



# Terms and Conditions for the supply of Products and services

## I. TERMS OF DELIVERY

### 1. Scope, conclusion of contract and form

(1) The following terms and conditions apply to all business relations between the customer as indicated in the Order or the Order Confirmation ("Customer") and VACUUMSCHMELZE GmbH & Co. KG ("VAC"). They shall apply, in particular, to contracts for the sale and/or supply of movable items ("Products") and shall only apply if the Customer is an entrepreneur in accordance with § 14 German Civil Code ("*Bürgerliches Gesetzbuch*", "BGB"), a legal entity under public law or a special fund under public law. The terms and conditions shall also apply to similar future contracts between VAC and the Customer, even if no express reference is made thereto again upon concluding the contract.

(2) These terms and conditions apply without exception. VAC does not acknowledge any additional or conflicting terms and conditions of the Customer except to the extent that it expressly consents thereto in writing. Any provision of Products or services as well as the receipt of payments by VAC shall not constitute such consent.

(3) In each case, individual agreements concluded with the Customer (including supplementary agreements, additions and amendments) take precedence over these terms and conditions. Except where proven otherwise, a written contract or the written confirmation of VAC is required for any such agreements.

(4) Any and all offers by VAC shall be subject to change unless they include a binding period. By ordering, the Customer is deemed to have made a binding offer to enter into a contract ("Order"). VAC may accept such offer either in writing ("Order Confirmation") or by delivering the Products to Customer.

(5) Legally relevant declarations and notifications by the Customer with regard to the contractual relationship of the parties (e.g. setting of deadlines, notifications of defects, termination or reduction of price) must be made in writing, at least in text form in accordance with § 126b BGB (e.g. letter, e-mail, fax). Any statutory requirements as to form and further proof, in particular in case of doubt as to the legitimacy of the person making the declaration, shall remain unaffected.

(6) Any references to the applicability of statutory provisions shall be for clarification purposes only. Even without such clarification, the statutory provisions shall apply unless they are directly amended or expressly excluded in these terms and conditions.

### 2. Delivery and performance time

(1) Agreed deadlines for VAC's Products and services shall commence only once agreement has been reached on all details for provision thereof and the Customer has taken all necessary co-operative steps, in particular has provided all information, documents or materials to be procured by it and has rendered advance payments or down payments owed by it. Late co-operative actions or changes desired by the Customer shall result in an appropriate extension of the deadlines.

(2) Unforeseeable and unavoidable events (e.g. war, conditions similar to war, shortages in energy or raw materials, sabotage, strike, epidemics, pandemics) as well as all other external events which result in operational disruptions or interventions for which VAC is not responsible shall discharge VAC from its duty to provide Products and services for the duration of the relevant event, even if they arise during an already ongoing default. Deadlines shall be reasonably extended as a result. This shall also apply to Products or services of a supplier of VAC that are late or not properly provided for reasons for which VAC is not responsible.

(3) If VAC is in default due to a culpable breach of a non-material contractual obligation, the Customer is entitled to liquidated damages equivalent to 0.5% of the respective part of the Products or services per week in which VAC has been in default, up to a maximum of 5% of the respective part of the Products or services for the entire period VAC is in default. Notwithstanding the foregoing, any such claim for liquidated damages requires that the Customer can prove that the respective damages were caused by the delay. VAC reserves the right to prove that the Customer has not suffered any damage or that the damage is significantly less than the aforementioned liquidated damages. Any additional claims on the part of the Customer shall be excluded in all cases of late delivery or performance, including any claims that may arise after a time extension. The aforementioned shall not apply to the extent that VAC is subject to any mandatory liability, in particular in cases of willful misconduct, gross negligence or injury to life, body or health or breach of a material contractual obligation. The Customer's right to terminate the contract after expiration of a time extension to no avail shall remain unaffected.

### 3. Prices, payments and financial deterioration

(1) All prices are net prices *ex works* unless otherwise agreed between the parties, for example via reference to certain standard international commerce terms. The prices do not include any assembly or installation. If assembly or installation is agreed, the Assembly Terms listed below shall apply in addition to these Terms of Delivery. Any assembly costs will be shown separately in the invoice.

