

# General Terms and Conditions of Sale and Delivery of YXLON International GmbH

Version September 2019

## 1 SCOPE, EXCLUSIVITY AND BINDING CHARACTER

1.1 These General Terms and Conditions of Sale and Delivery ("Terms of Sale") apply to all deliveries, installations, repairs, consulting services and other services of YXLON International GmbH ("YXLON"). The Terms of Sale form the basis and contents of the offers submitted by YXLON to its customers ("Buyers") and the agreements concluded with them regarding the sale and delivery of goods and services etc. ("Agreement"), unless otherwise agreed in writing. In case of conflicting provisions, the Agreement shall take precedence over the Terms of Sale. The Buyer's general business terms are expressly excluded, except if expressly acknowledged by YXLON in writing.

1.2 The current version of the Terms of Sale is available on the YXLON homepage. They shall become part of the Agreement upon order placement and shall apply, subject to change, also to all other future offers and deliveries by YXLON.

1.3 The Terms of Sale are available in German, English and French versions. In the event of contradictions or discrepancies, the English version shall prevail.

1.4. These YXLON Terms of Sale do not apply to contracts between YXLON and consumers.

## 2 OFFER, ACCEPTANCE AND CHANGE

2.1 All offers by YXLON are free of charge and without commitment, unless otherwise noted. By ordering the desired products, the Buyer makes a binding offer to conclude a purchase agreement.

2.2 An Agreement shall be concluded if YXLON has confirmed the order in writing, in text form (fax, email) or by Electronic Data Interchange (EDI) or has executed the order. Any amendment or supplement to the Agreement shall only be valid if made in writing or text form (fax, email). In particular, YXLON employees and agents shall not be authorised to make verbal collateral agreements, give any assurance or make verbal agreements regarding amendments to the Agreement. Such collateral agreements, assurances or agreements shall oblige YXLON only following a relevant supplement to the order acknowledgement made in writing or text form (fax, email).

## 3 PRICES

3.1 All prices offered and confirmed are always net prices, unless otherwise agreed in writing. They are quoted ex works, excluding incidental costs such as freight, customs and packaging, without discounts and other abatements or deductions, plus the value added tax (purchase price) applicable on the day of delivery, unless otherwise agreed. Any price confirmed shall apply only if the quantity confirmed is purchased.

3.2 Should more than four months have passed between conclusion of the Agreement and the delivery date scheduled for the entire, or any part of, the delivery and should the costs of the delivery item increase by more than 5% after conclusion of the Agreement, in particular due to price increases by YXLON's suppliers, YXLON shall be entitled to reasonably (i.e. to the extent to which the product costs increase) increase the price for those parts of the total delivery that are scheduled for delivery after four months. Should the price increase claimed by YXLON exceed the price of the total delivery by more than 5%, the Buyer shall be entitled to withdraw from the Agreement within two weeks of receipt of YXLON's notification of the price increase by sending YXLON a written notice.

## 4 DELIVERIES, PASSING OF RISK AND ACCEPTANCE INSPECTION

4.1 The delivery dates and delivery periods are quoted ex works and result from YXLON's written acknowledgement pursuant to Section 2.2. All delivery dates and delivery periods are quoted for guidance only and shall be binding only if specified as binding by YXLON expressly and in writing.

4.2 The goods shall usually be handed over to the Buyer in accordance with the CIP INCOTERMS in effect at the time of conclusion of the Agreement. Unless otherwise agreed, "Carriage and Insurance Paid to" ("CIP") shall apply to shipments. Handover to the forwarder at YXLON's plant or any other place of loading shall be deemed delivery to the Buyer, and all risks of loss or damage during transport shall pass to the Buyer at that time, irrespective of the existing terms of shipment.

4.3 The general mode of shipment for each delivery item shall be selected in accordance with the procedure specified by the Buyer. However, YXLON reserves the right to determine the precise shipping procedure and to make partial deliveries at its own discretion, all partial deliveries being invoiced separately and falling due for

payment at the payment date stated in the invoice irrespective of further deliveries.

4.4 Any delay in the case of delivery of partial deliveries shall not release the Buyer from its obligation to accept the remaining deliveries.

