apply exclusively to all present and future sales and deliveries of goods conducted by Harz Guss Zorge GmbH (hereinafter "Harz Guss"). Any conflicting and/or supplementary general terms and conditions of the purchaser do not apply to Harz Guss, even if Harz Guss is aware of such terms and conditions or performs its contractual obligations without reservation.
- 1.2 These Terms and Conditions do not apply to consumers within the meaning of Sec. 13 of the German Civil Code (*BGB*).
- 1.3 All contractual provisions entered into with the purchaser are set out in writing in the document of which these Terms and Conditions form an integral part. The employees, commercial agents or other sales intermediaries of Harz Guss are not authorized to enter into ancillary agreements or to give assurances or guarantees that go beyond the content of the written agreements.
- 1.4 In case of doubt, the Incoterms in the respectively valid version are decisive for the interpretation of commercial terms.
- 1.5 The written form is also deemed to have been complied with by the transmission of faxes and e-mails.
- 1.6 In case of doubt, the German version of these Terms and Conditions shall prevail.

2. Offer, conclusion of contract, condition of the goods

- 2.1 All offers made by Harz Guss are subject to change and non-binding. An order placed by the purchaser constitutes a binding offer of contract. A contract does not become valid until Harz Guss confirms the order in writing or executes the order.
- 2.2 The information contained in brochures and catalogues such as illustrations, drawings, weights and dimensions are approximate values customary in the industry unless they are explicitly declared as binding.
- 2.3 Public statements made by Harz Guss, the manufacturer of the supplied goods or its agents, especially when promoting or labeling the goods, do not constitute descriptions of the nature or quality of the goods or a guarantee thereof.
- 2.4 If, according to the expectations of the purchaser, any goods to be delivered are not intended to be used exclusively for the normal purpose, or if the purchaser assumes that the goods have a specific applicability or have certain characteristics, or if the purchaser plans to use the goods for an unusual purpose, for the processing of unusual materials, under conditions of increased stress or with particular risk to health, safety or the environment, or if compliance with special regulations is required, the purchaser is obliged to inform Harz Guss in writing of the corresponding expectations or circumstances prior to the conclusion of the contract.

3. Prices, costs of the contract implementation

- 3.1 The prices stated in the order confirmation shall apply. All prices are quoted ex works Walkenried, Walkenrieder Straße 32, DE-37445 Walkenried (ex works/EXW according to Incoterms 2010) and do not include packaging, freight, postage or insurance, nor do they include the value-added tax (sales tax) at the statutory rate applicable on the date of invoicing. The deduction of any early payment discount requires an explicit agreement in writing.

- 3.2 In the event that order-related costs, such as energy, material, wage costs or public charges, change significantly after the conclusion of the contract and before delivery by Harz Guss, Harz Guss is entitled to adjust the prices appropriately taking these factors into account. This does not apply to contracts under which delivery is to take place within four months after the conclusion of the contract. Sec. 12.2 remains unaffected. Harz Guss will provide the purchaser with evidence for such cost increase upon request.

