

## **General Conditions of Purchase**

**of the group of companies**

**SIKA Dr. Siebert & Kühn GmbH & Co. KG**

**SIKA Systemtechnik GmbH**

**SIKA Aquatec GmbH**

### **1.0 Conclusion of contract, written form, non-disclosure, amendments**

1.1 We place our orders on the basis of these General Conditions of Purchase. Other conditions shall not become part of the contract even if we have not expressly objected to them. If we take receipt of the consignment/service without express objection, this shall on no account give rise to an assumption that we accept your terms and conditions of sale.

1.2 Quotations are binding and shall be submitted free of charge. These should correspond to our inquiries, although we are open to alternatives. Variances from our inquiries should be clearly marked.

Reimbursements will not be given for visits or for the working out of quotations, projects, drafts and pilot consignments.

1.3 If you do not accept our order in writing within two weeks of receipt, we shall be entitled to cancel it.

If you accept our order with variances, you must clearly indicate these variances to us. A contract shall only come into being if we have agreed to these variances in writing.

Order releases shall become binding at the latest if you do not object to them in writing within four working days of receipt.

1.4 Only orders issued in writing shall be legally binding. Orders issued verbally or by telephone shall require our subsequent written confirmation in order to become legally effective. Orders, order releases as well as their amendments and additions can also be done by electronic means or remote data transfer or machine-readable media.



Verbal agreements before or on conclusion of the contract shall require written confirmation by our purchasing department to become legally effective.

1.5 You must treat our inquiries, the quotations arising from them and conclusion of the contract in confidence and may not refer to business relations with us in any publications such as advertising materials and reference lists unless we have given consent in writing.

1.6 The contracting parties undertake to handle all not obviously commercial or technical details that become known to them through the business relationship as trade secrets. Subcontractors shall be required to make a corresponding undertaking. You must require employees entrusted by you with the execution of our order to make a corresponding non-disclosure undertaking. They must be advised in respect of Sections 17 and 18 of UWG (German law against unfair competition).

If one of the contracting parties discovers that an item of information that should have been kept secret has got into the hands of an unauthorised third party or a document that should have been kept secret has been lost, he must inform the other contracting party of this without delay.

The non-disclosure undertaking shall remain in effect even after completion of this contract. It lapses only when and in as far as the manufacturing knowledge contained in the entrusted documents has become generally known.

1.7 We can demand amendments to the delivered goods even after conclusion of the contract if this is reasonable to you. The effects on both sides, especially in respect of additional or reduced costs as well as delivery times are to be accordingly taken into account in this amendment.

1.8 Certificates of origin of goods with all necessary information and duly signed shall be made available to us on request and without delay. Likewise, written proof of VAT shall be provided for supplies from inside and outside the European Union. These documents shall be delivered to us no later than 10 calendar days before the delivery date.



On accepting this order, you undertake to enable examination of certificates of origin and supplier declarations by the customs administration and to both issue the necessary information for this and furnish any official verifications (information sheets) that may be required. In addition, you undertake to compensate us for damages we incur as a result of the declared origin not being recognised by the relevant authority.

You shall inform us without delay if a consignment is wholly or partially subject to export restrictions under German or other law.

1.9 You must inform us on official approvals required and reporting requirements for the import and operation of the delivered goods.

1.10 With delivery of the contractual goods, you transfer to us the right to start using the contractual goods for all known types of use.

## **2.0 Prices, passing of title, public price auditing, shipment, over and under-deliveries, passage of risk, packaging**

2.1 The agreed prices are fixed prices and exclude additional claims of any kind.

Costs for packaging and transport up to the shipping address or place of use stated by us as well as for customs formalities and customs duty are included in the prices. If an "ex works" or "ex warehouse" price is agreed, we will bear only the cheapest freight charges. If no prices are stated in the order, your list prices less the discounts agreed with us or customary discounts shall apply.

The delivery shall also include all contractually agreed auxiliary and operating supplies as well as all documentation such as drawings, quality and test certificates, service manuals, assembly and operating instructions, spare parts catalogues as well as other manuals.

In relation to the delivery of bought-in and standard parts as well as products manufactured by yourself, you warrant a supply capability of 5 years.

The statutory VAT is not included in the price.