4.5 Where the Buyer is entitled to claim justified compensation for damage caused by delay, such claim shall, in the case of ordinary negligence on the part of YXLON, be limited to 0.5% of the net price (value of the goods to be delivered) for each full calendar week of delay, however, in the aggregate to a maximum of 5% of the value of the goods to be delivered that are delivered late. If the Buyer, in addition to this, wishes to withdraw from the Agreement and/or to claim damages instead of performance, it shall have to fix a reasonable time limit for YXLON to make delivery. Where the Buyer is entitled to claim damages instead of performance, such claim shall be limited to a maximum of 10% of the agreed purchase price in the case of ordinary negligence. Should YXLON, while being in default of delivery, become unable to deliver by accident, YXLON shall be liable within the liability limitations agreed above. YXLON shall not be liable if the damage had occurred also if delivery had been on schedule. YXLON shall be entitled to prove a lesser damage.

4.7 Should the Buyer not take delivery of the goods ordered, YXLON shall be entitled to withdraw from the Agreement or claim damages for non-performance upon expiry of a period of 30 days. Moreover, the Buyer shall be liable to YXLON for all additional handling, storage and/or other costs incurred and for the risk of loss in connection with the goods ordered. If YXLON stores the goods, the storage costs shall be (0.1%) of the purchase price of the goods stored for each full week. The parties shall each have the right to claim higher and to prove lower storage costs.

Moreover, YXLON shall have the right to retain further deliveries irrespective of whether or not they are connected with the goods not taken delivery of.

4.8 Where acceptance inspection is to be carried out, the goods shall be deemed accepted if

a) delivery has been made and, if YXLON also owes installation, installation has been completed;

b) YXLON has notified the Buyer of this, pointing to the implied acceptance pursuant to this Section 4.8, and has

asked it to carry out the acceptance inspection;

c) ten working days have passed since delivery and/or installation or the Buyer has started to use the goods (e.g., has put the goods into operation) and, in that case, five working days have passed since delivery and/or installation; and

d) the Buyer has failed to declare acceptance within that period of time for any reason other than a defect of which it has notified YXLON that makes use of the goods impossible or significantly impairs such use or has not declared itself.

## 5 TERMS OF PAYMENT

5.1 The Buyer undertakes to pay the invoice amount net within 14 days of the invoice date, unless otherwise agreed in writing.

5.2 Irrespective of the method of payment, any payment shall be deemed to have been made only at the time at which YXLON can freely dispose of the amount.

5.3 Should the customer be in default of payment, YXLON may fix a reasonable period of grace in writing for performance or supplementary performance, without prejudice to the other rights under these Terms of Sale. Upon expiry of the period of grace without the required performance, YXLON shall be entitled to withdraw from the Agreement by means of a written statement and/or to claim damages instead of performance. Should the Buyer be in default of payment, YXLON shall be entitled to make deliveries only against prepayment by the Buyer. In the event of default of payment, an interest rate for late payment pursuant to Section 288 (2) BGB [German Civil Code] shall apply.

5.4 The Buyer shall have a right of set-off or retention only to the extent that its claim has been determined without further legal recourse or is undisputed. The Buyer's counter-rights (*Gegenrechte*) shall not be affected in case of defects of the delivery. YXLON's agents are not authorised to receive payments.

## 6 RETENTION OF TITLE

6.1 The goods delivered shall remain the property of YXLON until full payment of the purchase price and satisfaction of all other claims which YXLON has against the Buyer in connection with the current business relationship. The Buyer hereby authorises YXLON to have the retention of title registered in a register if this is necessary in any country.

6.2 Should the value of all collaterals to which YXLON is entitled exceed the amount of all claims secured by more than 15%, YXLON shall, at the Buyer's request, release an appropriate part of the collaterals. YXLON shall be free to choose which of the collaterals it releases if there are several.

6.3 While the retention of title is in force, the Buyer shall be prohibited from pledging or assigning by way of security the goods, and only resellers shall be entitled to resell the goods in the ordinary course of business and only subject to the condition of the reseller receiving payment from its customer or making the reservation that ownership will pass to the customer only after the customer has fulfilled its payment obligations.

6.4 In the event that the Buyer resells the goods subject to retention of title, it assigns to YXLON already hereby by way of security its future claims from the resale against its customers, together with all ancillary rights, including any balance claims, without the need of any further specific statement. If the goods subject to retention of title are resold together with other items without a single price having been agreed for the goods subject to retention of title, the Buyer shall assign to YXLON that portion of the total price claimed that corresponds to the price of the goods subject to retention of title that has been invoiced.