4. Terms of payment

- 4.1 The purchase price shall be due and payable within (30) thirty days from the invoice date and delivery without deduction. Thereafter the purchaser is in default pursuant to Sec. 286 Para. 2 No. 2 of the German Civil Code (*BGB*). The legal consequences are determined pursuant to Sec. 288 of the German Civil Code (*BGB*).
- 4.2 In the event that the purchaser fails to meet his payment obligations, Harz Guss is entitled to refuse performance in whole or in part until payment of the due amounts is conducted or security is provided. Harz Guss reserves the right to deliver only after advance payment in the case of new customers or if the purchaser is in default of payment with respect to any other amount payable to Harz Guss.
- 4.3 If Harz Guss is obliged to deliver in advance and if it becomes apparent after conclusion of the contract that a substantial deterioration in the purchaser's financial situation has occurred that jeopardizes the payment of the agreed purchase price, in particular if insolvency proceedings are instituted against the assets of the purchaser, Harz Guss is entitled to refuse delivery until the purchase price has been paid or security has been provided, without prejudice to any other rights or legal provisions. Harz Guss is entitled to withdraw from the contract if the purchaser has not paid the purchase price or provided security within a reasonable period of time.
- 4.4 Where the contract provides for securing the payment by letter of credit, surety, guarantee or other means of providing security, the purchaser is obliged to provide these securities within the agreed period and in the agreed form. Under no circumstances is Harz Guss obliged to fulfill the contract before receiving the agreed security.
- 4.5 Harz Guss is entitled to offset any receivables owed by Harz Guss to the purchaser against any receivables owed to Harz Guss by the purchaser. Harz Guss is also entitled to offset any receivables owed to Harz Guss by the purchaser against all receivables owed to the purchaser, for whatever legal reason, by companies in which Georgsmarienhütte Holding GmbH ("GMH Group") directly or indirectly holds a majority interest. The current companies belonging to GMH Group can be viewed on the Internet at www.gmh-gruppe.de. Upon request, the purchaser will be given the names of such companies at any time.
- 4.6 The purchaser is only entitled to set-off rights or rights of retention if and to the extent that his counterclaims have been legally established, have not been disputed by Harz Guss or have been acknowledged by Harz Guss.
- 4.7 If several claims are due, Harz Guss reserves the right to use a payment, installment payment or down payment of the purchaser initially for the repayment of the debt that offers the least security; in the case of debts with the same security, this shall apply to the



- oldest debt, and in the case of debts of the same age, this shall apply to all the debts proportionally.
- 4.8 Any discount agreed upon always relates only to the invoiced value excluding freight and other ancillary costs (packaging, insurance, etc.). The deduction is conditional upon the full settlement of all amounts due to Harz Guss from the purchaser at the time of the discount. Discount periods commence with the date of the invoice.
- 4.9 The purchaser is not entitled to assign rights or claims arising from this contract to third parties without the prior consent of Harz Guss.
- 4.10 If the purchaser defaults on a payment, all other outstanding payments will become due for immediate payment.
- 4.11 In the case of deliveries made and services performed to purchasers in countries outside Germany, it is explicitly agreed that in the event of any default in payment by the purchaser, all prosecution costs incurred by Harz Guss, both judicial and extrajudicial, are to be borne by the purchaser.

5. Delivery, delay in delivery, passing of risk

- 5.1 All deliveries shall be made ex works Walkenried, Walkenrieder Straße 32, DE-37445 Walkenried (ex works/EXW according to Incoterms 2010).
- 5.2 Time specifications, in particular delivery times specified by Harz Guss, shall only be binding if expressly agreed as binding by Harz Guss. The provision of goods ex works is decisive for compliance with the delivery periods or delivery deadlines. Harz Guss is in no way obliged to adhere to confirmed delivery times if information, final product requirements or cooperation on the part of the purchaser, in particular the provision of agreed payment security, the provision of domestic or foreign certificates or the provision of import licenses required for the dispatch or delivery of the goods, are not received within the agreed periods or in due time before delivery. Harz Guss always reserves the right to raise the defence of non-performance of the contract.
- 5.3 Delivery times shall be extended appropriately in cases where delivery is hindered for reasons for which Harz Guss is not responsible, in particular in the event of disruptions in energy supply or traffic, the imposition of an embargo, industrial action or official administrative measures. In the event of late or disrupted deliveries to Harz Guss by its supplier, this shall apply if Harz Guss has concluded a congruent covering transaction, neither Harz Guss nor its supplier is at fault, or Harz Guss has not assumed an obligation for procurement in the individual case. If the performance cannot be provided even within the extended delivery period, Harz Guss is entitled to withdraw from the contract in whole or in part; any payment already paid by the purchaser will be reimbursed without undue delay. Harz Guss will inform the purchaser without undue delay of any such obstacles to delivery.
- 5.4 Should Harz Guss exceed binding delivery periods, the purchaser may – subject to Sec. 286 Para. 2 of the German Civil Code (*BGB*) – assert his statutory rights only after the unsuccessful expiry of a reasonable grace period, which as a rule must be at least four weeks and six to eight weeks for large goods. The customer is only entitled to the enforcement of any rights and claims due to delay if Harz Guss is responsible for the delay.
- 5.5 Goods notified as ready for dispatch are to be accepted without undue delay. Otherwise, Harz Guss is entitled to dispatch them at its own discretion or to place them in storage at the usual forwarding costs and at the risk of the purchaser. Harz Guss is also entitled to the latter if the dispatch undertaken by Harz Guss cannot be carried out without any fault attributable to Harz Guss.
- 5.6 If the purchaser defaults on acceptance of the delivery in accordance with the contract or culpably violates other duties to cooperate, Harz Guss is entitled to demand compensation for the damage incurred by Harz Guss, including any additional expenses

