General Terms of Sale, Delivery and Payment

(Version January 2020)

Scope of application

These General Terms of Business apply to all current and future business relationships between GIGANT GmbH and its customers, insofar as they are entrepreneurs. Entrepreneurs within the meaning of these Terms of Business are defined as natural persons or legal entities or legally responsible business partnerships acting within our business relationships within the meaning of § 310 (1) BGB in exercising a commercial or self-employed professional activity.

1.) Delivery agreement

Delivery contracts between GIGANT GmbH and its customers are only formed if GIGANT GmbH has confirmed the delivery contract in writing. Amendments or supplements to agreements already made require the written confirmation of GIGANT GmbH for their effectiveness. Written form, as agreed above, also applies to mutual revocation of the requirement for written form. Electronic form

only suffices to uphold written form if a corresponding agreement on the use of the electronic form has been reached with the customer. The General terms of Business below also apply if the customer notifies or has notified us of his own, divergent terms of business or if these are printed on the customer's correspondence, in particular on order forms. We herby expressly oppose Customers' orders or order confirmations with divergent terms of business as a precaution. The documents included in printed matter, the offer and the confirmation of order, such as illustrations, descriptions and drawings, data on dimensions and weights as well as installation guidelines are only approximately authoritative, unless expressly designated as binding.

2.) Terms of price and payment

Prices are ex works, unless otherwise expressly agreed with the customer.

Franco prices apply subject to the correctness of the carriage distance and carriage rates used as the basis. They do not include, unless expressly agreed in writing, road tolls, terminal charges and accompanying charges nor any surcharges for detours, narrow-gauge railway, vehicles without trailers, four-wheel drive and special vehicles and any other accompanying

charges and surcharges provided for in the freight rates. Special prices are agreed for service and repair work performed in the field. Agreed prices remain valid for an initial period of three months from conclusion of contract. However, GIGANT GmbH reserves the right to charge prices valid on the day of delivery if delivery is performed after expiry of a four-month period from closing of contract. Said prices do not include value added tax which is charged at the respective legal rate.

Invoices are due for payment immediately and without deduction subject to lack of any special agreement with the customer. The customer is obliged to pay the purchase price within 30 days of receipt of goods at the latest. The customer shall enter into default of payment on expiry of this period without any further reminder being required. Interest at nine percent above the European Central Bank basic interest rate shall be charged on the amount due during the default period. GIGANT GmbH reserves the right to evidence and enforce greater default damage. Cheques are only regarded as payment once cashed. Bills of Exchange are not permitted as a means of payment.

The Customer is not permitted to withhold payment of due invoices or offset against counter-claims unless the claims are recognised or legally binding. Default of payment on the part of the customer or insufficient information from the customer concerning his solvency entitles GIGANT GmbH to claim payment in advance for all deliveries still pending from the business relationship.

3.) Retained ownership

GIGANT GmbH reserves ownership of delivered items until all invoices arising from the business relationship with the customer are settled (retained ownership).

The customer may neither pledge nor transfer ownership of delivered items as security to third parties.

GIGANT GmbH is entitled, in the event of action on the part of the customer in breach of contract, and in particular default of payment, to withdraw from the contract and demand return of the goods.

The customer is entitled to adapt and process the goods delivered within his ordinary business operations. Adaptation and processing shall be performed for GIGANT GmbH and on its behalf; however, without any costs incurring to GIGANT GmbH. The customer's acquisition of ownership of the goods subject to retained ownership shall also be ruled out in the event of Section 950, subsection 1 of the German Civil Code. If the customer has processed or connected goods subject to retained ownership to other goods not belonging to GIGANT GmbH, then it is deemed agreed that GIGANT GmbH shall be joint owner of the object manufactured or assembled commensurate with the proportionate value of goods subject to retained ownership to the other processed goods at the time of processing. It is also agreed that the customer shall keep such goods free of charge for GIGANT GmbH. The terms valid for goods subject to retained ownership shall apply to the GIGANT GmbH joint ownership proportion of the processed goods. The customer is also entitled within his ordinary business operations to resell goods subject to retained ownership with or without adaptation or processing while transferring the existing retained ownership of GIGANT GmbH at the same terms. The following applies to the resale of goods subject to retained ownership:

a) The customer at this point assigns his claim against the purchaser for the purchase price to GIGANT GmbH, regardless of whether the goods subject to retained ownership are sold with or without adaptation or processing or whether they are sold to one or several purchasers. GIGANT GmbH hereby accepts this assignment.

b) If goods subject to retained ownership are sold subsequent to adaptation and processing orsold together with other goods not belonging to the seller, then assignment of the claim arising from resale only applies to the amount of the value of the goods subject to retained ownership at the time of the adaptation or processing.