(2) In cases where Products and services are to be provided after four months following the conclusion of the contract or where Products and services are based on continuous obligations, VAC shall be entitled, in the event of cost increases – in particular in the event of an increase in prices for raw materials, energy and transport services and currency fluctuations that result in an increase in overall cost for VAC – to adjust the prices of the affected Products or services in line with the increase in overall costs.

(3) VAC's claims for payment shall become due and payable immediately upon receipt of the invoice. Unless otherwise stated in the Order Confirmation, payments shall be made without deduction to the bank account specified by VAC within 14 days after receipt of the invoice. Upon expiry of the aforementioned payment period, the Customer shall be in default of payment. Bills of exchange and checks shall be accepted only based on separate agreement and only in lieu of performance ("*erfüllungshalber*"). The deadline for payment is met upon receipt of the payment or, in the case of payment by bill of exchange or check, upon the date on which VAC may definitively dispose over the respective amount. Any and all expenses relating to bills of exchange, check or discounts as well as any and all other costs shall be borne solely by the Customer.

(4) The Customer is only entitled to offset or withhold payment if its counterclaims have been confirmed in a final and binding judgment, are undisputed or have been acknowledged by VAC.

(5) If VAC becomes aware of a material change in the Customer's financial condition following conclusion of the contract (e.g. through an adverse credit information or an interim default in payment), VAC may elect to provide outstanding Products or services only against advance payment or reasonable provision of security, in which respect, any deadlines for delivery and performance shall be extended accordingly. Outstanding claims from deliveries of Products or services shall become due and payable immediately.

(6) VAC may terminate the contract, if a) the Customer is in default of payment, or b) ceases payment, or c) the Customer becomes illiquid or overindebted, or d) an application for insolvency proceedings over the Customer's assets is filed, or e) proceedings for the protection against creditors or the appointment of a trustee or receiver or similar proceeding are initiated against the Customer. § 321 BGB shall remain unaffected.

(7) VAC may temporarily suspend any delivery of Products or services if and as long as any of the reasons set forth in paragraph (6) above continue to exist.

### 4. Assignment of claims

The Customer may assign a claim against VAC only with VAC's written consent. The foregoing shall not affect § 354a German Commercial Code ("*Handelsgesetzbuch*", "HGB").

### 5. Products, services and passing of risk

(1) Unless otherwise agreed, the place of performance ("*Erfüllungsort*") hereunder shall be the place of delivery pursuant to the agreed Incoterm. The risk of accidental loss or accidental damage to the Products shall pass to the Customer upon handover of the Products at the place of performance. The Incoterms specified in the Order Confirmation of VAC shall apply. The same shall apply if partial deliveries are made or if VAC renders further services (e.g. handling of shipping, assembly service or coverage of shipping costs). The place of delivery thus determined shall also apply to any subsequent performance.

(2) VAC may render partial deliveries or services provided that (i) VAC notifies the Customer thereof without undue delay, (ii) delivers or provides the remaining quantity within a reasonable period of time and (iii) such action is reasonably acceptable to the Customer. Insofar as VAC and the Customer agreed on an assembly, the performance of such assembly shall also constitute a partial performance. In addition to these Terms of Delivery, the Assembly Terms as set out below shall apply in such a case. The assembly and the related rights and obligations of the parties, including any warranty claims of the Customer, are independent of the sale and delivery of the Products.

(3) The delivery of the Products or services shall be deemed completed once the Customer is in default of acceptance, regardless of when actual delivery occurs.

(4) If the Customer is in default of acceptance, fails to cooperate or if the delivery will be delayed for other reasons for which the Customer is responsible, VAC shall be entitled to claim compensation for the resulting damage including additional expenses (e.g. storage costs). In such case, VAC is entitled to claim liquidated damages in the amount of 0.5 % of the price of the Products per month or part thereof in which Customer has been in default, up to a maximum of 5 % of the price of the Products as from the delivery deadline or – in the absence of a delivery deadline – as from the notification that the Products are ready for shipment. VAC's right to prove higher damages and further statutory claims (in particular reimbursement of additional expenses, reasonable compensation, termination) shall remain unaffected; however, any liquidated damages shall be credited against further claims. The Customer is entitled to prove that VAC has suffered no damage at all or only substantially less damage than the aforementioned liquidated damages.

