

# English Translation of the General Terms and Conditions of Schukat electronic Vertriebs GmbH

This translation is provided to the customers of Schukat electronic Vertriebs GmbH for their convenience. However, only the German version of the General Terms and Conditions is applicable. Schukat electronic Vertriebs GmbH does not assume any warranty or guarantee for the correctness of this translation.

## §1 Sphere of validity

1. These terms and conditions apply exclusively to companies, legal persons or special assets under public law in the sense of § 310 Paragraph 1 BGB (hereafter "Customer" or "Purchaser").
2. These terms and conditions shall also apply for all future business with the Customer, provided such business is a matter of related legal transactions.
3. Verbal agreements to the contrary will only be valid if they are confirmed in writing by Schukat electronic Vertriebs GmbH (hereafter "Schukat"). The Customer's terms and conditions of business and/or purchase are applicable only if Schukat expressly declares in writing its acceptance in each individual case.

## §2 Offer and contract conclusion

1. Offers of Schukat are always subject to change without notice, provided that Schukat has not expressly provided a written statement confirming its binding commitment. Provided that an order of the Customer is to be considered an offer in accordance with §145 BGB (German Civil Code), we can either accept it within two weeks or, within this period, send the goods ordered, which shall also be deemed as acceptance of the offer.
2. Contract conclusion will take effect from the time the Customer receives the order acceptance or -confirmation or, in the absence of such, from the time the goods are received. Insofar as sales personnel or commercial agents make verbal side agreements, guarantees, or agreements with regard to condition and quality which exceed the specifications transacted in the order or the order acceptance or -confirmation, these will always require written confirmation by Schukat. Without written confirmation, any such verbal agreements and guarantees are invalid.
3. Concerning the nature and characteristics of goods, only the specifications and information supplied by the manufacturer will apply. These can be requested from Schukat by the Customer prior to placing an order. Specifications, diagrams, catalogue images, price lists, order forms, printed matter, as well as Schukat data media and Schukat's internet presence (hereafter collectively called "Documentation") are provided purely for the purpose of customer information and constitute no statement as to the nature or characteristics of the goods. Therefore, any warranty and/or guarantee for the information provided within the Documentation is excluded as far as §7 par. 5 of these terms and conditions is not applicable. Insofar as the documentation is covered by copyright protection, Schukat is entitled to the copyright thereto. In addition, Schukat is entitled to the title thereto where this has not been transferred to the Customer.

4. The prices stated by Schukat are in euros and apply ex warehouse Monheim, plus VAT as mandated by law. Schukat reserves the right to charge price surcharges, including after the conclusion of a contract, provided that calculation components of the price of an item have changed between the Customer's placement of the order and delivery; in addition to fees of any kind, this includes public charges, taxes and duties, shipping surcharges, price increases by our suppliers and similar costs. On presentation of the above-mentioned conditions resulting in an increased price calculation at Schukat, the increased price is deemed to be agreed. If the calculation components have changed to the extent that they lead to a surcharge of more than 5% on the affected item, both Schukat and the Customer have the right to rescind the contract with regard to the affected products (partial rescission) All prices previously quoted will become invalid once corresponding changes in prices are announced. Packing and transport costs will be invoiced separately.

5. The minimum order value per placed order amounts to euro 25.00 net value of the goods. If smaller orders are received, Schukat reserves the right to charge a small-quantity flat rate of up to euro 25.00.

6. For onward commercial transactions or for consignments to customers with an open bonded warehouse, the EU rate of customs duty in force when the offer is submitted is only included in the offer price if this is clearly marked as such in the offer. Otherwise, it is to be paid by the Customer.

7. If there is a change in the EU rate of customs duty within the period between submitting of an order and the day of delivery, and prices have been quoted including the EU customs duty, Schukat will be entitled to invoice the customs duty at the new rate.

8. Section 6 applies mutatis mutandis for quota goods from countries of origin which enjoy what are known as import preferences for imports into the EC. For such quota goods Schukat is also entitled to demand the customs duties from the Customer up to 365 days from the delivery date, provided that a customs duty amendment and/or tax amendment notice is issued as a result of the quota to Schukat being used up.