- (e.g. storage costs). In this case, the risk of accidental loss or deterioration of the goods passes to the purchaser at the time at which the purchaser defaults on acceptance. Any further rights and claims of Harz Guss remain unaffected.
- 5.7 Should the purchaser fail to accept delivery despite the expiry of a reasonable period of grace, Harz Guss is entitled to sell the delivered goods elsewhere and to invoice the purchaser for 20 % of the purchase price as minimum compensatory damages. The purchaser is entitled to prove that the damages were lower.
- 5.8 Harz Guss is entitled to make partial deliveries unless the partial fulfillment of the contract is unreasonable for the purchaser. Partial deliveries can be invoiced separately.
- 5.9 Harz Guss is entitled to subcontract production of the goods to be delivered to third-party companies and to handout purchaser's production equipment to such third parties for the purpose of producing.
- 5.10 The risk passes to the purchaser when the goods are handed over to the railway, the forwarding agent or the carrier, but at the latest when they leave the factory or warehouse, even if Harz Guss has assumed responsibility for delivery.
- 5.11 A free right of cancellation for the purchaser (in particular pursuant to Secs. 650 and 648 of the German Civil Code (*BGB*)) is excluded.
- 5.12 Insofar as the parties have agreed on acceptance/material testing, this is carried out before the goods are made available by Harz Guss at the supplier plant. The personnel and material costs pertaining to the acceptance procedure are to be borne by the purchaser. If there is no acceptance procedure agreed between the parties, acceptance procedures will be carried out according to procedures and conditions customary at Harz Guss. The same applies for initial sample testing.

6. Dimensions, weight, quantities

- 6.1 Deviations in dimensions, weight and quantities are permissible within the scope of customary tolerances and the relevant DIN regulations and casting technical requirements. Specifications of dimensions and weights in offers and order confirmations from Harz Guss constitute neither quality guarantees nor quality agreements in the legal sense.
- 6.2 The weights are determined on the calibrated scales of Harz Guss and are decisive for invoicing. The verification of weight is furnished through the presentation of the weight log. If individual weighing is not customary, the total weight of the delivery is decisive in each case. Any difference between the complete weight and the calculated weight of the single pieces will be proportionally allocated to these individual weights.

7. Packaging, packaging costs, dispatch

- 7.1 Harz Guss will deliver the goods packed and protected against corrosion to the extent customary in the trade. Harz Guss reserves the right to choose the packaging. The costs for packaging, dispatch, payment transactions, customs duties, export, import or transit, etc. will be invoiced separately to the purchaser.
- 7.2 In the event that any damage has occurred in transit, the purchaser must arrange for an ascertainment of the facts related to the incident by the respectively competent authorities without delay. Goods are only insured against transport damages at the specific written request of the purchaser. The costs of this insurance will be invoiced separately to the purchaser.
- 7.3 Unless otherwise agreed in writing, the purchaser shall be responsible for loading and unloading. If Harz Guss has provided any wagons or loading units to the purchaser, the purchaser is obliged to return these to Harz Guss complete, fully emptied, and properly cleaned according to the applicable regulations.



7.4 In the absence of specific instructions, Harz Guss will choose the means of transport and the transport route at its discretion.

