

Eisenmann Thermal Solutions GmbH & Co. KG – General Terms and Conditions

Eisenmann Thermal Solutions GmbH & Co. KG's (hereinafter called Eisenmann) General Terms and Conditions include Eisenmann's Delivery and Payment Terms, and Eisenmann's Terms and Conditions of Purchase, and only apply to companies in terms of § 310, Section 1 of the German Civil Code. Eisenmann's General Terms and Conditions can be viewed and printed out at www.eisenmann-ts.com. 03/2016

I. Eisenmann Thermal Solutions GmbH & Co. KG - General Delivery and Payment Terms**§ 1 General – Scope of application**

- The following Terms of Sale apply to all Contracts concerning the supply of goods concluded between the Buyer and Eisenmann, as well as to all future business relationships, including if not expressly agreed again. Eisenmann does not accept and shall not be bound by the Buyer's Terms and Conditions where these differ from its Terms and Conditions, including where such Terms and Conditions are not expressly rejected. The following Terms of Sale also apply if Eisenmann accepts without reservation an order placed by the Buyer in full awareness of the Buyer's conflicting or different Terms and Conditions.
- This Contract contains in writing all of the Agreements concluded between the Buyer and Eisenmann concerning the performance of Contracts.

§ 2 Offer and Conclusion of Contract

- If an order needs to be qualified as an offer in terms of § 145 of the German Civil Code for the conclusion of a Sales Contract, Eisenmann may accept the offer within two weeks by either forwarding an order confirmation or dispatching the ordered products within that period of time.
- All of Eisenmann's offers are non-binding, subject to confirmation, must consequently be qualified as invitations and can be retracted at any time prior to their acceptance, unless expressly designated as binding.
- Eisenmann reserves all proprietary rights, copyrights and other industrial property rights to all of its cost estimates, illustrations, calculations, drawings and other documents. The Buyer may only pass on the above to third parties irrespective of whether or not such are designated as confidential subject to Eisenmann's written consent. If no order is placed, the Buyer must immediately return all Eisenmann documents.
- Eisenmann reserves the right to make minor changes to or supply products that are different in structure, design and performance to those shown in Eisenmann's catalogues, brochures and website as a result of technological advances.

§ 3 Prices – Payment terms

- Prices lists, catalogue prices and prices stated on Eisenmann's website are subject to confirmation. Fixed price agreements between Eisenmann and the Buyer have to be put down in writing. The minimum order value for list items is Euro 50 and for custom-made products Euro 100. Orders of a lower order value are subject to a surcharge of Euro 15.
- Copper (Cu) and silver (Ag) are subject to a weight-based surcharge (copper, from 1.50 Euro/kg; silver from 150 Euro/kg) based on the DEL copper and silver quotation price as of the order date.
- Unless specified otherwise in the order confirmation, all Eisenmann prices are ex works (EXW Bovenden – INCOTERMS 2010) and do not include packaging, shipping, installation, commissioning or other additional costs, charges for the latter will be invoiced separately. Eisenmann's prices do not include VAT, which will be charged at the legally applicable VAT rate as of the invoice date.
- If Eisenmann has agreed to set up and install the products and unless agreed otherwise, the Buyer shall bear all necessary additional costs, such as travel expenses and transport costs, customs duty and similar, in addition to the agreed fee unless agreed otherwise.
- Cash discount deduction has to be agreed in writing.
- All invoices are payable net; the Buyer shall bear all transfer fees.
- The purchase price is payable net (without deductions) within 30 days of the invoice date unless specified otherwise in the order confirmation and subject to a corresponding credit rating. Payment shall be deemed to have been made only once Eisenmann is in a possession of the payment sum. Payments by cheque shall be deemed to have been made only once the cheque has been cashed (subject to it being honoured).
- If payment is not received with the specified payment periods, the Buyer shall be in default, including if no reminder was issued. In this case, the statutory provisions apply. Late payments are subject to default interest to the amount of 8 percentage points above the relevant discount base interest rate of the Central European Bank. The same applies to separate invoices for partial deliveries.
- The Buyer shall only be entitled to set-off if his claims have been legally established, are recognised by Eisenmann and are not disputed, including if such counterclaims concern notifications of defect or counterclaims. The Buyer shall only be entitled to exercise the right of retention where a counterclaim arises from the same contractual agreement.