In such cases, the risk of accidental loss or accidental damage to the Products shall pass to the Customer upon notification that the Products are ready for shipping.

#### **6. Retention of title**

(1) VAC shall retain title in the delivered Products and any items resulting from their processing (in each case "Retained Products") until Customer has fully paid any and all amounts due to VAC, even if any outstanding payments accrue after the contract has already been executed. In the case of outstanding amounts resulting from account currents, any retention of title secures VAC's balance claims.

(2) Any processing, modification or treatment of the Products is only permitted in the ordinary course of business and shall be performed by the Customer for VAC but without any obligations on VAC's part arising therefrom. VAC may at any time revoke the Customer's aforementioned right to further treat or process the Retained Goods. If the Retained Products are combined, mixed or merged with other products delivered that are subject to an ordinary or extended retention of title, VAC shall acquire joint title in the new products based on the ratio of the gross price agreed between the Customer and VAC to the corresponding value of the other products. The Customer hereby transfers to VAC its joint title resulting from any combination, mixing or merging of the Retained Products with other products. VAC hereby accepts this transfer.

(3) The Customer shall exercise the care of a prudent businessman in its possession of Retained Products in which VAC holds sole or joint title as custodian for VAC. In addition, the Customer shall sufficiently insure the Retained Products at its own expenses against damage caused by fire, water, vandalism, theft and other customary insured risks at replacement value. Customer hereby assigns to VAC any claims resulting therefrom under the respective insurance policy; in the event of joint ownership, Customer hereby assigns such claims to VAC according to the ratio of VAC's joint title interest to all joint title interests. VAC hereby accepts such assignment.

(4) The Customer shall only be entitled to dispose over the Retained Products if they are sold in the ordinary course of business and if it is ensured that the resulting claims transfer to VAC. The Customer shall not be entitled to dispose of the Retained Goods in any other way, in particular by way of pledge or assignment as security. In addition, VAC may at any time revoke the Customer's aforementioned right to dispose of the Retained Goods.

(5) The Customer hereby assigns to VAC as security any claims to which it is entitled under the sale of or for any other legal grounds pertaining to the Retained Products. Should the assigned claims be charged in a current account, the Customer hereby assigns to VAC a portion of its right to the balance, including the closing balance, in an amount equivalent to its resale claim. If requested by Customer, VAC shall be obligated to release the securities to which VAC is entitled to the extent that their realizable value exceeds the value of VAC's outstanding claims against the Customer by more than 10%. Any such release shall, however, be subject to VAC's right to select the securities to be released. If the Customer sells the Retained Products after they have been treated or processed or after they have been combined, mixed or merged with other products or together with other products, the respective assignment of claims shall be deemed agreed in an amount equivalent to the gross price agreed between the Customer and VAC plus a collateral security margin of 20% of such price. The Customer is authorized to retrieve the claims assigned to VAC. VAC hereby accepts the respective assignment.

(6) VAC may revoke the authorization to dispose over the Retained Products and to collect the claims assigned to VAC at any time should the Customer not duly and properly perform its obligations towards VAC.

(7) The Customer shall provide VAC at any time with any and all requested information on the Retained Products and the assigned claims and shall provide relevant documentation. Upon VAC's request, the Customer shall notify debtors of the assignment.

(8) The Customer shall notify VAC of any seizures or claims by third parties, including any enforcement measures, in relation to the Retained Products or assigned claims without undue delay and provide any relevant documentation. The Customer shall notify third parties immediately of the retention of title and

the assignment made as security. The Customer shall bear any costs of defense against such seizures or claims.