- 2.2 If as a result of a contractual agreement ownership of the products to be supplied passes to us at a time when the products are stored with you, you shall ensure that our property is properly marked, stored separately and you shall save us harmless in respect of all losses, damage and claims of third parties.
- 2.3 Where the orders relate to public authority supplies that are subject to public price auditing, you shall undertake an unlimited duty to disclose information on your pricing to the authorities authorised for such audit and recognise the permissible prices as binding for you.
- 2.4 Our Order No. shall be stated on shipping papers, delivery notes, consignment notes and all correspondence.  
You shall be liable for all consequences arising from non-compliance with these undertakings.
- 2.5 We will only accept the quantities or number of units we have ordered. Over or under-deliveries are only permissible after prior consultation with us.
- 2.6 Shipment takes place at your risk. The risk of any deterioration, including accidental destruction, remains with you until delivery to the agreed shipping address or place of use.  
We shall not be obliged to deal with truckloads before receipt of the delivery papers.
- 2.7 If we ask you to delay a delivery, you must carefully store and insure the properly packaged and labelled products, but no longer than 6 months.
- 2.8 Your duty to recover the packaging depends on the statutory regulations. If the packaging remains in your possession, you recover this at your own cost.  
The goods should be packaged so as to prevent transport damage. Packaging materials should only be used to the extent needed to achieve this purpose.  
Only environmentally compatible packaging materials should be used.

2.9 For the interpretation of trade terms, the Incoterms in the version current at the time of concluding the contract should apply in the first instance.

### **3.0 Invoicing, payment, certificates**

3.1 Invoices should be submitted (one copy only) to us separately and in the correct form with all associated documents and data after the delivery/service has been completed in full and free of defects. Submitted invoices that do not comply with these requirements will not be deemed as received by us until the point of rectification.

3.2 We will make payment net within 30 days of receipt of the invoice at the latest, if and provided the delivered goods give no cause for complaint. If payment is made within 14 days, you shall grant us a payment discount of 3%.

3.3 If certificates for material tests or other documentation are agreed, they shall represent an essential feature of the delivery and are shall be sent to us along with the delivery. They shall however arrive at us no later than 10 calendar days after receipt of invoice. The payment period for the invoice shall start upon receipt of the agreed certificates or documentation.

3.4 In the event of defective or incomplete delivery, we shall be entitled to hold back an appropriate proportion of the payment until proper fulfilment and to be precise without loss of trade discounts, payment discounts or similar payment privileges. If payments have already been made for defective deliveries, we shall be entitled to withhold other due payments up to the amount of the payments already made.

### **4.0 Delivery times, delay in delivery, force majeure, early delivery, part deliveries, issue of documentation**

4.1 The agreed delivery times shall be binding and shall be kept to as closely as possible. Authoritative for compliance with the delivery time or delivery deadline

shall be due receipt of the goods or flawless provision of the service as well as delivery of the documentation at the place of receipt or place of use named by us or punctuality of the completed acceptance.

If you have described or confirmed the delivery deadline as “provisional”, “roughly”, “with the usual reservations” or similar, there may be no more than 8 calendar days between the named date and the actually completed delivery.

Unconditional acceptance of the late consignment does not mean that we relinquish claims for compensation.

4.2 If you realise that an agreed delivery date cannot be kept to for whatever reason, you must notify us of this in writing and without delay, stating the reasons and the likely length of the delay.

You will in such cases nevertheless take all necessary measures to ensure that the delivery date can be kept to or that only a small time delay occurs and notify us in writing what you have undertaken and will undertake in the specific case.

The agreed delivery date shall on no account change through notification of an expected delay in delivery. You shall grant us the right to interpose at your suppliers if necessary. All costs incurred by us as a result of lack of or delay in notification for which you are to blame will be charged to you.

4.3 If you are late delivering the goods, we shall be entitled to the statutory claims. We shall then also be entitled after unfruitful passing of an appropriate period of grace set by us at our discretion to continue demanding the delivery/service, to withdraw from the contract with or without compensation or to purchase replacement from a third party and/or to claim compensation instead of performance. Our claim to the delivery/service comes to an end only when we declare our withdrawal from the contract in writing or demand compensation instead of performance.

Additional expenses, especially in respect of necessary covering purchases, will be charged to you.

4.4 You may only refer to the absence of necessary documents to be supplied by us if you have sent us a written reminder about the documents and have not received them within a reasonable period.

4.5 Instances of force majeure and industrial disputes release the contracting parties from the contractual obligations for the duration of the disturbance and in the extent of its impact. The contracting parties shall be obliged within reasonable bounds to give the necessary information without delay and to amend their obligations in good faith to suit the changed conditions.