6.5

a) The Buyer shall be allowed to process the goods subject to retention of title or to mix or combine them with other items. Such processing shall be done on behalf of YXLON. The Buyer shall keep safe on behalf of YXLON the new items created, using the due diligence of a prudent businessman. The new items shall be regarded as goods subject to retention of title.

b) YXLON and the Buyer agree already at this point in time that in any case of combination or mixing with other items not owned by YXLON, YXLON shall at any rate have co-ownership of the new item to the extent of the share that results from the proportion of the value of the combined or mixed goods subject to retention of title to the value of the other goods at the time of combination or mixing. The new items shall insofar be regarded as goods subject to retention of title.

c) The provision of Section 6.4 regarding the assignment of claims shall apply also to the new items.

However, the assignment shall apply only up to the amount that corresponds to the value of the processed, combined or mixed goods subject to

retention of title that has been invoiced by YXLON.

d) If the Buyer combines the goods subject to retention of title with a plot of land or any moveable property, it shall assign to YXLON by way of security also its claim due to it as compensation for the combination, together with all ancillary rights, in the proportion of the value of the combined goods subject to retention of title to the other combined goods at the time of combination, without the need of any further specific statement.

6.6 Subject to withdrawal, the Buyer shall be authorised to collect assigned receivables from resale. If an important reason exists, in particular in the event of default of payment, suspension of payments, opening of insolvency proceedings, protest of a bill or justified assumption of over-indebtedness or impending inability to pay of the Buyer, YXLON shall be entitled to withdraw the Buyer's collection authorisation. Moreover, YXLON may disclose the assignment by way of security, utilise the assigned claims and demand that the Buyer disclose the assignment by way of security to the customer after having threatened to do this and having set a reasonable time limit.

6.7 The Buyer shall without delay inform YXLON of any attachment, seizure or other disposal or intervention by third parties. If YXLON proves a legitimate interest to reasonable satisfaction, the Buyer shall without delay provide to YXLON any and all information necessary to assert its rights against the customer and hand over the necessary documents.

6.8 In the event of the Buyer breaching any of its obligations, in particular in the event of default of payment, YXLON shall be entitled to withdrawal, in addition to recovery of the goods, after expiry without performance of a reasonable time limit set for the Buyer to perform. The statutory provisions regarding the unnecessary of setting a time limit shall not be affected. The Buyer shall be obliged to surrender the goods. Recovery of or exercise of the retention of title to or the seizure of the goods subject to retention of title by YXLON shall not represent withdrawal from the Agreement, unless YXLON declares this expressly.

## 7 COMPLAINTS, NOTICE OF DEFECTS

7.1 The Buyer shall inspect the delivery item immediately after receipt. The Buyer shall without delay, at the latest within ten working days after delivery, notify YXLON in writing of, and describe in detail, any discernible defect. The Buyer shall without delay, at the latest

within ten working days after detection, notify YXLON in writing of, and describe in detail, any defect that initially cannot be detected in a proper inspection or that becomes apparent only at a later time.

7.2 The Buyer shall not be entitled to withhold the entire, or any part of a, payment for goods complained about.

## 8 WARRANTY AND LIABILITY

YXLON shall be liable for material defects as follows:

8.1 If a quality has not been agreed, it shall be assessed based on the statutory provisions whether or not a defect is present (Section 434 (1) Sentences 2 and 3 BGB). YXLON does not accept any liability for public statements made by YXLON or any other third party (e.g. advertising messages) which the Buyer has not specified to YXLON as being crucial to its decision to buy. Information on the product (or product specifications or similar terms) of the manufacturer shall not be regarded as a guarantee of quality or of durability as defined in Section 443 BGB.

8.2 All those parts or services that have a material defect shall be repaired, exchanged or re-provided free of charge at YXLON's option, provided that the root cause of the defect existed already at the time at which the risk passed.

8.3 Claims to supplementary performance shall become statute-barred 12 months after commencement of the statutory limitation period. This shall apply *mutatis mutandis* to withdrawal and abatement. This period shall not apply: to the extent that the law defines longer periods pursuant to Sections 438 (1) No. 2 (buildings and things for buildings), 479 (1) (right of recourse) and 634a (1) No. 2 (construction defects) BGB; in the case of wilful intent; in the case of fraudulent concealment of the defect and in the case of non-fulfilment of a guarantee of quality. The Buyer's claims to reimbursement of expenses pursuant to Section 445a BGB (recourse of the seller) shall likewise become statute-barred 12 months after commencement of the statutory limitation period, provided that the last contract in the supply chain is not a sale of consumer goods. The statutory provisions regarding suspension of expiry, suspension and recommencement of the periods shall not be affected.