8. Retention of title

8.1 Harz Guss retains title to the delivered goods (goods subject to retention of title, hereinafter "retained goods") until all – present and future – claims arising from the business relationship with the purchaser, in particular the respective balance claims, have been settled.

8.2 Any machining and processing takes place at all times on behalf of Harz Guss as the manufacturer, but without any obligation for Harz Guss. If Harz Guss loses title to the delivered goods as a result of machining and processing, Harz Guss acquires co-ownership of the new product proportionate to the value of the delivered goods in relation to the value of the other components of the new product at the time of processing. Where the title entirely passes to the purchaser due to combination or commingling, the purchaser transfers partial title (co-ownership) to Harz Guss proportionate to the value of the delivered goods in relation to the value of the other components of the new product at the time of the combination or commingling. The purchaser shall diligently store the goods to which Harz Guss has acquired partial title on behalf of Harz Guss. If the goods are situated with a third party, the purchaser hereby assigns all claims for possession against such third party to Harz Guss. Harz Guss hereby accepts such assignment. The co-ownership acquired by Harz Guss under these provisions shall pass to the purchaser under the same conditions as the ownership of the goods delivered by Harz Guss.

8.3 The purchaser is entitled to sell the retained goods in the ordinary course of business. The purchaser hereby assigns to Harz Guss all present and future claims in the amount corresponding to the invoice value (including value-added tax/sales tax) arising from the resale of the respective retained goods. Harz Guss hereby accepts such assignment. The purchaser remains entitled to collect these claims even after the assignment. Harz Guss's authority to collect the claims itself remains unaffected by this. Harz Guss is obliged not to collect the claims as long as the purchaser meets his payment obligations arising out of the proceeds received, is not in default of payment and, in particular, has not filed an application for the opening of insolvency proceedings or suspended payments.

8.4 As security for the receivables owed to Harz Guss, the purchaser shall also assign to Harz Guss any such claims that arise against third parties due to the combination of retained goods with real estate.

8.5 If the purchaser sells the retained goods together with other goods not supplied by Harz Guss, the assignment of the claim from the resale shall only apply to the amount of the invoice value of the respective retained goods that have been sold. In the event of the sale of retained goods in which Harz Guss has co-ownership pursuant to Sec. 8.2, the assignment of the claim shall apply to the amount of such co-ownership.

8.6 The purchaser is not entitled to use the retained goods for any other purposes. In particular he is not entitled to transfer ownership by way of security or pledging. The claims assigned to Harz Guss may only be pledged or assigned to third parties as security with the prior consent of Harz Guss.

8.7 The purchaser must notify Harz Guss without undue delay in writing of any attempts of impairment or attachment of the retained goods by third parties. The costs necessary to protect Harz Guss's rights are to be borne by the purchaser to the extent that these cannot be reclaimed from the third party.

8.8 If the purchaser breaches a material contractual obligation, in particular if he is in default of payment, Harz Guss is entitled, after effective withdrawal from the contract, to take back the retained

goods at the purchaser's expense or to demand the assignment of any rights of possession of the purchaser vis-à-vis third parties. Furthermore, Harz Guss is entitled to revoke the purchaser's right to resell and revoke any direct debit authorization, to collect accounts receivable and to use, process, ship or sell the retained goods. Harz Guss may offset the proceeds of the sale against the outstanding amounts. The purchaser is liable for any loss to the extent that the proceeds of the sale are lower than the purchase price outstanding.

8.9 To the extent that the value of the existing securities provided exceeds the secured claims of Harz Guss by more than 20 % in total, Harz Guss is upon purchaser's request obliged to release securities at its discretion.

8.10 Insofar as Harz Guss is entitled to take back retained goods, the purchaser is obliged to offer Harz Guss and its representatives the irrevocable right to enter its premises during normal business hours and must tolerate the removal of the retained goods.