9. Invoices to Customers within the European Community can only be exempted from value added tax if Schukat has a pre-tax declaration from the Customer with an EC VAT identification number. Duties or taxes not paid by the Customer will entitle Schukat to invoice them to the Customer subsequently.

10. Consignments which form part of non-European-community transactions are exempt from value added tax. The Customer is obliged to have the export certified by the responsible border

customs office and to forward the certificate to Schukat within 14 days.

## §3 Delivery

1. Delivery dates and delivery periods are only binding if they are expressly confirmed in writing by Schukat. If contractual amendments are agreed subsequently, the delivery date will be agreed anew.

2. The conclusion of a contract is subject to Schukat being supplied with the correct goods on time by its supplier/s. If Schukat receives only partial supply from its supplier/s, Schukat likewise has the right to make a partial delivery of the items on hand to the Customer and to make a subsequent delivery of the missing items within a reasonable period of time. If it is determined that Schukat is unable to deliver the missing items, Schukat has the right to rescind the contract with regard to the undeliverable items (partial rescission). If it is objectively unreasonable for the Customer to keep the partially supplied items without subsequent supply of the missing items, the Customer has the right to the rescind the contract with regard to those items already delivered. This does not apply, however, if the items have been custom-made or are a custom order for the Customer.

3. If Schukat is hindered in fulfilling its obligations by events for which Schukat is not responsible, for example labour disputes, lock-outs, breakdown or destruction of the products, production of incorrect products, fire, water damage, force majeure at Schukat's premises or at the premises of its supplier or similar, the delivery period will consequently be extended by the duration of the hindrance and by an appropriate start-up time.

4. The Customer can only assert rights against Schukat for delayed delivery or non-delivery if the Customer has set Schukat a reasonable period of time, which must be at least 14 days, for fulfilment. Once this period has expired effectless the Customer can rescind the contract. If Schukat has already rendered part of its contracted services, the Customer can consequently only rescind the contract as a whole if it is not reasonable to the Customer to retain that part of the contracted services already rendered.

5. Delivery dates named by Schukat are deemed to have been met if the goods to be delivered have left Schukat's works or warehouse prior to the delivery date. Part deliveries which are reasonable for the Customer are allowed. Excess or short delivery of up to 5% of the contracted volume does not entitle the Customer to lodge complaints unless it is not reasonable to the Customer to retain the excess or short delivery.

6. The agreed delivery periods will be extended by the period of time in which the Customer is in default with its contractual obligations, irrespective of any other rights Schukat may have as a result of the Customer's default.

7. Schukat reserves the right to effect modifications in design, shape, or colour during the delivery period, provided that the purchased item is not modified in terms of function and the modification is reasonable for the Customer. Normal commercial variations are possible at any time and do not require any prior notice.

8. A loans and/or a consignment for test purposes is only free of charge within the periods of time stated in the loan agreement and once the loan period has expired a fee of 0.2% of the list sale price will become payable per day.

9. If the Customer is in default of acceptance, Schukat has the right either to insist on acceptance or to demand lump sum compensation for damages and expenses of 10% of the net purchase price. The Customer is entitled to prove that only lower damages arose. For the period that the Customer is in default of acceptance, Schukat has in addition the right to store the items to be supplied at its own premises, with a forwarding company or in a third-party warehouse. For the period that the Customer is in default of acceptance, the Purchaser must pay a flat fee of EUR 25.00 per month without further evidence of cost as compensation for the storage charges incurred. If higher storage costs are incurred, Schukat may demand compensation for these costs from the Purchaser against production of evidence of such costs. The flat fee compensation is to be reduced in proportion to the extent that the expense or detriment was not incurred, as demonstrated by the Customer.

## §4 Dispatch and passing of risk

1. The dispatch route and mode of transport are at the discretion of Schukat, unless an agreement has been made to the contrary.

2. If dispatch is delayed at the request of the Customer or if the Customer is to blame for the delay, the goods will consequently be stored at the cost and risk of the Customer. In this case, the notification that a consignment is ready for dispatch will be regarded as being the equivalent of dispatch. Moreover, the risk for accidental loss or accidental deterioration of the goods passes to the customer when the goods are handed over to a haulage company or freight forwarder, no later, however, than when the goods leave the warehouse.