We shall be wholly or partially released from the obligation to accept the ordered delivery/service and inasmuch entitled to withdraw from the contract if as a result of the delay caused by the force majeure or industrial dispute, we are no longer able – taking account of economic aspects – to make use of the delivery/service.

If these hindrances last more than three months, each party shall be entitled to withdraw from the contract without further ado.

4.6 In the event of delivery earlier than agreed, we reserve the right to return the goods at your cost. If the goods are not returned in the case of early delivery, the goods will be stored with us at your cost and risk until the agreed delivery date.

We reserve the right in the case of early delivery not to make payment until the agreed due date.

4.7 We will accept part deliveries only with express prior agreement. They shall be identified as such in the shipping documents. The outstanding quantity of goods shall also be shown on these. Even if we agree to a part delivery, the agreed deadlines shall remain in effect for the total delivery, so that the delivery will only be deemed completed when the contract has been fulfilled in full.

The delivery of individual part consignments shall be done on written request, with an order number different from the contract confirmation number.

4.8 If you are late by more than 30 calendar days with such deliveries/services, for which a substitute purchase is not – for whatever legal foundation – possible, you shall on first written request be obliged to hand over the entire technical documentation required for reproduction of the parts by us or by a third party commissioned by us.

4.9

If industrial property rights exist to these parts, then you shall for this purpose conclude a license agreement with us without delay at generally accepted market terms.

**5.0 Guarantee, safety data sheets, time limits for lodging of complaints, rectification of defects, replacement, withdrawal from contract, price reduction, compensation, batch defects, right of self-remedy, advisory faults, cause analysis**

5.1 All deliveries/services are to be provided to us free of defects in quality and title. They must be in accordance with the agreed quality and conform to the latest technological developments, the relevant European and German legal stipulations and the regulations and guidelines of public authorities, professional and trade associations. The deliveries/services must also be suitable for the use required after the contract or, if this is not determined, for the generally accepted purpose.

All goods must conform to the latest safety regulations and must on delivery be accepted by the relevant testing bodies and approved for use for the intended purpose. The deliveries/services must above all comply with the safety at work regulations, the requirements of the Equipment and Product Safety Act in Germany, the accident prevention and fire protection regulations as well as the environmental regulations.

You are obliged to supply the safety data sheets applicable to your delivery along with the delivery. You shall indemnify us from all recourse claims of third parties in the event that you fail to deliver the safety data sheets, deliver these late or incorrectly. The same shall apply to all subsequent alterations.



If in specific cases variations from these regulations are necessary, you must obtain our written agreement to these. Your liability for defects is not reduced by this agreement.

Should you have objections to the type of manufacture desired by us, you must notify us of these in writing without delay.

- 5.2 Should you culpably furnish delivery/service for us that is not free of the rights of third parties in Germany or, if you are informed about it, in the destination country, you shall bear all financial prejudices arising from it for us.
- 5.3 You undertake as far as is commercially and technically possible to use environmentally friendly or environmentally compatible products and processes in your deliveries/services and also in the supplies or additional services of third parties. Should you be culpably in breach of this obligation, you will bear all financial prejudices arising from it for us, even such prejudices that arise through dereliction of your statutory duties to dispose of waste material.
- 5.4 We will inform you immediately in writing of obvious defects in the delivery as soon as they are discovered in line with the normal course of business, but at the latest within 5 working days of receipt of the delivery. In the case of hidden defects, the time limit for lodging a complaint is 3 working days after discovery. You will see to it on your own authority that the latest test methods are used as well as additional measures, if necessary.
- 5.5 You are required on request to immediately rectify at no cost to us, including all incidental expenses, all defects of delivery/service complained about during the warranty period, including non-attainment of guaranteed data and the absence of warranted characteristics, at our discretion through repair or replacement of the defective parts or through replacement delivery / new manufacture. You shall in particular bear all the costs associated with the establishment of the defects and their remedy, including those incurred by us, especially examination costs, dismantling and installation costs and the costs of transport, travel, labour and materials. This shall also apply should these expenses be increased by the

fact that the item delivered has been moved to a place different from the place of fulfilment, but only should this not result in disproportionate costs.

Should this be necessary for our own urgent operational reasons and provided that it can be reasonably demanded of you, you shall be required in an emergency to carry out repairs or replacement delivery / new manufacture as part of multi-shift operations or using overtime or work on public holidays.