8.4 The Buyer shall give notice of defects without delay in writing.

8.5 In the case of claims for defects, payments by the Buyer may be retained to an extent that is reasonably

proportionate to the material defects that have occurred. The Buyer shall not have a right of retention if its claims for defects have become statute-barred. Should notice of defect have been given unjustly, YXLON shall be entitled to claim reimbursement of the expenses incurred from the Buyer.

8.6 YXLON shall be given an opportunity to make supplementary performance within a reasonable time limit.

8.7 Should supplementary performance fail, the Buyer can withdraw from the Agreement or reduce the remuneration, without prejudice to any claims for compensation pursuant to Section 8.10.

8.8 Claims for defects cannot be asserted in the case of merely insignificant deviation from the agreed quality, merely insignificant impairment of usability, natural wear and tear or damage occurring after passing of the risk as a consequence of faulty or negligent treatment, excessive stress, unsuitable means of operation, faulty construction work or unsuitable subsoil or due to special external influences that are not assumed in the Agreement, and in the case of non-reproducible software errors. If the Buyer or a third party carries out alterations or installation/dismantling or repair work improperly, claims for defects can likewise not be asserted based on these and the consequences thereof.

8.9 Claims of the Buyer based on the expenses necessary for the purpose of supplementary performance shall be excluded to the extent to which these expenses increase because the delivery item has been relocated to a place other than the Buyer's establishment, except if such relocation is in accordance with its intended use. This shall apply *mutatis mutandis* to the Buyer's claims to reimbursement of expenses pursuant to Section 445a BGB (recourse of the seller), provided that the last contract in the supply chain is not a sale of consumer goods.

8.10 The Buyer shall not have any rights of recourse against YXLON pursuant to Section 445a BGB (recourse of the seller) with respect to claims for defects arising from agreements which the Buyer has made with its customer that exceed the statutory claims for defects.

8.11 Claims for damages of the Buyer based on a material defect shall be excluded. This shall not apply in the case of fraudulent concealment of the defect, non-fulfilment of a guarantee of quality, injury to life, body or health or any wilful or grossly negligent breach of an obligation by YXLON. The above provisions do not involve a change of

the burden of proof to the detriment of the Buyer. Further claims of the Buyer or claims other than those regulated in this Section 8 based on a material defect shall be excluded.

8.12 Unless otherwise provided for in these Terms of Sale, claims for damages of the Buyer, for whatever legal reason, in particular based on a breach of obligations under the obligatory relationship or in tort, shall be excluded.

8.13 This shall not apply to any liability:

- a) under the German Product Liability Act (*Produkthaftungsgesetz*);
- b) in case of wilful intent;
- c) in case of gross negligence of proprietors, legal representatives or executive employees;
- d) in case of malice;
- e) in case of non-fulfilment of a guarantee provided;
- f) for culpable injury to life, body or health; or
- g) for culpable breach of a material contractual obligation.

However, any claim for compensation for the breach of a material contractual obligation shall be limited to the foreseeable damage typical for the contract, unless any of the other abovementioned cases applies.

8.14 The above provisions do not involve a change of the burden of proof to the detriment of the Buyer.

8.15 In addition to this, YXLON's warranty terms and conditions specific to some product groups shall apply that are part of these Terms of Sale.

8.16 The Buyer is aware that the use of products may result in injury to health and other damage. The Buyer undertakes to observe at all times the German and foreign statutory and regulatory provisions relating to safe handling to which it is subject and to not use the products improperly.

YXLON shall be liable for legal defects as follows:

8.17 If the use of the delivery item results in any infringement of an industrial property right or copyright in the Federal Republic of Germany, YXLON shall as a rule, at its expense, procure for the Buyer the right of further use or modify the delivery item in a manner acceptable to the Buyer in such a way that the infringement of the property right no longer exists. Where this is not possible at economically reasonable conditions or within a reasonable period

of time, the Buyer shall have the right to withdraw from the Agreement. Under the preconditions mentioned, YXLON as well shall have the right to withdraw from the Agreement.

8.18 YXLON's obligations shall exist only if

- the Buyer informs YXLON without delay of the asserted infringement of the industrial property right or copyright;
- the Buyer supports YXLON to a reasonable extent in its defence against the claims asserted or enables YXLON the execution of the abovementioned modification measures;
- all defensive measures, including out-of-court settlement, are reserved to YXLON;
- the legal defect is not based on an instruction given by the Buyer; and
- the legal defect was not caused by the Buyer having altered the delivery item without authorisation or having used it in a way not in accordance with the Agreement.