(9) If the Customer is in default in payment or breaches other obligations under the contract, VAC shall be entitled to take back the Retained Products, to disclose the assignment and to exploit and liquidate the Retained Products and the assigned claims in order to settle due and payable claims against the Customer. In such case, the Customer shall without undue delay grant VAC or VAC's authorized representative access to the Retained Products and surrender the same. A demand for surrender of the Retained Products by VAC or a levy of execution shall not be deemed to constitute a termination of the contract.

#### **7. Manufacture in accordance with the Customer's instructions**

(1) Provided that the Products are manufactured in accordance with drawings, samples, specifications or other instructions of the Customer, VAC provides no warranty and assumes no liability with regard to the functionality of the Products and/or any defects.

(2) The Customer shall indemnify VAC against any and all third party claims based on damage caused by the Products, as far as the damage results from drawings, samples or other instructions by the Customer.

(3) The Customer warrants that the manufacture and delivery of Products manufactured according to Customer's instructions will not infringe any third party intellectual property rights. In the event that such intellectual property rights are asserted by third parties against VAC, VAC may terminate the contract, unless the respective third party withdraws its claims within a reasonable period of time by way of written notice to VAC. The Customer shall indemnify VAC against any and all third party claims based on such intellectual property rights.

#### **8. Parts, materials and other substances provided by the Customer**

The Customer warrants that parts, materials and other substances provided shall be suitable and free and clear of defects. VAC shall be under no obligation to inspect Products upon receipt and VAC has no duty to inspect them for their suitability.

#### **9. Intellectual property rights and confidentiality**

VAC retains ownership in any and all confidential documents provided or made available to the Customer as well as to any copyright or other intellectual property rights in any and all information contained in such documents. Such confidential documents may not be disclosed to third parties and may be used only in the context of the contract with VAC, and, upon request, shall be returned to VAC without undue delay together with any and all copies made.

#### **10. Property of VAC**

Any molds, tooling and construction documents necessary for performance of the contract and created by VAC or on behalf of VAC shall be the sole property of VAC. The Customer shall have no rights thereto, even if it has contributed to the costs for the creation or production of the molds, tooling or construction documents.

#### **11. Technical changes and quantity variances**

(1) VAC reserves the right to make necessary or expedient changes, in particular, in design, material selection, specification or construction type, provided the Customer's interests are appropriately taken into account. VAC shall notify the Customer in writing of any material changes. Unless the Customer objects to the changes in writing within five working days after such notification, such changes shall be deemed accepted, provided that VAC has expressly notified the Customer of the legal consequences thereof.

(2) In manufacturing special alloys, there may be fluctuations in the production for manufacturing reasons. VAC may deliver excesses or shortfalls, provided this may reasonably be expected of the Customer and VAC notifies Customer without undue delay of the quantity deviations – compared to the order originally confirmed by VAC – in the event of (i) quantity over deliveries of up to 120 %, or (ii) quantity under deliveries of up to 80%. The Customer shall owe payment for the actual amount delivered.

#### **12. Warranty and inspection of Products upon receipt**

(1) VAC warrants that the delivered Products comply with the subjective requirements, the objective requirements and the assembly requirements according to § 434 (1) BGB. All Products showing a defect within the period of limitation, the cause of which already existed at the time of passing of risk, shall, at VAC's option, be repaired or redelivered free of charge. Notwithstanding the foregoing, any claims based on a defect are excluded if the Customer knew of the defect at the time of conclusion of the contract. If the Customer remained unaware of a defect due to gross negligence, the Customer may only assert claims regarding this defect if VAC fraudulently concealed the defect or assumed a guarantee for the quality of the respective Product. VAC disclaims any warranty for wear and tear due to normal use and defects caused by improper use, improper handling or storage or by non-compliance with the manufacturer's

assembly or operating instructions. In addition, VAC shall have the right to refuse subsequent performance under statutory German law at any time.

(2) Any and all information provided by VAC, in particular, pictures, drawings, technical information and references to norms and specifications in offers and brochures, are only descriptions and indicators and do not constitute a guarantee of quality or durability within the meaning of § 443 BGB. The same shall apply to the delivery of samples.