If a second adequate period of grace set by us for the repair or replacement delivery / new manufacture passes fruitlessly without the desired result, we shall also be entitled to the statutory rights to cancel the contract and to a price reduction. An agreed period for subsequent fulfilment shall have the same legal consequences as a period of grace set by us.

Should we be entitled to cancel contract and should the non-fulfilment or inadequate fulfilment of the contract be limited to a distinct part of the service provided, we shall also be entitled to limit the cancellation to this part and to retain the rest of the contract.

After exercising the right of cancellation on account of non-performance or inadequate performance of the service as well as in the event of right to compensation in lieu of performance, we shall be entitled, if the service or remainder of the service has to be assigned elsewhere and notwithstanding the statutory rights, to the payment of an appropriate advance to cover the expected costs plus an adequate safety margin. In such a case, we shall only be required to obtain several quotations as long as this would not cause or threaten to cause considerable time delays or interruptions to the flow of operations, production or business. We shall invoice work we carry out at the market prices customary between third parties.

We reserve the right under all circumstances to pursue claims for damages.

- 5.6 Should identical defects appear on more than 5% of the delivered parts (batch defects), we shall be entitled to reject as defective the whole quantity delivered and present and to assert both the statutory and contractually agreed claims for defects.

5.7 In the event of material defects/defects in performance, also under purchase contracts, and after a period of grace set by us for subsequent fulfilment in accordance with Section 637 of the German Civil Code has passed fruitlessly without achievement of the desired results, we shall be entitled to take the matter into our own hands or to rectify the defects ourselves and to claim an advance for this purpose.

Should you fail to fulfil your obligations arising from your liability for defects after we have set an appropriate period of grace, we shall be entitled to take the required measures or have a third party take such measures at your expense and risk. We shall invoice work we carry out at the market prices customary between third parties.

We shall be entitled in urgent cases and in consultation with you to carry out rectification ourselves or to have a third party carry out such rectification. We may rectify minor defects without prior consultation – in fulfilment of our obligation to minimise damages or for the purposes of agreements made in this respect – however without this in any way limiting your liability for defects. We may then charge you for the costs incurred.

The same shall apply should suddenly unexpectedly high costs threaten or other unusual circumstances be present which, on careful consideration of the interests of both parties, justify immediate rectification by us.

5.8 In the event of a culpable dereliction of duties over and beyond the delivery of defective goods, e.g. a duty to clarify, to advise, to investigate or some other obligation to protect the interests of others, we may also claim compensation for the resulting consequential damages.

Consequential damages are such damages to legal assets other than the goods themselves that we or third-parties suffer as a result of the delivery of defective goods.

5.9 Claims derived from the liability for defective goods shall not arise if the defect is due to grossly negligent non-compliance with operating, maintenance or installation instructions, to inappropriate or improper use, defective or grossly



negligent handling and natural wear and tear as well as unauthorised interference with the delivery item on our part or on the part of third-parties.

5.10 You shall investigate deliveries that we have complained of as defective as to the causes thereof and implement measures to prevent defects of this nature arising again. You shall document the remedial measures taken and submit these documents for inspection should this be demanded.

## **6.0 Warranty period, suspension, recommencement**

6.1 Unless anything to the contrary has been expressly agreed, the warranty period for material defects and defects of title is three years. This shall also apply in the case of multi-shift operations. The warranty period shall begin with the delivery of the delivery goods to us, or to the third parties we nominate for this purpose, at the place of receipt or use named by us. The warranty period for apparatus, machinery, equipment and services provided shall begin on the date of acceptance stated in our written statement of acceptance. Should the acceptance be delayed through no fault of yours, the warranty period shall be three years from the date the delivered item is made available for acceptance. The warranty period for buildings and building materials shall be governed by the statutory regulations. The warranty period for spare parts is three years from the date they are installed/put into service and shall end at the latest five years after their delivery.

6.2 As long as negotiations are being conducted as to whether the defect complained of is justified, the warranty period of the machine/machine parts in question is suspended from the time the defect is reported to the time such negotiations are concluded or the end of the repair work and any acceptance becoming necessary.