§ 4 Delivery period and time of performance

- Unless expressly agreed otherwise, all delivery periods or dates shall be deemed estimates only. The delivery periods stated by Eisenmann commence only once all technical issues have been clarified, the order confirmation has been dispatched to the Buyer and the Buyer has duly and in due time met all of his obligations. The delivery of products within the stipulated delivery period is conditional on the Buyer providing Eisenmann in good time with all of the documents, necessary licenses and approvals to be provided by him. Eisenmann reserves the right to defence of lack of performance of contract.
- If the Buyer fails to meet his duties in time, Eisenmann's delivery periods shall be extended accordingly, unless the delay in question is caused by Eisenmann. Delivery periods shall also be extended accordingly where a failure to deliver goods in time is due to force majeure (war and similar) or similar events (strikes and similar).
- For the remainder, products shall be considered as having been delivered within the specified period if they have been dispatched or the Buyer has received written notification of their readiness for dispatch before the expiry of the delivery period.
- If a Sales Contract qualifies as business to be settled on a fixed date in terms of § 286, Section 2, No. 4 of the German Civil Code or § 376 of the German Commercial Code, Eisenmann shall be liable in accordance with the statutory provisions. The same applies if the Buyer exercises his right to assert that he no longer has an interest in the performance of the Contract as a result of a delay in the delivery of the products caused by Eisenmann. In such a case, Eisenmann's liability shall be limited to the damage foreseeable and typical for such an event, unless the delay in the delivery was the result of a deliberate breach of Contract by Eisenmann, in which case Eisenmann shall also be held liable where such delays are caused by its representatives or assistants. Eisenmann shall furthermore be held liable toward the Buyer for delayed delivery in

accordance with the statutory provisions if said delay is the result of a deliberate or grossly negligent breach of Contract by Eisenmann, in which case Eisenmann shall also be held liable where such delays are caused by its representatives or assistants. Eisenmann's liability shall be limited to the damage foreseeable and typical for such an event, unless the delay in the delivery was the result of a deliberate breach of Contract by Eisenmann.

- In the event that a delay in a delivery caused by Eisenmann is the result of a culpable breach of an essential contractual duty, in which case Eisenmann shall also be held liable where such delays are caused by its representatives or assistants, Eisenmann shall be held liable in accordance with the statutory provisions on condition that its liability for damages shall be limited to the damage foreseeable and typical for such an event.
- The Buyer shall not be entitled to enforce a contractual penalty in the event of a delayed delivery. In the event that Eisenmann delays a delivery, the Buyer – provided the same has been agreed and the Buyer can demonstrate that the delay has resulted in damage - shall be entitled to demand compensation for each completed week of delay to a maximum of 0.5% and to no more than a total of 5% of the total value of the goods to be delivered, for that part of the delivery that he has not been able to use for his purposes because of the delay caused by Eisenmann.
- The Buyer shall not be entitled to any other liability claims concerning delays in the delivery of goods that are caused by Eisenmann. This shall not affect the Buyer's statutory rights and claims that apply in addition to his entitlement to compensation for a delay in the delivery of his goods caused by Eisenmann.
- Eisenmann shall be entitled to effect partial deliveries and performances where reasonable.
- If the Buyer delays the acceptance of the goods or culpably breaches any other duties to cooperate, Eisenmann shall be entitled to demand compensation for the resulting damage and any potential additional costs. Eisenmann reserves the right to assert other claims. The risk of accidental loss and accidental deterioration shall pass to the Buyer on the commencement of the default of acceptance or on the commencement of debtor's delay.