(3) Furthermore, the Customer may only assert claims for defects provided that Customer has complied with its statutory obligation to inspect the Products and give notice of defects (§§ 377, 381 HGB). The Customer shall inspect the Products without undue delay upon delivery, even in the event of prior delivery of samples or specimens, and shall notify VAC in writing without undue delay of any defects or deviations in quantity. Otherwise the Products shall be deemed approved, as far as there are no latent defects.

(4) The period of limitation for warranty claims shall be 12 months from the date of delivery of the Products. If assembly by VAC is agreed in addition to delivery of the Products, the Products shall not be deemed delivered until assembly has been completed, unless the Customer can check the suitability of the Products for use prior to their assembly. The foregoing shall not apply in the event of willful misconduct, malicious concealment of a defect or non-compliance with a guarantee of quality. § 438 (1) Nr. 2 and § 634a (1) Nr. 2 BGB shall remain unaffected by this provision.

(5) The Customer shall enable VAC to perform repairs without undue delay and shall make the rejected Products available for inspection and repair. Insofar as the repair costs increase due to the fact that the Products have been brought to another location other than the place of delivery following delivery, the Customer shall bear such additional costs, unless such transfer is in accordance with the intended use of the Products.

(6) The Customer shall bear any costs arising from any unjustified notices of defect, unless the absence of a defect was not detectable for the Customer. No flat cost charges for defect-related complaints by the Customer shall be recognized.

(7) Should repairs or substitute delivery fail, the Customer may demand reduction of the purchase price or terminate the contract without affecting any compensatory damages claims in accordance with applicable law.

(8) Special statutory provisions shall remain unaffected in the event of final delivery of the unprocessed Products to a consumer, even if the consumer has further processed them (supplier recourse pursuant to § 478 BGB). Claims from supplier recourse are excluded if the defective Product has been further processed by the Customer or another company, e.g. by installation in another product.

(9) Unless these Terms and Conditions provide otherwise, in particular in Section 13, additional claims on the part of the Customer shall be excluded. This shall not apply to cases of intent, gross negligence or injury of life, body, health or a material contractual obligation. The right to terminate the contract after fruitless expiry of a grace period shall remain unaffected.

### 13. Liability

(1) VAC shall pay damages or reimbursement of futile expenses – irrespective of the legal grounds – in the following cases:

a) in case of intent, gross negligence and in case of a guaranteed quality ("*Beschaffheitsgarantie*") to the full loss;

b) in all other cases only in the event of a breach of a major obligation ("*Kardinalpflicht*"). A breach of a major obligation within the meaning of this provision is assumed where the duty itself is a necessary prerequisite for the contractual performance, or where the breach of the relevant duty jeopardizes the purpose of the contract and where Customer could legitimately rely upon its fulfillment; in this case, however, VAC's total liability shall be limited to compensation for the foreseeable, typically occurring damage. The above limitations of liability shall also apply vis-à-vis third parties as well as in the event of breaches of duty by persons (also in its favor) for whose fault VAC is responsible under the statutory provisions.

(2) The limitations of liability pursuant to Section 13, paragraph (1), lit. b) above shall not apply to damages resulting from injury to life, body or health or to the extent that a defect was fraudulently concealed nor to claims of the Customer under the German Product Liability Act ("*Produkthaftungsgesetz*").

(3) A limitation period of one year shall apply to all claims against VAC for damages or reimbursement of futile expenses in the case of contractual and non-contractual liability. The limitation period shall commence at the time specified in § 199 (1) BGB. It shall come into effect at the latest on expiry of five years from the date on which the claim has arisen. The above provisions of sentences 1 to 3 of this Section 13 paragraph (3) shall not apply to liability in the event of intent or gross negligence or in the event of personal injury or under the German Product Liability Act. The limitation period for warranty claims (Section 12, paragraph (4)) shall remain unaffected by the provisions of this paragraph.

### 14. General Compliance

(1) VAC is not only committed to compliance with all applicable laws and the highest standards of integrity and ethics itself, but also expects the same from its business partners and customers. For this reason, VAC and Customer commit to VAC's Code of Conduct (on VAC's website: <https://vacuumsmelze.com>). Alternatively, Customer is entitled to refer to its own Code of Conduct, provided that it is equivalent in content to VAC's Code of Conduct.