Should you deliver replacement goods as part of your obligation of subsequent fulfilment, the limitation period for the part delivered shall recommence with the installation/acceptance of the part. The limitation period for repaired parts shall begin with the end/acceptance of the repair or the installation/re-construction of

the repaired part. This provision shall not apply if only a minor defect in a part delivered can be remedied by replacement delivery or rectification without major expenditure in time and money. It shall also not apply if the replacement delivery or rectification was without question a goodwill gesture or to achieve an amicable settlement of a dispute or was provided in the interests of the continuance of the supplier relationship

Our acceptance of work done must where applicable be applied for in writing. The time allowed for acceptance shall however under no circumstances end before the expiry of the agreed limitation periods for the notification of defective goods or services.

## **7.0 Quality assurance, product liability**

- 7.1 You are required to conduct a quality assurance system of suitable form and scope that conforms to the latest technological developments and to provide us with evidence of this if requested to do so. You shall conclude an appropriate quality assurance agreement with us should we consider this necessary.
- 7.2 You shall perform checks at your factory to ensure that your deliveries conform to our technical conditions for supplies. You undertake to prepare records of tests carried out and to archive all test, measurement and control results for 10 years. We shall be entitled at any time to inspect these documents and make copies thereof.
- 7.3 Unless anything to the contrary has been agreed, you shall label the items delivered in such a way that they are permanently identifiable as your products.
- 7.4 Should we due to a defect in our products that is attributable to your goods be made liable for a violation of official safety regulations or domestic or foreign product liability rules or laws, we shall be entitled to demand compensation from you for this if the damage was caused by products supplied by you.  
This damage shall also extend to the costs of a precautionary product recall.  
We shall as far as is possible and reasonable inform you of the content and the

extent of the recall measures to be carried out and give you the opportunity to give an opinion.

- 7.5 You shall also adequately insure yourselves against all product liability risks, including the risk of a recall, and submit the policy for our examination should we demand this.

## **8.0 Liability**

8.1 We will not consider your claims for compensation against us on account of ordinary negligence, irrespective of the legal justification. This exclusion of liability shall not apply to claims for compensation based on a neglect by us of fundamental contractual obligations. Neither shall this exclusion of liability apply in the event of injury to life, limb and health.

8.2 Compensation for damages in cases of ordinary negligence in relation to the neglect of fundamental contractual obligations and gross negligence on the part of vicarious agents shall be restricted to compensation for typical damage foreseeable at the time of concluding the contract.

8.3 Should our liability be excluded or limited, this shall also apply to the personal liability of our employees, representatives and agents.

## **9.0 Hazardous materials**

You shall, in compliance with Section 14 of the Hazardous Goods Regulations, provide us with each submitted quotation a Safety Data Sheet and relevant Accident Instruction Sheet (transport) for materials (substances, preparations) and objects (e.g. goods, parts, technical equipment, uncleaned empties), which because of their nature, properties or state pose risks to life and health, the environment as well as property and which as a result of regulations require special treatment in respect of packaging, transport, storage, handling and waste disposal.



The Supplier shall without delay deliver updated Safety Data Sheets and Accident Instruction Sheets should there be changes in the materials or the legal situation.

## **10.0 Technical documentation, production resources**

10.1 We reserve proprietary rights and copyrights to the documents we make available to you such as patterns, drawings, guidelines, analytical methods, recipes and similar. These documents may be used neither for purposes other than the contractual purposes nor duplicated, and they are to be treated in strict confidence. They may only be made accessible to third parties such as subcontractors and outside suppliers after prior written consent from us.

These documents must be returned to us without specific request if they are no longer needed to complete the contract.

The duty of non-disclosure shall also apply after completion of an order. It lapses if and to the extent to which the production knowledge contained in the provided documents has become generally known.

10.2 You must examine the documents we have made available to you before the start of production for completeness, inner dimensional relationships and for their fitness for the intended use. All dimensions and data shall be checked at the actual construction site. Should corrections turn out to be necessary, we shall carry these out without delay and provide you with new documents.

You must ask us to provide any missing drawings, documents, etc. in writing without delay.

10.3 You may use the production tools such as swages, gauges, dies, models, patterns, tools, moulds, welding templates, computer programs and similar provided by us as well as manufactured by you in accordance with our data or documents solely for the purpose of completing our contracts. You may use these production tools neither for your own purposes nor offer them or make them accessible to third parties.

You are to make available to us in due time, in full and without specific request and at no cost to us documents of all kinds such as are needed by us for the planning, use, installation, assembly, processing, storage, operation, maintenance (inspection, servicing, repair) of the delivery item.