§ 5 Passing of risk – Dispatch / Packaging

- Unless specified otherwise in the order confirmation, all deliveries, including free deliveries, are "ex works".
- The risk of the goods delivered, installed and set up by Eisenmann shall pass to the Buyer on the day the goods are taken into operation by the Buyer or, where agreed, following the completion of the goods' first successful trial run.
- Eisenmann shall take out transport insurance for the goods on the Buyer's request and expense.
- Goods are loaded and dispatched without insurance and at the Buyer's risk. Eisenmann will endeavour to take into account the Buyer's requirements and interests concerning the type of dispatch and the transport route; any additional costs incurred as a result – including where goods have been agreed to be delivered for free – shall be borne by the Buyer.
- With the exception of pallets, Eisenmann does not accept returned transport packaging or other packaging as specified under the German Packaging Ordinance. The Buyer shall be responsible for disposing of the packaging at his own cost. If required, Eisenmann and the Buyer can agree the return of transport packaging and other packaging in a separate Agreement.
- If, on the Buyer's request or, if by his actions, the goods' dispatch, delivery, start or performance of the installation or assembly is delayed, the risk shall pass to the Buyer; in such a case Eisenmann shall store the goods at the Buyer's cost and risk. In this case, notifying the Buyer that the goods are ready for dispatch shall be deemed equivalent to dispatching the goods.
- If the Buyer delays the acceptance of the goods, Eisenmann shall be entitled to demand compensation for the resulting damage and reserves the right to assert further claims. If Eisenmann claims damages as specified under § 281 of the German Civil Code instead of performance, Eisenmann shall be entitled to claim 20% of the sales price as indemnity for damages irrespective of additional claims for more extensive damage. The Buyer shall be entitled to prove that Eisenmann did not sustain any or lesser damage than claimed.
- The Buyer shall not be entitled to refuse to accept goods delivered by Eisenmann because of negligible defects.

§ 6 Assembly and installation

Unless specified otherwise in writing, all assembly and installation work is subject to the following:

- The Buyer has to bear the costs for and provide the following services in good time:
 - The civil work, construction work and other specialist work and services needed that fall outside Eisenmann's domain, including all of the associated specialists and assistants, materials and tools, that are potentially needed for the assembly and installation work performed by Eisenmann,
 - Equipment such as scaffolding, lifting gear, cranes and similar machinery, fuels and lubricants needed for the installation and commissioning,
 - Power and water supply and the relevant connections at the point of use, heating and lighting,
 - Dry and lockable storage facilities at the site of installation for storing the machine components, equipment, materials, tools etc; adequate work space and recreation rooms for the assembly staff, as well as adequate toilet and washing facilities; the Buyer must furthermore take the same measures to protect Eisenmann's property and assembly staff on the assembly site as he would for his own, and
 - Provide protective clothing and safety equipment where required due to the conditions present at the site of assembly.
- The Buyer must provide Eisenmann with all of the necessary information concerning the location of concealed power cables, gas and water pipes or similar items, and the necessary structural data, without being asked to do so before the commencement of the assembly work.
- All of the supplies and items required to perform the work must have been made available at the site of installation or assembly before the commencement of the installation and assembly; vehicular access to the assembly site must have been ensured.
- Any delays to the assembly and installation work that are caused by the Buyer, in particular as a result of failing to comply with the above requirements, shall be the

Buyer's responsibility; likewise, in this case, the Buyer shall bear to an appropriate extent all of the costs associated with the resulting waiting times and additional travel required by Eisenmann's personnel.

- The assembly and installation work performed by Eisenmann personnel must be approved within two weeks of completion at Eisenmann's request. Failure to approve said work within this period of time shall be deemed as approval of this work if Eisenmann's services – where applicable, following the completion of an agreed trial phase – are being used by the Buyer.