9. Warranty

9.1 The purchaser must inspect the goods without undue delay after delivery and notify Harz Guss in writing of any defects without undue delay. If the purchaser fails to notify Harz Guss, the goods shall be deemed to have been accepted unless the defect was not recognizable at the time of inspection. If such a defect becomes apparent at a later point in time, the notification must be made immediately after discovery, otherwise the goods shall be deemed to have been approved even with regard to this defect.

9.2 If the parties have agreed on an acceptance/material test, the notification of defects that were recognizable during this acceptance/material test shall be excluded after the acceptance/material test has been carried out.

9.3 If the goods delivered are defective, Harz Guss shall, at Harz Guss's discretion, either remedy the defect or deliver goods free of defects (subsequent performance). If the subsequent performance fails or if it is unreasonable for the purchaser, the purchaser may, subject to statutory legal provisions, reduce the purchase price, withdraw from the contract or claim damages in accordance with the provisions in Sec. 10 (Liability).

9.4 The conformity of goods to the specifications shall be determined at the passing of risk.

9.5 The purchaser shall have responsibility and liability for proper construction in compliance with any safety instructions, selection of material and test methods required, accuracy and completeness of the technical delivery requirements, technical documents and drawings made available to Harz Guss by the purchaser as well as the suitability of the construction equipment provided by the purchaser.

9.6 Any special statutory provisions for the final delivery of the unprocessed goods to a consumer remain unaffected in all cases, even if the consumer has further processed them (supplier's recourse pursuant to Sec. 478 of the German Civil Code (*BGB*)). Claims arising from supplier's recourse are excluded if the defective goods have been further processed by the purchaser or another entrepreneur, e.g. by installation in another product.

9.7 The purchaser is obliged to give Harz Guss sufficient time and opportunity to remedy the defect; the period of time to remedy the defect to be at least six to eight weeks for large goods. At Harz Guss's request, the purchaser must make the rejected goods or samples thereof available for inspection. In the event of a replacement delivery, the purchaser must return the defective item to Harz Guss in accordance with the statutory legal provisions. The subsequent performance includes neither the removal of the defective item nor its reinstallation if Harz Guss was not originally obliged to install it.