3. Packaging used by Schukat for dispatch is subject to German packaging regulations. Schukat will only take back packaging returned free of charge. The Customer must not deduct any share of recycling costs incurred by the Customer from the invoice.

4. In order to reduce the transport risk for the Customer, each consignment in which the value of the goods is up to euro 5,000.00 is insured by Schukat against loss or damage, unless an

agreement has been made to the contrary. Consignments in which the goods are worth in excess of euro 5,000.00 will only be insured upon written request. Schukat invoices consignments within the European economic area euro 0.80 for the transport insurance premium. The insurance premium will be shown separately on the invoice.

5. If damage is caused in transit, Schukat's terms and conditions of insurance will be binding on the Customer and constitutes an integral part of the purchase contract. The Customer is obliged to take part in the assessment of any damage. The following conditions are to be observed for assessing damage and complying with reporting periods:

### Damaged packaging:

**For transport by rail:** To be unpacked in the presence of the cartage company authorised by the railway company, damage to be certified by said cartage company and an application to be made immediately for the facts of the case to be recorded by the freight office.

**For transport by post and/or parcel delivery service:** Have confirmation issued immediately by the Post Office employee and/or deliverer.

**For transport by a haulage company:** To be unpacked in the presence of the delivering driver and to be certified by him on his waybill or packing note.

### Packaging in good order but with damaged contents (concealed damage):

**For transport by rail:** Notify the responsible goods office immediately, carry out an inspection and an application is to be made immediately for the facts of the case to be recorded.

**For transport by post and/or parcel delivery service:** Notify the responsible post office/responsible branch immediately, carry out an inspection, an application is to be made for the facts of the case to be recorded.

**For transport by a haulage company:** Notify the haulage company delivering the consignment immediately and apply for an inspection. Following inspection have the damage certified on the waybill.

Damage is to be reported to Schukat without delay, at the latest within 3 working days.

The terms and conditions of the insurance will be provided to the Customer upon request, together with all amended terms and conditions up to the time of the request. The Customer must take all measures to reduce damage to a minimum. Damage to a consignment does not entitle the Customer to refuse payment. Instead, the amount invoiced by Schukat will become payable on the same date as it would have been had the consignment been delivered undamaged.

6. For the delivery of dutiable goods (T1-consignments or onward consignments), responsibility for the customs duty owed in the event of the loss or destruction of a consignment not subject to customs supervision, or damage to and/or the reduction of value of the goods to be delivered, will pass over to the Customer and/or recipient of the dutiable goods when the goods to be delivered are handed over to the haulage company. The Customer and/or the recipient of the dutiable goods will release Schukat from responsibility for the customs duty owed. The customs duty owed will not be covered by the transit insurance.

## §5 Consignments of dutiable goods

For consignments of dutiable goods the Customer may only state those consignees or delivery addresses which are registered with the responsible customs office as a "approved consignee of dutiable goods" (international haulage companies, owners of bonded warehouses, free ports). The Customer alone bears the full responsibility to all German and other customs authorities for incorrect and incomplete information. Schukat is entitled insofar to invoice the Customer for customs duties, fines, penalties, etc., as well as for its own costs resulting from incorrect or incomplete information about approved consignees of dutiable goods or from the mistreatment of dutiable goods.

## §6 Export regulations

1. If the validity of a transaction made according to the provisions of German foreign trade law, German foreign trade regulations or other legal provisions relating to the control of exports (including the laws of other countries) depends on the issuance of one or more licences, the transaction remains invalid until such a licence or licences have been issued.

2. If the performance of an act (for example, the delivery of a product or provision of a service) made according to the provisions of German foreign trade law, German foreign trade regulations or other legal provisions relating to the control of exports (including the laws of other countries) depends on the issuance of one or more licences, the act is only to be performed after such a licence or licences have been issued.

3. The Customer is responsible for obtaining and paying for the required licence/s. The Customer is only authorised to go ahead with the export after the required licence/s have been obtained. In addition, the Customer is advised that US export control laws are applicable when the goods or delivery items originate in whole or in part in the USA. This can still be the case even if the contract bears no other relation to the USA.