§ 7 Retention of title

- All goods (goods subject to retention of title) supplied by Eisenmann shall remain Eisenmann's property until settlement of all claims, including all outstanding balances from open accounts that Eisenmann is entitled to from the Buyer at the present or a future date. Eisenmann shall be entitled to take back the goods subject to retention of title following the expiry of a reasonable and previously established deadline if the Buyer breaches the Contract, e.g. by delaying payment. If Eisenmann takes back the goods subject to retention of title, this shall not constitute a withdrawal from the Contract unless expressly declared by Eisenmann. The same applies if the goods subject to retention of title are impounded. Eisenmann shall be entitled to turn to account the goods subject to retention of title after their return. Following the deduction of an appropriate amount for the exploitation costs, the proceeds from the exploitation of these goods shall be deducted from the Buyer's outstanding liabilities.
- The Buyer must treat the goods subject to retention with care and adequately insure the same against fire, water damage and theft up to their replacement value as new at his own cost. The Buyer shall be responsible for performing at his own cost and in good time any maintenance work and inspections that may be required over time.
- During the period during which Eisenmann retains the title to said goods, the Buyer shall be prohibited from pledging or transferring said goods by way of security; the Buyer's rights concerning the goods subject to retention of title shall be limited to duly selling and/or utilising said goods during the course of business, provided he is not defaulting on payment. The Buyer hereby assigns all of the receivables (including all outstanding balances from open accounts) arising from the resale or another legal basis (insurance, breach of Contract) with respect to the goods subject to retention of title to Eisenmann by way of security; Eisenmann hereby accepts the assignment. For the remainder, the Buyer shall only be entitled to resell said goods if he receives payment from his customers or if he resells the goods on the condition that his customer shall only receive the title to said goods upon settlement of his payment obligations.
- Any processing or alterations made to the goods subject to retention of title by the Buyer shall in all cases be performed on Eisenmann's behalf. If the goods subject to retention of title are processed with other items that are not Eisenmann's property, Eisenmann shall acquire co-ownership of the new item in proportion to the ratio of the value of the goods subject to retention of title (final invoice amount plus VAT) and of the value of the other items they are processed with as of the time of processing. The item created as a result of such processing shall be subject to the same provisions as apply to the goods subject to retention of title. If the goods subject to retention of title are inextricably mixed with other items that are not Eisenmann's property, Eisenmann shall acquire co-ownership of the new item in proportion to the ratio of the value of the goods subject to retention of title (final invoice amount plus VAT) and of the value of the other items they are mixed with as of the time of processing. If, subsequent to the mixing, the Buyer's item then forms the primary item, the Buyer and Eisenmann agree that the Buyer shall transfer proportionate ownership of this item to Eisenmann; Eisenmann hereby accepts said transfer. The Buyer shall keep in safe custody the item consequently in Eisenmann's sole or joint ownership.
- The Buyer must notify third parties accessing the goods subject to retention of title, in particular if at risk of being impounded, of Eisenmann's ownership of said goods and notify Eisenmann immediately to enable it to enforce its proprietary rights. If the third party in question is unable to reimburse Eisenmann for the legal or out-of-court costs that arise in this connection, the Buyer shall be liable for said costs.
- Eisenmann must release the securities it is entitled to in such a way that their realisable value does not exceed the receivables to be secured by more than 10 %, with respect to which Eisenmann may decide which securities to release at its discretion.

§ 8 Warranty / Liability, defects of title

- The Buyer shall only be entitled to make claims under warranty if he has duly met his duty to inspect and notify defects in accordance with § 377 of the German Commercial Code. Defects must be reported immediately in writing.
- Where notices of defect are legitimate, Eisenmann shall have a duty to repair or supply a new product (supplementary performance), to the exclusion of the Buyer's entitlement to withdraw from the Contract or demand a reduction of the purchase price (abatement), unless Eisenmann is entitled to refuse supplementary performance on the grounds of the statutory provisions. The Buyer must grant Eisenmann an adequate period of time for the supplementary performance. If Eisenmann chooses to repair a defect, it shall be liable for all of the necessary expenses with the exception of additional expenses incurred because the subject of the contract is located at a location other than the place of performance. If the supplementary performance fails, the Buyer shall be entitled to demand a reduction of the purchase price (abatement) or to withdraw from the Contract. The Buyer shall not be entitled to assert claims for further damages on the grounds of the defect, unless Eisenmann fraudulently concealed the defect or failed to provide a guaranteed quality. The above provision shall not reverse the burden of proof to the disadvantage of the Buyer.
- The warranty expires 12 months from the passing of risk or at the latest from the legal start date of the limitation period. This does not apply where other periods are stipulated by law, such as in accordance with §§ 438, Section 1, No. 2 (Buildings and goods for buildings), 479, Section 1 (Right of recourse) and 634a, Section 1, No. 2 of the German Civil Code (Defects or deficiencies in the construction).
- The Buyer shall only be entitled to take recourse against Eisenmann in accordance with § 478 of the German Civil Code if the Buyer has not granted his customers any rights other than those granted under the legally required warranty and if the customer, as the consumer of the new portable item (consumer goods sale), is entitled to return the goods to the Buyer or to demand of the Buyer to reduce (abate) the purchase price or if the customer likewise exercises his right to take recourse against the Buyer on the grounds of a defect. The Buyer shall not be entitled to assert any claims if he has failed to meet his duty to inspect and notify defects in accordance with § 377 of the German Commercial Code.
- Eisenmann's duty as specified under point 4 above does not apply to defects arising from advertising statements or other contractual agreements that did not originate