- 9.8 Due to the special situation in the casting industry, in particular the disproportionate liability risk associated with the installation of the casting products and components manufactured therefrom in a large number of products, the purchaser's claim for reimbursement of the costs for the removal of defective goods and the installation of repaired or defect-free goods within the meaning of Sec. 439 Para. 3 of the German Civil Code (*BGB*) and his assertion of recourse claims against Harz Guss within the meaning of Sec. 445a of the German Civil Code (*BGB*) are limited to € 1,000,000.00. Sec. 478 Para. 2 and Para. 3 of the German Civil Code (*BGB*) remain unaffected.
- 9.9 The limitation period for all warranty claims, including all recourse claims mentioned in Sec. 445a of the German Civil Code (*BGB*), is 24 months and begins with the delivery of the goods. This does not apply insofar as the law in Sec. 438 Para 1 Clause 2 (buildings and objects commonly used in buildings) and Sec. 478 Para. 2 and Para. 3 of the German Civil Code (*BGB*) prescribes longer periods. The statutory limitation rules also apply in the case of intentional and grossly negligent breaches of duty or in the case of damage resulting from injury to life, body or health. Sec. 445b Para. 2 Clause 1 of the German Civil Code (*BGB*) (suspension of the statute of limitations) does not apply except in the cases of Sec. 478 Para. 2 and Para. 3 of the German Civil Code (*BGB*).
- 9.10 Claims of the purchaser for expenses incurred for the purpose of subsequent performance resulting from the fact that the goods are moved to another location after delivery are excluded to the extent that they increase the expenses, unless such movement corresponds to the intended use.
- 9.11 Harz Guss is to be reimbursed by the purchaser for any costs incurred by Harz Guss as a result of the purchaser's unjustified demand to remedy defects (in particular inspection and transport costs), unless the lack of defectiveness could not be recognized by the purchaser.
- 9.12 The purchaser's statutory rights of recourse against Harz Guss exist only to the extent that the purchaser has not entered into any agreements with his customer that go beyond the statutory claims for defects.
- 9.13 Any further claims of the purchaser are excluded subject to Sec. 10 (Liability).
- 10. Liability**
- 10.1 Subject to any requirements under applicable statutory law and subject to the provisions hereunder, Harz Guss shall be liable (i) for all personal injury, damage to property and financial losses caused culpably and (ii) even without fault, insofar as liability is mandatory under the law, such as under the German Product Liability Act (*ProdHaftG*).
- 10.2 If and to the extent Harz Guss is responsible for any damage suffered by the purchaser in accordance with the above Sec. 10.1, the following shall apply:
- (i) Harz Guss's liability is limited to an amount of € 1,000,000.00.
 - (ii) This also applies to any liability of Harz Guss for indirect damages and consequential damages, in particular for loss of profit, loss of production, recourse claims of the customer and/or business interruptions.
- 10.3 The limitations of liability pursuant to Sec. 10.2 do not apply:
- (i) in case of intent and gross negligence;
 - (ii) in the case of damage resulting from injury to life, body or health;
 - (iii) in the event of mandatory statutory provisions such as the German Product Liability Act (*ProdHaftG*) and
 - (iv) in the absence of a guaranteed quality, if and to the extent the guarantee is intended to protect the purchaser against damage that has not occurred to the delivered goods themselves.
- 10.4 Insofar as the liability of Harz Guss is excluded or limited, this shall also apply to the personal liability of the employees, legal representatives and vicarious agents (*Erfüllungsgehilfen*) of Harz Guss.
- 11. Force majeure**
- 11.1 Notwithstanding the provisions of Sec. 10 (Liability), Harz Guss is not responsible or liable for any disturbance or delay in the performance of any part of this agreement due to events of force majeure, including without limitation strikes, industrial disputes and/or official measures. In such a case, Harz Guss is entitled to postpone the delivery for the duration of the hindrance and a reasonable start-up period and, should these events last for more than 30 days, to withdraw from the contract in whole or in part because of the part not yet performed.
- 11.2 Unforeseen circumstances, e.g. operational disruptions and the rework of parts, for which Harz Guss is not responsible and which make it impossible for Harz Guss to deliver on time despite reasonable efforts, shall be deemed equivalent to force majeure; Harz Guss shall furnish proof of this.
- 12. Long-term and call-off contracts, series production**
- 12.1 Unless otherwise agreed in writing, unlimited contracts may be terminated by Harz Guss with 6 months' notice to the end of the month.
- 12.2 If, in the case of long-term contracts (contracts with a term of more than 12 months and contracts for an indefinite period), there is a substantial change in wage, material or energy costs after expiry of the first 4 weeks of the contract, Harz Guss shall be entitled to demand an appropriate adjustment of the price taking these factors into account.
- 12.3 Delivery contracts on call (call-off contracts) and their duration require written agreement. Unless otherwise agreed, the duration of call-off contracts shall be limited to 12 months after conclusion of the contract.
- 12.4 In the case of call-off contracts, Harz Guss must be notified of binding quantities by call-off at least 3 months before the delivery date, unless otherwise agreed. Additional costs caused by a delayed call-off or subsequent changes to the call-off with regard to time or quantity by the purchaser are to be borne by the purchaser; Harz Guss's calculation shall be decisive here.
- 12.5 At the end of the agreed end date of the call-off contract, the purchaser is obliged to accept any goods still available on call in one piece; apart from that the agreed remuneration for the goods not called-off shall also become due for payment. If the goods are not accepted, Harz Guss will request the purchaser, setting a deadline of 2 weeks, to accept the goods and pay the agreed remuneration. If acceptance and payment are not made in due time, Harz Guss is entitled, but not obliged, to dispose of the remaining goods and to claim damages, taking into account the proceeds obtained up to then in this respect. In addition to that Harz Guss is entitled to demand compensation for any other damage incurred by Harz Guss, including any additional expenses (e.g. storage costs).
- 12.6 If the individual call-offs exceed the agreed contractual quantity in total, Harz Guss is entitled, but not obliged, to deliver the additional quantity. The excess quantity will be invoiced on the basis of the price list valid at the time of the call-off.
- 12.7 In case of series production positive or negative volume tolerances up to 10 % based on the order quantity shall be permitted, given the specific characteristics of the casting process, and the total price shall be adapted accordingly in such case.