10.4 All drawings must be discussed with us before the start of workshop work. They shall be provided with an inspection signature.

The inspection signature on drawings, calculations and other technical documents neither releases you from your obligations in terms of warranty and guarantee relating to the delivery item nor limits such obligations.

Unless otherwise specifically agreed, this shall also apply in the event that we make suggestions and recommendations.

10.5 After the delivery / service has been completed, or 14 calendar days after acceptance, you shall send us the as-built drawings, calculations and other technical documents relating to the delivery item at no cost to us and in the required number and in German (written/paper form) and in the current DIN form or on data medium. These documents include in particular storage, assembly and operating instructions as well as documents for the inspection, servicing and maintenance of the delivery item. These documents must conform to the existing German/European standards as well as our works standards if appropriate. They must be suitable for copying and conform to a generally accepted data format. These documents must be updated without delay to reflect any subsequent alterations made to the delivery item.

10.6 You are obliged to transfer ownership of the documents for unconditional use for an unlimited time. The intellectual property right to the documents shall not be prejudiced as a result. This also applies to tools, moulds, printing blocks, etc., that have been manufactured by you for the completion of the order.

10.7 The documents provided by the manufacture for mounting parts that can be purchased via lists or catalogues shall suffice should we need these for repairs and/or re-ordering of such parts. These documents must be written in German.



10.8 These provisions shall apply analogously to the know-how made available to you.

10.9 If the version of the production documents differs from that of the documents which we have provided with an inspection signature, you shall bear all costs that we or third parties incur as a result of this. This shall include the costs for re-examinations, expert reports, additional calculations, reworking, replacement deliveries, etc..

### **11.0 Provisions of materials, processing, mixing, tools**

11.1 All materials and other items that we have provided or that third parties have provided on our behalf shall remain our property. They may not be used for any purposes other than the contractual purposes. These materials and items shall for the duration of their provision be labelled as our property, stored separately, kept in good condition and insured.

11.2 You are obliged to inform us in writing without delay if third parties pledge these provided items or such an action threatens.

11.3 All provided materials shall be returned to us on first request.

11.4 Alterations to the provided materials shall only be permitted with our prior written consent and only in the authorised scope.

11.5 If our retained goods are processed with other items not belonging to us, we shall acquire joint title of the new thing in the proportion of the value of our thing to that of the other processed items at the time of processing.

11.6 If the thing provided by us is inseparably mixed with other items not belonging to us, we shall acquire joint title of the new thing in the proportion of the value of the retained thing to that of the other mixed items at the time of mixing. If the mixing occurs in such a way that the thing is regarded as your principal thing, it



shall be deemed agreed that you transfer proportionate joint title to us. You shall safeguard the sole title or joint title on our behalf.

11.7 If tools, apparatus, etc. are manufactured by you or on your behalf, you shall immediately transfer title to these if we have paid for the tools, apparatus in full or if these are fully amortised by us.

## **12.0 Industrial property rights, rights of use**

12.1 You shall not be entitled to use our trade names, logos or trademarks for your own benefit or that of third parties. You may use these neither separately nor in conjunction with your own trade names, trademarks or logos without our prior written consent.

If we grant our consent, you must strictly abide by our guidelines in respect of size, positioning and layout of the trade names, trademarks or logos.

12.2 Products that are not part of your standard range and which you have manufactured on the basis of our instructions or in accordance with our drawings or technical specifications may not be offered, sold or delivered to third parties without our prior written consent.

12.3 You may not offer, sell or deliver products from your own standard range to third parties or put these onto the market in any other way if our trade name, trademark or logo is still recognisable on the product. The same shall apply if third parties can assume that the product in question has been put onto the market by us.

12.4 You warrant that all deliveries are free from industrial property rights of third parties and in particular that patents, licences or other industrial property rights of third parties are not infringed by the delivery and use of the items delivered.

12.5 We shall inform each other in writing and without delay if claims on account of the infringement of industrial property rights relevant to the contract are asserted against one of us.

12.6 You shall in the event of culpable dereliction of these duties indemnify us and our customers from claims of third parties arising from any infringements of industrial property rights and shall bear all costs that we incur in this connection; also costs for any legal prosecution and recall measures. Your duty to indemnify us relates to all expenses that we necessarily incur in connection with assertion of claims by third parties.