from Eisenmann or where the Buyer has accordingly provided the end consumer with a special guarantee. The above duty also does not apply if there was no legal requirement for the Buyer to discharge his warranty obligations towards the end consumer or if he failed to report the defect that formed the subject of such a claim.

- Irrespective of the following limitation of liability, Eisenmann shall be held liable in accordance with the statutory provisions for damage to life, body and health that is the result of a negligent or deliberate breach of duty by Eisenmann, its legal representatives or assistants, as well as for damage as specified under the Product Liability Act. Eisenmann shall furthermore be held liable for damage that falls outside the scope of the damage specified in sentence 1 above that is the result of deliberate or grossly negligent breaches of duty or fraud committed by Eisenmann, its legal representatives or assistants in accordance with the legal regulations. However, in such a case, liability for damages shall be limited to the damage foreseeable and typical for such an event, provided Eisenmann, its legal representatives or assistants did not deliberately cause said damage. Eisenmann shall be held liable to the same extent to which it issued quality and/or lifetime warranties for goods or parts thereof. Eisenmann shall only accept liability for defects concerning the absence of guaranteed characteristics or a product's lifetime if the guaranteed characteristics and lifetime guarantee evidently cover the risk of such damage.
- Negligible deviations from the agreed characteristics, negligible impairment of serviceability, natural wear and damage incurred as a result of incorrect or negligent treatment, excessive use, the use of unsuitable operating supplies, defective construction work and similar are not deemed reportable defects. The Buyer shall also not be entitled to claim damages for any damage incurred as a result of incorrect modifications or repairs performed by the Buyer or a third party.
- For the remainder, unless specified otherwise above, Eisenmann shall not accept any further liability regardless of the legal nature of the claim being asserted. This also applies in particular for claims in tort or claims for compensation for wasted expenses in lieu of performance.
- The above provisions apply equally to defects of title.

§ 9 Impossibility

- The Buyer shall only be entitled to claim damages if it is impossible for Eisenmann to perform the Contract if Eisenmann is responsible for the impossibility. If the impossibility is Eisenmann's responsibility, the claim for damages shall be limited to a maximum of 10 % of the value of that part of the goods provided by Eisenmann that the Buyer is unable to use as intended because of the impossibility. This does not apply where Eisenmann must accept liability because of intent, gross negligence or damage to life, body or health.
- If the economic value or the capacity of the goods supplied by Eisenmann undergoes significant changes or if Eisenmann's operations are significantly affected as a result of unforeseeable events (war, rioting, strikes and similar), the Contract shall be adapted accordingly and in good faith. If adapting the Contract is not economically justifiable, Eisenmann shall be entitled to withdraw from the Contract; in this case, Eisenmann shall notify the Buyer immediately of its intention to withdraw from the Contract.

§ 10 Other claims for damages

The Buyer shall not be entitled to any other claims for damages. In particular, Eisenmann does not accept any liability for indirect or consequential losses, unless where such losses were unforeseeable. This does not apply where Eisenmann is liable under law. Claims for damages for breaches of essential contractual duties shall be limited to damages that are considered typical and reasonably foreseeable, unless damage was caused deliberately or through gross negligence, or concerns liability for damage to life, body or health. Claims for damages shall expire within 12 months.