c) The assignment of the claim arising from the resale of goods subject to retained ownership shall provisionally constitute an undisclosed assignment, i.e. the purchaser shall not be notified of it. The customer is authorised to collect the claims until further notice; however, he is not entitled to dispose of the claims in any other manner, e.g. by assignment. GIGANT GmbH is entitled to withdraw the authorisation to collect claims and to collect them itself if the customer no longer meets his payment obligation according to contract and particularly if he is in default of payment. The customer shall notify the purchaser of the assignment at the request of GIGANT GmbH. The customer is also required to state to GIGANT GmbH the name of the purchaser and the amount of the assigned claims and to provide GIGANT GmbH with all the information required for asserting assigned claims.

d) Retention of ownership according to the above mentioned agreement also continues to apply if individual claims of GIGANT GmbH are included in a current invoice (credit account) and the balance is drawn and recognised. Customer's complete payment of all claims arising from the business relationship shall cause that ownership of goods subject to retained ownership and that assigned claims arising from resale revert back to the customer.

e) GIGANT GmbH shall undertake to release the securities to which it is entitled under the foregoing terms at its discretion insofar as the value of goods subject to retained ownership that are unsold and the assigned claims arising from resale do not exceed the claim amount of GIGANT GmbH by 20%.

4.) Delivery period

The delivery period shall commence with the dispatch of the order confirmation; however, not before the ordering party has provided the documents, permits,approvals that he is required to obtain and not before receipt of any agreed payments in advance.

The delivery period shall extend appropriately in the event of any unforeseen circumstances outside the volition of GIGANT GmbH. Such circumstances pertain to incidences of force Majeure, action by authorities, or other delays in the production of the parts to be delivered, interruptions in operations at GIGANT GmbH or at its suppliers at no fault of their own, delays in deliveries of essential construction and raw materials that are not their responsibility, insofar as any such obstacles have a demonstrable and considerable impact on the production or delivery of items slated for delivery. Such obstacles that are not the responsibility of GIGANT GmbH shall also cause an appropriate extension of delivery period if GIGANT GmbH is already in default.

The customer may demand in writing that GIGANT GmbH deliver within an appropriate period. GIGANT GmbH shall be deemed in default of delivery upon expiry of this period.

In the case of default of performance, the customer may set GIGANT GmbH an appropriate period in writing and inform GIGANT GmbH that he will refuse acceptance of the items slated for delivery upon expiry of this period. If the extension of time expires without result, then the customer is entitled to either withdraw from the purchase contract in a written declaration or to demand damages based on nonperformance.

However, the customer is only entitled to claim damages in the event of intent or gross negligence on the part of GIGANT GmbH. Assertion of a claim to damages shall exclude performance of the delivery contract.

The customer may not reject deliveries or partial deliveries performed prior to expiry of the delivery period.

5.) Packaging

Goods shall be delivered unpacked. Any material required for dispatch is charged at cost price; however, it shall not be taken back, unless otherwise agreed.

6.) Dispatch and transfer of risk

Deliveries are always ex works, even if the prices agreed are ex destination or free to the point of use.

Risk shall pass to the customer upon transfer to railway, forwarding agent or carrier; however, at the latest when the goods leave the works. The same shall apply for f.o.b. or c.i.f. transactions.

GIGANT GmbH shall select the shipping method, transport and means of protection. GIGANT GmbH is only liable for incorrect selection due to intent or gross negligence.

Goods notified as ready for dispatch must be called forward immediately; otherwise GIGANT GmbH is entitled to store the goods at its own discretion at the customer's risk and expense and to charge the goods as delivered ex works.

7.) Rights in the event of defects

Only the product description provided by GIGANT GmbH on the written order confirmation is valid as the agreed condition of the goods. Public statements, commendations or advertising do not represent information in terms of condition according to contract. In the event of supply of defective assembly instructions, GIGANT GmbH is only liable if the error in the assembly instructions contradicts proper assembly and has caused material defects.

Complaints concerning the quantity delivered and obvious defects in the goods delivered are to be asserted in writing within 10 days of delivery; hidden defects are to be reported with 10 days of their discovery.

Claims according to the terms stated below are ruled out if the customer adapts, processes or resells the goods even though he already has discovered or should have discovered the defect, unless the customer acted in fulfilment of his obligation to reduce damage.

GIGANT GmbH shall be given the opportunity to determine the defect under complaint itself on site or by a representative.

Natural wear and any damage occurring due to intentional, incorrect or negligent handling or due to non-observance of installation and maintenance regulations, overloading or force majeure shall release GIGANT GmbH from any obligations.