12.7 If the contractual use of the item delivered / service provided is impaired by industrial property rights of third parties, you are obliged – irrespective of your other contractual obligations – to secure at your own expense from the party entitled to use the industrial property right our right to the unrestricted use in accordance with the contract of the items delivered/services provided and at no additional cost to us.

You shall also be entitled to alter the parts of your delivery/service affected by industrial property rights in such a way that they are removed from the scope of protection but nevertheless still conform to the existing contractual provisions made between you and us.

12.8 Should your efforts to comply with section 12.7 not be successful, we shall be entitled after consultation with you and for a transition period of no more than 6 months, to obtain from the party entitled to these rights permission to use the delivered items and services in question at your expense.

Should all efforts described in sections 12.7 or 12.8 be unsuccessful, you shall remove the equipment at your cost and reimburse the payment made by us plus interest at the normal bank rate of interest. We reserve the right to pursue further claims in law.

12.9 With delivery of a work that is protected by copyright, we obtain from you a simple, unrestricted right of use for all possible uses.

### **13.0 Stopping of production**

You will notify us immediately and in writing should you intend to change or to stop production. On stopping production, you must ensure the materials supplied to us up to that point are still available for a period of at least **12** months following your notification.

### **14.0 Partial ineffectiveness**

Should individual parts of these General Purchasing Conditions be legally ineffective, this shall not prejudice the effectiveness of the remaining provisions.

### **15.0 Passing on of orders only with our consent, non-assignment clause, right to offset and withhold, transfer of the contract, change of company name**

15.1 You shall not be entitled without our prior written consent to pass on the order or major parts thereof to third parties. Should this consent be granted, you shall remain responsible to us as co-debtor.

15.2 You shall not be entitled without our prior written consent to assign – either wholly or partly – the debts we owe you or to have them collected by a third party. This consent shall be deemed granted in the event of extended retention of title.

Should you assign a debt to a third party without our consent, this assignment shall nevertheless be valid. We may then make payment at our option to you or to the third party in full discharge of the liability.

15.3 You may only offset with debts that are undisputed or that have been established by a court of law.

15.4 You shall only be entitled to rights to withhold if they relate to the same contractual relationship.

15.5 You are required to inform us immediately of any transfer of the contract required by law and of every change in your company name.

#### **16.0. Data protection**

16.1 We will handle your personal data in accordance with the Federal Data Protection Law of Germany.

#### **17.0 Language of contract, correspondence**

The language of the contract shall be German. All correspondence and all other papers and documents shall be written in German language. This shall also apply to all other documentation such as guarantees for advance payments and warranty obligations.

If the contract parties make use a different language besides this, the German wording shall take precedence.

#### **18.0 Cessation of payments, insolvency**

If you cease making payments or a provisional insolvency administrator is appointed or insolvency proceedings opened in respect of your assets or a cheque or bill of exchange be subject to protest, we shall be entitled to withdraw from the contract or to terminate the contract wholly or in part with immediate effect and without notice and without this giving rise to claims against us.

If the contract is terminated by us, services performed up to that time shall only be invoiced at the prices agreed in the contract in as far as we are able to use them for the intended purpose. Damages incurred by us shall be taken into account in the final settlement of accounts.

## 19.0 Place of fulfilment

Unless anything to the contrary has specifically been agreed, the place of fulfilment for the delivery / service provision obligation is the shipping address / goods inwards point or place of use / place of installation stated by us. For all other obligations, the place of fulfilment for both parties shall be Kaufungen.

The risks of accidental loss and accidental deterioration shall not pass to us until acceptance or transfer has occurred at the place of fulfilment.

## 20.0 Legal venue

The sole legal venue for all present and future claims arising from the business relationship with businessmen, including claims relating to bills of exchange and cheques, shall be Kassel. The same legal venue shall apply if you do not have a general legal venue within Germany, relocate your domicile or usual place of residence from inside Germany after conclusion of the contract or your domicile or usual place of residence is unknown at the time the legal action is brought. We reserve the right, however, to pursue our claims at any other authorised legal venue.

## 21.0 Complementary law

The law of the Federal Republic of Germany shall be applicable to complement this contract, to the exclusion of the UN Agreement on Purchasing Law of 11.04.1980.

This text is the translation of the German "Allgemeine Einkaufsbedingungen" of SIKA Dr. Siebert & Kühn GmbH & Co. KG, SIKA Systemtechnik GmbH and SIKA Aquatec GmbH. In the event of contradictory interpretation of the English and the German version, the German text shall prevail.