§ 11 Industrial property and copyrights

- Subject to any conflicting agreements, the services provided by Eisenmann must be free from any third party industrial property and copyrights in the country of delivery.
- If a third party files legitimate claims against the Buyer for breach of industrial property rights, Eisenmann shall be held liable and act as follows within the period specified under § 8 No. 3:
 - Eisenmann shall either obtain the right of use for the relevant delivery or change or substitute it at its own cost in such a way as to ensure that the right of use is not infringed.
 - Buyer's compensation is governed by § 10.
- Eisenmann shall only have a duty to meet the above if the Buyer reports such third party claims immediately, rejects responsibility for the infringement and all defence and other measures are reserved for Eisenmann.
- Eisenmann shall not be held liable for third-party claims that arise from an infringement of industrial property rights committed by the Buyer. The same applies if the industrial property right infringement is caused because of the Buyer's requirements or through a form of application not foreseeable by Eisenmann, or a change or similar made by the Buyer.
- The Buyer shall not be entitled to any other claims against Eisenmann on the grounds of industrial property and copyright infringements.

§ 12 Place of fulfilment, jurisdiction, applicable law

- The place of fulfilment and jurisdiction for the deliveries and payments (including for actions on cheques and bills) as well as all disputes between Eisenmann and the Buyer arising from the Sales Contracts concluded between Eisenmann and the Buyer shall be Eisenmann's head office (Bovenden). However, Eisenmann shall be entitled to also bring actions against the Buyer at his place of residence and/or registered office.
- The relationship between the contractual parties shall be governed only by the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods (CISG) does not apply.
- In addition to the above, said relationship may furthermore be subject to separate agreements, the Orgalime conditions (General conditions for the supply of mechanical, electrical and electronic products) and the statutory provisions of the Federal Republic of Germany, with respect to which separate agreements shall take precedence over the General Terms and Conditions, the General Terms and Conditions take precedence over the Orgalime conditions and the Orgalime conditions shall take precedence over the legislation of the Federal Republic of Germany.

§ 13 Binding force of the contract

The Contract and the remainder of its provisions shall remain effective including if some of its provisions are legally ineffective. This does not apply if adhering to the Contract would represent unacceptable hardship for one of the parties.

II. Eisenmann Thermal Solutions GmbH & Co. KG –**General Terms and Condition of Purchase****§ 1 Scope of application**

1. The following Eisenmann Terms and Conditions apply to all Contracts concerning the supply of goods concluded between the Eisenmann and the Seller, as well as to all future business relationships, including if not expressly agreed again. Eisenmann shall not be bound by the Seller's Terms and Conditions where these differ from Eisenmann's Conditions of Purchase, including if Eisenmann does not expressly reject such Terms and Conditions. Eisenmann's Terms and Conditions of Purchase shall also apply if Eisenmann accepts the Seller's deliveries without reservation and in the full knowledge of the Seller's conflicting or different Terms and Conditions.
2. All of the Agreements concluded between Eisenmann and the Seller in connection with the Purchase Contracts are documented in writing in said Contract, these Terms and Conditions and Eisenmann's quotes.

§ 2 Offer and Conclusion of Contract

1. Eisenmann shall be bound by offers concerning the conclusion of a Sales Contract (placing an order) for two weeks. The Seller may only accept the offer in writing within this two-week period. Following the expiry of the two weeks, Eisenmann shall be entitled to rescind the offer.
2. Drawings, plans and other documents that form part of the order shall remain the property of Eisenmann; Eisenmann furthermore reserves all copyrights to these documents. If the Seller does not accept Eisenmann's offers within the period specified under section 2, point 1, the Seller must immediately return these documents to Eisenmann.

§ 3 Payments

1. The price shown by Eisenmann in the order is binding (fixed prices) and includes delivery, unless agreed otherwise in writing by the parties; the price includes packaging and transport insurance. The price includes VAT at the relevant applicable rate. The Seller's invoices must include the order number and part number specified by Eisenmann.
2. Unless agreed otherwise in writing with the Seller, Eisenmann shall apply a 3 % discount to invoices paid within 14 working days of the good's delivery date and invoice receipt, or net within 30 days.
3. Eisenmann shall be entitled to all of the legal set off and retention rights. Eisenmann shall be entitled to assign all of its rights from the Purchase Contract without the Seller's consent. The Seller shall not be entitled to transfer receivables from the contractual relationship to third parties without Eisenmann's written consent.