13. Order-related production equipment, parts to be cast

- 13.1 Contract related production equipment such as models, moulds, core storage boxes, coquilles, casting tools, devices, and control gauges to be provided by the purchaser shall be sent to Harz Guss free of charge. The conformity of the production equipment provided by the purchaser to the contractual specifications or drawings and designs handed over to Harz Guss, will be inspected by Harz Guss only upon explicit agreement between the parties. For technical reasons Harz Guss may modify production equipment provided to Harz Guss by the purchaser provided the work piece is not changed as a result hereof.
- 13.2 Any and all costs for the modification, maintenance and replacement of his production equipment shall be borne by the purchaser.
- 13.3 The production equipment will be handled by Harz Guss with care and kept safe in the same manner in which Harz Guss would care for his own property. Harz Guss is not liable for any accidental loss or deterioration of the production equipment. Further insurance will be provided only upon purchaser's request in writing and at purchaser's expense. Harz Guss may send back any production equipment of the purchaser which is no longer required by Harz Guss at purchaser's expense and, if the purchaser does not respond to Harz Guss's request for taking back such equipment within a reasonable period of time, store it at purchaser's expense and/or, following reasonable notice, destroy it.
- 13.4 Contract-related production equipment which is manufactured or procured by Harz Guss on the purchaser's behalf remains the property of Harz Guss even if the purchaser has been invoiced therefor pro rata. Such equipment will be kept by Harz Guss for a period of 3 years after the last cast for delivery. If it has been agreed that notwithstanding the above the purchaser will become the owner of the equipment the ownership will be transferred to purchaser with payment of the agreed price. Further, it is hereby agreed that Harz Guss shall have the right to store and use the equipment for production purposes. The purchaser may demand the return of the equipment at the soonest two years following transfer of ownership unless there is good cause ("*wichtiger Grund*") for doing so.
- 13.5 If, while using production equipment which can be used only once, rejects occur, the purchaser must either provide a new piece of production equipment or bear the expense of the replacement equipment.
- 13.6 Parts to be used by Harz Guss for casting must be delivered by the purchaser accurate to size and in good condition. The purchaser must supply replacements for reject parts free of charge.
- ### 14. Value-added tax, VAT identification number, export certificate, confirmation of arrival
- 14.1 In the case of deliveries to other EU member states, the purchaser must inform Harz Guss before the delivery about the VAT identification number under which he carries out purchase taxation within the EU. As long as such notification has not been made, Harz Guss is not obliged to make the delivery, or the purchaser must pay the statutory VAT amount owed by Harz Guss for the deliveries from Harz Guss in addition to the agreed price.
- 14.2 If the purchaser or his representative collects the goods and transports, transfers or dispatches them to countries that are not EU member states, the purchaser must present Harz Guss with the export certificate or confirmation of arrival required for tax purposes within 10 days of delivery. If this is not provided, the purchaser must pay the statutory VAT amount owed by Harz Guss in addition to the agreed price.
- 14.3 Harz Guss reserves the right to first calculate and collect the value-added tax and then to credit and refund it after submission

of the required proofs of export and the originally transmitted invoice.

15. Confidentiality

- 15.1 The purchaser will use all documents (including samples, models and data) and knowledge received from the business relationship only for the purposes of the contract and will keep such information secret from third parties with the same care as he would as regards his own documents and knowledge if Harz Guss designates such information as confidential or has an obvious interest in keeping it secret.

- 15.2 This obligation begins with the first receipt of the documents or knowledge and ends 36 months after the end of the business relationship.