GIGANT GmbH may choose either repair at its own cost (reworking) or replacement delivery in the event of a valid complaint made by the customer. If reworking or replacement delivery fails, then the customer may, at his discretion, demand reduction of the purchase price or withdraw from the contract, unless the defect is only minor.

If the customer chooses to withdraw, then he is not entitled to claim damages due to the defect.

Any claims due to defect shall not be recognised if the customer failed to report the defect correctly and failed to grant GIGANT GmbH immediate opportunity to rework the goods. The claim shall likewise lapse if repairs or modifications are performed on delivered goods without the express or written approval of GIGANT GmbH, or if type plates are removed.

The limitation period for rights in the event of defect is 1 year from delivery of the goods, unless the product is covered under the special Gigant warranty period. Claims of compensation due to intent and gross negligence, injury to life, body or health based on an either intentionally or negligently breach of duty of the user are subject to the legal limitation period.

Information on the validity of the Gigant warranty period is stated on the order confirmation.

The terms set out under Clause 7 shall not affect claims arising from separate warranty statements made by GIGANT GmbH.

8.) Entrepreneur's recourse

The claim to recourse against GIGANT GmbH shall only enter into effect if the customer or an intermediate purchaser sells the goods delivered to a final consumer who is not an entrepreneur as defined under the scope of application of these General Terms of Business.

If the customer sells the newly produced GIGANT GmbH goods to a final consumer or an intermediate dealer and takes back these goods from the intermediate dealer or final consumer, reworks them or has to reduce the purchase price due to their defectiveness, then the customer may assert his claim for material defects from the intermediate dealer or final consumer within so-called legal entrepreneur's recourse, insofar as the entrepreneur ensures complete documentation of material defects by providing installation and disassembly documentation, delivery notes and invoices or in another form to be agreed with GIGANT GmbH for asserting any such claims. The claim to entrepreneur's recourse under the legal provisions of Sections 478 & 479, German Civil Code, regarding the claim to compensation of expenses shall lapse within 2 years of delivery of the goods to the customer. The claim due to defects shall otherwise lapse 2 months at the earliest after the time when the customer fulfilled the claims of the consumer or intermediate dealer; however, 5 years at the latest after the time when GIGANT GmbH delivered the goods to the customer.

The claim to legal entrepreneur's recourse shall lapse, in the case the contractual partner is merchandiser in the sense of the German "Handelsgesetzbuch", if the costumer does not inspect the goods and report defects immediately in accordance with § 377 HGB. For the length of the period shall apply the provisions of number 7. The claim due to material defects shall lapse insofar as the customer has satisfied claims asserted by the final consumer or intermediate dealer due to material defects with an ex gratia settlement.

9.) Customer service

GIGANT GmbH is pleased to assist customers within their own customer service concerning any enquiries regarding installation support or solution of technical problems. However, provided technical assistance represents a purely ex gratia service that is not based on any legal claim to it and from which no liability on the part of GIGANT GmbH can be derived, unless incorrect information was given intentionally or with gross negligence. The provisions under this clause shall not affect written contracts between GIGANT GmbH and customers concerning technical consulting for payment.

10.) Place of performance and venue of courts

The place of performance for GIGANT GmbH deliveries and for payments to GIGANT GmbH is the company's Registered Office in Dinklage.

The company's Registered Office in Dinklage is likewise deemed GIGANT GmbH deliveries venue of courts for any current and future

claims arising from business relations with entrepreneurs who are simultaneously registered companies or business persons.

11.) Export control

GIGANT GmbH as well as its customers must comply with the export control laws and sanction provisions of the Federal Republic of Germany, the European Union, and the United States, as well as any other mandatory, applicable foreign trade rules and regulations. This includes, in particular, Council Regulation (EC) No 428/2009 and its annexes, the German Foreign Trade Act (Außenwirtschaftsgesetz, AWG), the German Foreign Trade Regulation (Außenwirtschaftsverordnung, AWV) and its annexes (Part I, Sections A and B of the German export list), as amended in each case from time to time, and any restrictions under Council Regulation (EC) No 881/2002, Commission Regulation (EC) No 553/2007, Council Regulation (EC) No 2580/2001, and Council Regulation (EU) No. 753/2011, as well as restrictions that result from the U.S. OFAC lists.

The customer undertakes to refrain from directly or indirectly selling, exporting, re-exporting, delivering, transferring, or otherwise making available goods delivered by GIGANT GmbH to persons, companies, institutions, or organisations to the extent that this infringes German, European, and/or U.S. export provisions or other embargo rules. If the customer resells products of GIGANT GmbH or otherwise involves third parties in contract performance, it must check whether the name and identify of its customers, business partners, and employees appear among the natural and legal persons, groups, and organisations contained on the current lists published as annexes to the regulations set forth in the above section. If the name and identity appear on these lists, the customer must refrain from conducting business with these persons, groups, or organisations.