## 9 FORCE MAJEURE

9.1 Any delay in delivery and/or service provision caused by unforeseen events beyond YXLON's control, such as war, threat of war, riot, use of force by a third party against persons or things, acts of sovereignty, including monetary and trade measures (e.g. economic sanctions), industrial action at YXLON or its suppliers or forwarders, interruption of the traffic connections intended to be used, natural disaster, fire, shortage of raw materials (e.g. semiconductors and other electronic components), energy scarcity or any other disruption of operations at YXLON or its suppliers for which YXLON is not responsible, shall extend agreed delivery periods and deadlines for the time the impediment persists. This shall apply also if YXLON already is in default of delivery or if the impediments to performance existed already prior to conclusion of the Agreement but were unknown to YXLON. YXLON shall without delay notify the Buyer of impediments of the abovementioned nature.

9.2 Should any delay in delivery attributable to the events specified in Section 9.1 continue for longer than four months, both parties shall be entitled to withdraw from the Agreement. However, the Buyer can withdraw only if YXLON, at the Buyer's request, fails to declare within one week's time whether YXLON wishes to withdraw or make delivery within a reasonable period of time. The same right of withdrawal shall arise irrespective of the abovementioned

time limit if performance of the Agreement has become unacceptable to either of the parties in view of the delay that has occurred.

## 10 INTELLECTUAL PROPERTY

10.1 Drawings, samples, drafts, designs etc. shall remain the property of YXLON. Their use, reproduction or disclosure to a third party without the prior written consent of YXLON is prohibited. Unless otherwise agreed, all intellectual property rights (including know-how) to products supplied by YXLON shall remain with YXLON.

10.2 Where YXLON manufactures items based on drawings, models or templates which the Buyer has provided to YXLON, all responsibility for infringement of intellectual property rights or violation of a provision of the German Act Against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb*) and for resulting claims is rejected. The Buyer shall fully indemnify YXLON from and against third-party claims on first demand by YXLON.

## 11 SOFTWARE

11.1 To the extent that software ("SW") is part of the scope of supply, the Buyer shall receive the transferable and non-exclusive right to use the contractual software on the delivery item intended for the purpose. Use of the software on more than one system is prohibited.

11.2 The SW supplied by YXLON may be reproduced, modified, translated or converted from object code to source code only to the extent this is permitted by law (Section 69a et seq. UrhG [German Act on Copyright and Related Rights]). SW must not be passed on to a third-party without the prior written consent of YXLON. Such consent shall as a rule be withheld only for an important reason.

11.3 The Buyer is not granted any further rights to use and exploit the SW.

11.4 The Buyer shall ensure that none of its employees and no other third party will use the SW supplied by YXLON for any purposes other than those contractually agreed.

11.5 On request and where YXLON has a legitimate interest, the Buyer shall allow YXLON or a third party assigned by YXLON to audit whether the use of the SW is within the bounds of the rights granted herein. The Buyer shall to the best of its ability assist YXLON with the performance of such audits.

11.6 YXLON shall have no warranty obligation if any alteration has been made to the SW without the express written permission of YXLON. The warranty claim shall likewise be

forfeited if the Buyer uses the SW in any hardware or software environment other than that approved by YXLON, in the case of improper operation and/or if the defect is attributable to other events outside of YXLON's sphere of responsibility.

The SW supplied by YXLON is basically as described in the product description. Claims for defects cannot be asserted in case of insignificant deviation from the agreed or supposed quality and in case of merely insignificant impairment of usability. Unless specified as such in a separate written agreement, product descriptions shall not be deemed to be guarantees. In the case of delivery of updates, upgrades and new versions, claims for defects shall be limited to the extent of the functions newly introduced by the update, upgrade or new version compared to the old version. Notice of defects of the SW shall be given in writing, describing the error indications in a comprehensible way and proving them, if possible, by written records, hard copies or other documents illustrating the defects. The notice of defects shall enable reproduction of the error.

11.7 With respect to the SW, YXLON shall be liable without limitation for damage caused by wilful intent or gross negligence on the part of YXLON or its legal representatives or executive employees and for damage caused wilfully by other vicarious agents. YXLON shall be liable without limitation for damage resulting from injury to life, body or health caused by wilful intent or negligence on the part of the licensor or its legal representative or vicarious agents. YXLON shall be liable for damage due to the absence of warranted characteristics up to the amount that was covered by the purpose of the warranty and was identifiable by YXLON when it provided the warranty. YXLON shall be liable for product liability losses in accordance with the provisions of the German Product Liability Act. YXLON shall be liable for the loss of data only up to the amount that would have been incurred for recovery had the data been backed up properly and regularly.