16. Intellectual property

- 16.1 Harz Guss reserves all property rights and copyrights to illustrations, brochures, calculations and other documents and they may not be made accessible to third parties. This applies in particular to written documents that are designated as "confidential". The purchaser requires the express written consent of Harz Guss before passing them on to third parties.

- 16.2 Liability for the infringement of industrial property rights and copyrights of third parties is excluded if Harz Guss only manufactures according to the specifications and/or drawings of the purchaser. In such cases, the purchaser indemnifies Harz Guss against all claims of third parties asserted in this connection.

17. Partnership clause

Any amount to be paid as compensation, particularly for damages and dismantling and installation costs (if such costs are to be borne by Harz Guss), shall be determined bona fide in consideration of the economic situation of the contractual partners, the nature, scope and duration of the business relationship, any causation and/or fault contributions of the purchaser in accordance with Sec. 254 of the German Civil Code (*BGB*), any particularly unfavourable installation situation as regards the supplied part and the value of the goods involved.

18. Binding principles

Irrespective of countries and borders, the following principles are applied:

- 18.1 Human rights: The purchaser will support, respect and ensure the protection of international human rights within his sphere of influence so that he is not complicit in human rights violations.

- 18.2 Labor standards: The purchaser shall, to the extent possible, promote the elimination of all forms of forced labor, the abolition of child labor and non-discrimination in respect of employment and occupation.

- 18.3 Combating corruption: The purchaser undertakes to comply with all applicable anti-corruption laws and regulations and not to commit any prohibited acts, directly or indirectly. Prohibited actions include, in particular, promising, offering or granting, or demanding or accepting an improper advantage or benefit to influence actions in an improper manner.

- 18.4 Environmental Protection: The purchaser will support a precautionary approach to environmental problems and take initiatives to create a greater sense of responsibility for the environment and to promote the development and spread of environmentally friendly technologies.

- 18.5 Code of Conduct: The purchaser undertakes to accept and comply with the Code of Conduct applicable within the GMH Group. The current version of the GMH Group's Code of Conduct is published on the Internet at www.gmh-gruppe.de.

- 18.6 Right of inspection in the event of violations, termination: Harz Guss is entitled, in the event of indications of a not inconsiderable



breach of the obligations set forth in this Sec. 18 – in particular breaches of anti-corruption laws or regulations or the Code of Conduct of the GMH Group – by the purchaser, its bodies, employees or other persons employed within the contractual relationship, to demand information in writing from the purchaser about compliance with the aforementioned regulations and any infringements thereof. Harz Guss is also entitled to terminate the contract without notice in the event of serious or repeated infringements, unless the infringement is remedied by the purchaser within a reasonable period. The request for information must be made in writing and in compliance with the legitimate interests of the purchaser, in particular his business and trade secrets, and in conformity with the rights of the employees, in particular the rights of data protection.

18.7 **Right of inspection:** In addition, the purchaser grants Harz Guss the right to inspect his books and documents after prior notice to the extent they are relevant to the performance of this contract. Such inspection will take place to an appropriate extent, at the usual location and during usual business hours, and in compliance with the legitimate interests of the purchaser, in particular his business and trade secrets, and in conformity with the rights of the employees, in particular the rights of data protection. The purchaser is to cooperate fully with Harz Guss in this respect.

19. Data privacy

The current version of our data protection declaration is published on the Internet at the address www.harzguss.de.

20. Applicable Law, Place of Jurisdiction, Place of Performance

20.1 The contractual relationship is governed by and construed in accordance with the laws of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) and any conflict of law principles shall not apply.

20.2 The exclusive place of jurisdiction for all disputes arising from or in connection with this contract shall be Walkenried, Germany. Notwithstanding this jurisdiction agreement, Harz Guss may also sue the purchaser at his place of business.

20.3 Unless otherwise stated in the order confirmation, the place of performance shall be Harz Guss's registered office.

21. Partial invalidity

Should individual provisions of these General Terms and Conditions of Delivery and Payment be ineffective or void in whole or in part, the contractual partners undertake to agree to a provision that largely achieves the meaning and purpose of the ineffective or void provision.