§ 4 Delivery period

1. The delivery period or delivery date specified by Eisenmann in the order is binding to the Seller (fixed date)
2. If it becomes evident to the Seller that he will be unable to meet a delivery date, he must contact Eisenmann immediately, explain the situation and provide new delivery dates. In such a case, the Seller must ensure at his own cost that the goods are delivered as quickly as possible.
3. If the Seller defaults, Eisenmann shall be entitled to file legal claims. If Eisenmann asserts claims for damages, the Seller shall be entitled to provide proof that he did not breach a duty.

§ 5 Safety regulations

The Seller undertakes to observe the generally recognised rules of technology, and the regulations and directives issued by the legislator, the regulatory bodies, the professional associations and the VDE concerning design, accident prevention and environmental protection in particular.

§ 6 Warranty / Liability

1. Eisenmann must inspect the goods within an appropriate period of time of the date of on which it received them from the Seller for quality deviations and deviations in the quantity of goods delivered. Obvious defects shall be deemed as reported in due time if the report is dispatched within three working days of the good's receipt by Eisenmann and is subsequently received by the Seller; concealed defects shall be deemed as reported in due time if Eisenmann dispatches the report within three working days of their discovery and the report is subsequently received by the Seller.
2. Eisenmann shall be entitled to enforce its statutory warranty rights against the Seller and the Seller shall be liable to Eisenmann to the full legal extent. The warranty expires 36 months from the passing of risk, provided the parties have not entered into any other Agreements.
3. In the event of a production defect, Eisenmann shall be entitled to refuse to accept the remainder of the delivery and to assert his statutory warranty rights for the entire delivery. A defect is likely to be a production defect if at least 10 % of the supplied goods feature a similar error during the warranty period.

§ 7 Seller's liability / Insurance cover

1. If a third party demands damages from Eisenmann because of a product fault that is the Seller's responsibility, the Seller shall exempt Eisenmann on initial request from all of the third party's claims and the costs required to dispute these claims as far as the cause lies within the Seller's area of control and responsibility.
2. If Eisenmann has to recall goods because of a damage event in terms of Section VI, point 1, the Seller shall reimburse Eisenmann for all of the expenses incurred in connection with said recall action. Where possible and where such an action will not cause unreasonable delays, Eisenmann shall notify the Seller of the subject and scope of the recall action and give him the opportunity to comment. This shall not have any effect on Eisenmann's right to claim further damages.
3. The Seller must take out and maintain a product liability insurance policy with an amount of cover appropriate for his goods and of at least 5 million Euro per person/property damage (the amount of cover required depends on the relevant product and must be determined on a case-by-case basis). This shall not have any effect on Eisenmann's right to claim further damages. Eisenmann shall be entitled to demand proof of the product liability insurance cover; the Seller must provide proof to Eisenmann of the product liability insurance on Eisenmann's request.
4. If Eisenmann is faced with third party claims because the Seller's delivery infringes

on the third party's statutory property rights, the Seller shall exempt Eisenmann on initial request from said claims and the costs that Eisenmann incurred in connection with the third party claim and the disputing of said claim, unless the Seller did not act culpably. Eisenmann shall not be entitled to recognise third party claims and/or enter into Agreements with third parties concerning such claims without the Seller's written consent. These rights of recourse are time-barred to 36 months from passing of risk.

§ 8 Non-disclosure / Retention of title

All of the parts and documents provided by Eisenmann shall remain Eisenmann's property. The Seller may only use and/or hand over or make these accessible to third parties outside this Contract subject to Eisenmann's written approval. Following the fulfilment of the relevant Contract, the Seller must return said parts and documents to Eisenmann at his own cost.

§ 9 Jurisdiction / Place of fulfilment / Applicable law

1. The place of fulfilment and sole jurisdiction for deliveries and payments (including for actions on cheques) as well as all disputes between Eisenmann and the Seller arising from the Contract concluded between Eisenmann and the Seller shall be Eisenmann's head office (Bovenden) if the Seller is a trader in terms of the German Commercial Code.
2. Point 1 also applies if the Seller does not have a general place of jurisdiction in Germany, moves his domicile or place of residence to another country or if his domicile and place of residence is not known at the time of the legal action.
3. The relations between the contractual parties shall be governed solely by the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods does not apply.