## 12 SECRECY

The Buyer shall be obliged to treat the information about YXLON and its products as confidential which the Buyer has obtained in the context of the business relationship and to bind to confidentiality its employees and vicarious agents that use such information. Should the Buyer or any of its employees or vicarious agents breach the obligation of confidentiality, the Buyer shall owe YXLON a contractual penalty of EUR 50,000.00.

Payment of the contractual penalty shall not release the Buyer from its obligation of confidentiality. The assertion of further claims for damages shall be reserved.

### 13 PRODUCT RECALL

13.1 If there are essential reasons for YXLON to recall a product from the market, the Buyer shall be obliged to support YXLON in the best way possible in its relevant efforts.

13.2 The Buyer undertakes to take all suitable measures to be able at all times to return products to YXLON in the event of a recall. The Buyer shall in particular take measures to ensure the traceability of the products.

13.3 Upon request by YXLON, the Buyer shall be obliged to return all products to YXLON that are affected by a recall. This shall also apply to products that are already in the possession of end consumers. The Buyer shall request these end consumers to return the products to it.

13.4 YXLON shall bear the costs associated with a recall only in those cases in which YXLON is guilty of having caused the reason of the recall. To the extent permitted by law, takeover of indirect or consequential costs, such as for business interruption, loss of earnings, third-party claims etc., is excluded expressly.

### 14 EXPORT CONTROL

14.1 Deliveries by YXLON are governed by the export licence directives of the German and/or other competent international authorities (incl. US re-export control), as amended from time to time, where relevant licences are or become necessary in a particular case. Accordingly, delivery under a contract is subject to the reservation that no obstacles exist to its performance due to national or international export control regulations. The Buyer expressly acknowledges that it is aware of the relevant directives or will obtain knowledge of them and will strictly comply with them. In certain cases, the competent authority may also demand submission of end-use certificates and international import certificates. If required for export control checks, you will upon our request without delay provide us with all information about final recipients, end-use and intended purpose of the goods supplied by us or the work performed by us or the services provided by us, as well as with relevant export control restrictions.

In exceptional cases, the goods supplied by YXLON can be subject to the "dual-use" Regulation (EC) No 428/2009 and hence to a licensing

obligation when exporting them from the EU into certain third countries. Therefore, the Buyer must check the licensing obligation when it intends to resell and export the goods supplied by us.

14.2 Any delay caused by export checks or licensing procedures shall invalidate time limits and delivery periods. If any necessary licence is not granted or if a delivery and service is not approvable, YXLON shall be entitled to terminate the Agreement without notice. In the event of termination by YXLON, the Buyer shall not be entitled to claim damages or assert other rights because of the termination. This shall not affect claims for damages by YXLON.

14.3 When passing the goods supplied by YXLON on to a third party at home or abroad, the Buyer shall comply with the applicable regulations of national and international export control laws.

### 15 DATA PRIVACY

In accordance with applicable data protection regulations, the Buyer is made aware that YXLON will store and process its data. The data will be processed in compliance with the applicable legal regulations.

### 16 SEVERABILITY CLAUSE

Should any of the provisions of this Agreement or these Terms of Sale be or become invalid or should any gap be found in this Agreement, this shall not affect the validity of the remaining provisions. Any such invalid contractual provision shall be replaced with and any gap shall be filled by a legally effective provision that takes account of or comes as close as possible to the parties' intentions apparent from this Agreement and to the economic spirit and purpose of the invalid provision and the entire Agreement. This shall also apply where the invalidity of a provision is based on a measure of performance or time. In that case, a measure of performance or time permitted by law which comes as close as possible to what had been intended shall be deemed to be agreed.

### 17 GOVERNING LAW, PLACE OF JURISDICTION

17.1 All legal relationships with the Buyer shall be governed exclusively by German law, excluding application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG). Application of the provisions of private international law (conflict of laws) is excluded.

17.2 The exclusive place of jurisdiction for any disputes between YXLON and a

Buyer shall be the court competent for YXLON that has jurisdiction at YXLON's registered seat and over the subject matter. YXLON shall be free to bring an action against the Buyer also at the Buyer's place of jurisdiction. Statutory regulations regarding exclusive jurisdiction shall not be affected.