Where GIGANT GmbH so request, the customer must provide the necessary information about the end use of the goods to be delivered by GIGANT GmbH. In particular, it must issue what are known as “end-use-certificates” and send the originals to GIGANT GmbH so that the end use and the purpose of use of the goods to be delivered can be verified and demonstrated same to the competent export control authorities.

GIGANT GmbH is entitled to terminate the contract with the customer, as well as individual delivery and services obligations and ongoing obligations, if and to the extent that GIGANT GmbH needs to do so in order to comply with national or international legal provisions within the meaning of this Section in the case of termination in accordance with sentence 1, the customer cannot assert a claim for compensation of damages or other rights on account of termination.

12.) Confidentiality, data

GIGANT GmbH and its customers agree that a party’s business and trade secrets that become known during the business relationship may be neither exploited nor disclosed to third parties without the consent of the other party, unless the business and trade secrets are publicly available or there is a statutory obligation to disclose them. This also applies after the corresponding contract has ended.

However, in the case of legitimate interest (e.g. if the customer asserts warranty claims with respect to the goods), GIGANT GmbH and its agents are allowed to read the operating data of the goods (e.g. operating hours, area output, running time) and are to be given access to the telematics data documentation concerning the goods. Access to such data is permissible for as long as and to the extent that this is necessary in order to safeguard GIGANT GmbH‘s legitimate interests.

In addition, the customer agrees that its business data that are provided to GIGANT GmbH in connection with and for the purposes of the business relationship (e.g. balance sheets, management reports, business plans, banking information, etc.) may be processed by GIGANT GmbH and by its affiliated companies and be transmitted to and used by third parties to the extent that this is related to the business relationship, particularly where the customer desires assistance with financing. The foregoing declaration of consent is given voluntarily and may be withdrawn by the customer at any time. It is not deemed to be consent to the use of personal

13.) Data Protection Policy

GIGANT GmbH, Märschendorfer Straße 42, 49413 Dinklage, recorded in the commercial register maintained by the Local Court of Oldenburg under HRA 110276, is responsible for the collection and processing of data in connection with this contract. If there are questions, comments, or proposals concerning rights as data subject or the processing of personal data by GIGANT GmbH, please contact the data protection officer, whose contact details can be found on GIGANT GmbH’s website (https://www.gigant-group.com/datenschutz/).

GIGANT GmbH processes data for the purposes of this contract and contract relationship. Data processing is based on costumer’s consent, the performance of a contract, for the fulfilment of legal obligations, and on the basis of GIGANT GmbH legitimate interest in the distribution and sale of its goods, as well as in order to be able to present appropriate offers to costumers (including, where desired, financing offers). The legal basis for this processing is Article 6(1)(a), (b), (c) and (f) GDPR.

GIGANT GmbH processes the data that costumers provided for the contract and the contractual relationship that are necessary for performing the contract or fulfilling legal obligations. This concerns, in particular

a) Contact information and business information for the purpose of performing the contract (e.g. name, contact person, address, phone number, email address),

b) Information about the customer’s creditworthiness (unless advance payment is made),

c) Information about the order, and

d) Information necessary for fulfilling statutory retention duties.

Costumer’s data are stored for the purposes of contractual relationship and then erased or anonymised, unless statutory retention periods exist.

Costumer’s data are not disclosed to third parties, other than to the relevant service providers that GIGANT GmbH employ for contract performance. Transmission to countries outside of the EU/EEA is not envisaged, unless this is necessary for contractual relationship as a result of the location or order of the costumer.

Parties concerned have the following rights with respect to their personal data:

a) Right of access (Article 15 GDPR)

b) Right to rectification (Article 16 GDPR)

c) Right to erasure (Article 17 GDPR)

d) Right to restriction of processing (Article 18 GDPR)

e) Right to data portability (Article 20 GDPR)

f) Right to object to processing (Article 21 GDPR)

g) Right to complain at a supervisory authority (Article 77 GDPR)

In addition, at any time a complaint can be lodged with the competent data protection supervisory authority for Lower Saxony.

14.) Miscellaneous

The invalidity or ineffectiveness of individual terms shall not affect the validity of the remaining provisions of this Contract. Ineffective provisions shall be exclusively replaced regulations under the law of the Federal Republic of Germany. The laws of the Federal Republic of Germany shall apply exclusively in addition to these General Terms of Sale, Delivery and Payment.