4. The requirement for an export license is to be obtained from the relevant valid export list. Upon request, Schukat will provide the export list number for the goods to be delivered. If it is intended to export the goods, the Customer is obliged to ask Schukat for the export list number, otherwise Schukat will reject any responsibility in the event of the Customer making an incorrect assessment of the requirement to submit a valid export licence for an export from Germany to another country.

## §7 Notification of defects

1. Complaints raised on account of incomplete or incorrect delivery or other defects (also including the lack of an agreed quality) must be raised in writing within eight working days from the receipt of the goods at destination, provided that they are identifiable.

2. Defects which are not identifiable in a proper inspection must be notified in writing within eight working days following discovery.

3. No claims for defects will be accepted if written notification is not submitted in time.

4. Since the purchased item is, as a rule, a complex technical product, it is assumed that the Customer has full knowledge of it. Consequently, incompatibility with similar sub-assemblies and equipment manufactured by other manufacturers already in use will not constitute any grounds for complaints about defects. Schukat is not under any obligation to furnish any information on the purchased goods over and above the specification sheet provided by the manufacturer, which Schukat supplies at the request of the Customer, even if Schukat is supposed to have done so in exceptional cases in earlier purchase contracts.

5. No warranty claims will be accepted for incorrect product descriptions and product information in the Documentation, unless the product descriptions and information in the Documentation become an explicit part of the contract in written form.

## §8 Defects and warranty

1. The Customer has a right to the delivery of goods only of a nature and condition in accordance with the respective manufacturer's specifications as far as no other specifications become an explicit part of the contract in written form. Before placing an order, the Customer is to acquaint himself with the manufacturer's specifications, which can be requested from Schukat. Moreover, the Customer is responsible for ensuring that the goods ordered are suitable in accordance with the manufacturer's specifications for the Customer's purposes.

2. Schukat will only warrant the condition of goods insofar as the condition of the goods meets the manufacturer's specifications.

3. If defects are reported, Schukat will rectify these either by subsequent improvement or replacement. If a reasonable subsequent period has been set to rectify a defect and Schukat allows this period to elapse without having rectified the defect or if the subsequent delivery falls through, the Customer will consequently be entitled at its discretion to rescind the contract, to reduce the purchase price (reduction) or to claim damages. In addition to withdrawing from the contract, the Customer will not be entitled to any claim for damages on account of the defect. If the Customer chooses to claim compensation for damages after subsequent fulfilment has failed, without withdrawing from the contract, the goods will remain with the Customer. In this case, the compensation for damages is limited to the difference between the purchase price and the value of the defective item/s.

4. Should Schukat not be in a position to rectify identified defects in an appropriate manner by means of subsequent improvement or if it is technically not possible to rectify the defect, Schukat can consequently rescind the contract, irrespective of the Customer's rights.

5. Modifications and/or repair work carried out improperly by the Customer or by third parties will release Schukat from any liability for the results arising therefrom.

6. Compliance with building and safety regulations of all kinds (VDE, TÜV, mutual indemnity associations, etc.) is incumbent upon the Customer.

7. The warranty period for entrepreneurs is one year from the delivery of the goods, and five years from hand-over for construction work and things which have been used for construction in their normal use and which have caused a construction to be defective.

8. The products of Vishay Europe Sales GmbH and its parent company and any of their affiliates and suppliers may not be used in medical devices and/or life support systems except when such use is expressly stipulated on the datasheets. Neither Schukat nor Vishay Europe Sales GmbH and its parent company and any of their affiliates and suppliers assume any warranty and/or guarantee for any use of these products in medical devices and/or life support systems except when such use is expressly stipulated on the datasheets.

9. Unless specified otherwise, goods sold by the Seller are not designed, intended or authorised for use in life support, life sustaining, nuclear, military or other applications in which the failure of such goods could reasonably be expected to result in personal injury, loss of life or catastrophic property damage.