(2) According to that, Customer agrees to comply with all applicable laws and regulations. For the avoidance of doubt, this includes but is not limited to all applicable regulations for the protection of human rights and environmental standards, anti-bribery and anti-corruption laws, national and international custom laws, environmental laws, antitrust and competition laws, tax laws, laws for proper accounting and financial reporting, all relevant regulations for the prevention of accidents, other occupational health and safety regulations as well as data protection regulations. The Customer shall be liable and indemnify VAC against all costs or other losses (in particular claims of third parties, fines, immaterial damages) resulting from the Customer's non-compliance with the applicable laws and regulations as well as the provisions of this Section 14, unless the Customer proves that it is not responsible for the violation.

### 15. Export control and compliance with foreign trade regulations

(1) The Parties shall comply with all economic sanctions, export control regulations, import restrictions and anti-boycott regulations under applicable German and EU law; this shall also apply with respect to U.S. law as well as Chinese law to the extent compatible with German or EU law ("*Applicable Foreign Trade Law*").

(2) If an export license is required under Applicable Foreign Trade Law for the performance of the contractual obligations by VAC, the entire contract between VAC and the Customer shall be subject to the condition precedent that such export license is granted. In the event that there is a reason to believe that an export license is required, the entire contract between VAC and the Customer is subject to the condition precedent that an export license or blank notice ("*Nullbescheid*") is issued. The Customer shall be obliged to support VAC in the application procedure, in particular providing all necessary information and documents (e.g. end-user-certificate).

(3) In the event that a possible export license requirement arises after conclusion of the contract, delays due to export inspections or approval procedures shall suspend the time period for performance of contractual services subject to approval, unless VAC is responsible for such delay. Paragraph 2 sentence 3 of this Section 15 shall apply accordingly.

(4) If a required export license is not granted despite all reasonable efforts of VAC, neither the Customer nor VAC shall have any claims for compensation (including damages) beyond the reimbursement of benefits already received.

(5) Customer shall comply with the applicable provisions of the Applicable Foreign Trade Law in case of transfer, transmission or any other transfer of the Products delivered by VAC (including technology as well as related documents, irrespective of the manner of provision) or the services rendered by VAC to third parties in Germany and abroad. VAC points out that the verification/analysis of the Applicable Foreign Trade Law, such as the export control classification of products, the verification/analysis of recipients or the intended end uses, shall be the responsibility of Customer in the event of transfer, transmission or any other transfer of the Products supplied by VAC – if applicable also after processing or treatment. VAC's liability for any damage resulting from the fact that the Customer assumes VAC's evaluation under foreign trade law shall be excluded.

(6) The Customer may not directly or indirectly sell, export or re-export Products that fall within the scope of Article 12g of Council Regulation (EU) No. 833/2014 to the Russian Federation or for use in the Russian Federation. If the Products purchased from VAC are (re-)sold, (re-)exported or otherwise delivered or transferred to third parties, the Customer shall oblige these third parties to comply with the obligations under sentence 1 and pass these on to their customers accordingly. The Customer undertakes to establish and maintain an appropriate monitoring mechanism to detect conduct by third parties in the further supply chain, including potential resellers, that would frustrate the purpose of sentence 1 of this paragraph. In the event of a breach of the obligations referred to in this paragraph, VAC shall be entitled to terminate the contract with immediate effect by written notice and to claim a contractual penalty in the amount of 30% of the total value of the contract or the price of the exported Products, whichever is higher. The contractual penalty shall be set off against any claims for damages according to paragraph 9. The Customer shall inform VAC immediately of any irregularities in the application of this paragraph, including any relevant activities of third parties that could frustrate the purpose of 1 sentence of this paragraph. Upon VAC's request, the Customer shall provide VAC with information on compliance with the obligations under this paragraph within two weeks.

(7) The Customer warrants that at the time of conclusion of the contract neither it nor any natural person or legal entity exercising control over it is subject to economic sanctions under the Applicable Foreign Trade Law.

(8) VAC shall be permitted to refuse performance of contractual obligations as soon as it has knowledge or reason to believe that performance of the contract would constitute a violation of Applicable Foreign Trade Law. If the contract can ultimately not be fulfilled due to the Applicable Foreign Trade Law, either contracting party may terminate the contract in whole or in part without notice by written declaration to the other contracting party. In the event of termination, the contracting parties shall be obliged to return any benefits already received, unless this is prohibited by the Applicable Foreign Trade Law.

(9) The Customer shall be liable and indemnify VAC against all costs or other losses third-party claims (in particular claims of third parties, fines, immaterial damages) resulting from the Customer's non-compliance with the Applicable Foreign Trade Law and the provisions of this Section 15, unless the Customer proves that it is not responsible for the violation.

(10) VAC takes care of customs formalities only to the extent required under the contractual provisions or the agreed Incoterms. The Customer shall be obliged to support VAC in the performance of customs formalities, in particular the Customer shall provide all necessary information and documents.

## 16. Place of jurisdiction and applicable law

(1) Place of jurisdiction for any and all disputes arising from or in connection with the contract is Hanau, Germany. VAC may also assert its claims before the courts of competent jurisdiction of the Customer. Any exclusive place of jurisdiction shall remain unaffected.

(2) The contract and any matter arising from or in connection with it shall be governed by and construed in accordance with German law to the exclusion of the conflicts of laws provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).

## II. ASSEMBLY TERMS

If VAC, in addition to the delivery of the Products, also undertakes the Product's assembly, the following Assembly Terms shall additionally apply in connection with the Terms of Delivery:

### 1. Type of contract, entitlement to partial performance

(1) If VAC, in addition to the delivery of the Products, also assumes their assembly, the parties agree that the services to be performed by VAC as a whole shall continue to constitute a purchase contract within the meaning of § 433 BGB including assembly services ("*Kaufvertrag mit Montageverpflichtung*"). In such a case, VAC shall ensure the proper and professional assembly of the Products.

(2) In addition, the parties agree that VAC is entitled to partial performance within the meaning of § 266 BGB. The assembly and the related rights and obligations of the parties, including any warranty claims of the Customer, are independent of the sale and delivery of the Products.

### 2. Services

The offer and the Order Confirmation of VAC shall determine the scope of the services of the assembly.

### 3. Assembly requirements

(1) In order to ensure proper assembly, Customer must implement on site the product-related VAC guidelines, which will be communicated to the Customer in writing at the latest at the time of delivery of the Products.

(2) The Customer shall ensure that assembly is possible on the agreed date. In particular, the Customer shall ensure that the prerequisites according to the preparation guidelines are met.

### 4. Remuneration

(1) If no lump-sum price is charged for the assembly services but remuneration is based on time and material expended, the assembly services shall be invoiced in accordance with the hourly rate stated in the invoice plus any travel expenses, freight charges, etc.

(2) After performance of the assembly services, VAC shall invoice the Customer for the amount already stated in the offer of VAC for the assembly services, unless the parties have agreed otherwise. This amount shall become due upon receipt of the invoice by Customer. In addition, the provisions of Section 3 of the Terms of Delivery shall also apply with regard to the Customer's payment obligations with respect to the assembly services.

(3) VAC reserves the right to charge surcharges for overtime, night, Sunday and holiday hours as well as work under difficult conditions.

### 5. Customer's duties to cooperate

(1) Customer shall support VAC's personnel in the performance of the assembly at its own expense.

(2) Customer shall take the measures necessary to protect persons and property at the assembly site and shall be responsible for compliance with the statutory provisions on occupational health and safety if and to the extent that the personnel are present on its premises or office facilities for the intended purpose. Furthermore, the Customer shall inform the personnel about existing special safety regulations, insofar as these are of importance for the personnel.

### 6. Warranty

The warranty provisions agreed as per Section 12 of the Terms of Delivery shall apply mutatis mutandis to any warranty claims of the Customer with respect to the assembly, unless otherwise agreed. The Customer's claims for defects arising from the assembly shall become statute-barred one year after the assembly has been carried out.