## §9 Liability

1. For damages, regardless of the cause, Schukat assumes no liability in case of (i) simple negligence (with the exception of breach of material contractual obligations) by its legal representatives, senior staff, or vicarious agents and in case of (ii) a gross negligence violation of non-material contractual obligations by vicarious agents. The expression "material contractual obligations" includes contractual obligations which are essential for the performance of the agreement and on the adherence to which the Customer may normally rely.

2. Insofar as Schukat assumes liability in case of simple negligence, Schukat shall only be liable for the typical foreseeable damages.

3. The liability exclusions and limitations in paragraphs 1 to 2 above do not apply to damages caused as the result of an absence of assurances given, to liability under the German Product Liability Act (Produkthaftungsgesetz) or to harm to body, life or health.

4. If the Customer makes a claim against a legal representative, employee or vicarious agent of Schukat, the liability exclusions and limitations in paragraphs 1 to 2 above will apply in favour of the legal representative, employee or vicarious agent to the extent allowable by law.

5. Neither Schukat nor Vishay Europe Sales GmbH and its parent company as well as their affiliates and suppliers assume any liability for any use of these products in medical devices and/or life support systems except when such use is expressly stipulated on the datasheets.

6. If the Customer uses or sells the goods for use in any such applications mentioned in §8, 9: (i) the Customer acknowledges that such use or sale is at the Customer's sole risk; (ii) the Customer agrees that Seller and the manufacturer of the goods are not liable, in whole or in part, for any claim or damage arising from such use; and (iii) the Customer agrees to indemnify, defend and hold the Seller and the manufacturer of the goods harmless from and against any and all claims, damages, losses, costs, expenses and liabilities arising out of or in connection with such use or sale.

## §10 Terms and conditions of payment and Schukat's rights of rescission

1. Unless an express agreement has been made to the contrary in writing, all payments are payable within 10 days of delivery (receipt of payment by Schukat). Schukat reserves the right, at its discretion, to deliver for cash upon delivery or to demand payment in advance. If delivery on open account is requested, it is necessary that Schukat has the opportunity to conduct a credit check. If the buyer has issued Schukat with a SEPA direct-debit mandate, the debit takes place three days after the invoice date with a discount of 3% on all eligible amounts. The lead time is two days. The buyer must ensure that there are sufficient funds in the account to cover the invoiced amount. Any costs for non-payment or reversal of the debit amount will be borne by the buyer, provided that the non-transfer or reversal was not caused by Schukat.

2. In the lack of an express agreement to the contrary, default interest amounting to 8% above the base rate will be invoiced from the 10th day after the receipt of the goods. Schukat reserves the right to claim default interest over and above this.

3. Schukat is not obliged to accept bills of exchange or cheques. Schukat will only accept discountable and properly taxed bills of exchange in payment if an appropriate agreement has been reached. Credits from cheques will be received as conditional credit and are subject to collection, with the value date being the day on which Schukat can obtain the equivalent value. In case of a returned debit, the Customer undertakes to repay all accruing bank charges in full as well as outstanding claims. Schukat will invoice to the Customer any bank charges that may accrue.

4. If the delivery is delayed at the request of the Customer, the invoice will be presented when the goods are ready for delivery.

5. Offsetting will only be allowed for such accounts which have been recognised in writing by Schukat or which have been declared final and absolute in a court of law. The Customer can only assert a right of retention if its counterclaim is based on the same contractual relationship.

6. If the Customer finds himself in arrears with payment or he finds himself in financial difficulties, Schukat will be entitled to make all its accounts payable and to demand payment in advance for consignments still outstanding. If the Customer finds himself in default with obligations arising therefrom, Schukat can, having set the Customer an appropriate period of time to effect payment, consequently demand compensation instead of performance, or the reimbursement of its wasted expenditure. The right of rescission is not affected by this.

7. Schukat may rescind the contract if they become aware of a suspension of payment, the opening of insolvency proceedings, the rejection of an insolvency proceedings for lack of assets or other concrete evidence of a deterioration in the financial situation of the Customer. If Schukat rescinds the contract or if the order is not executed for reasons for which the Customer is responsible, the Customer must pay Schukat a flat rate of compensation of 10% of the purchase price to cover Schukat's expenses and loss of profit. Schukat retains the right to charge a higher rate of damages where verifiable. The flat rate of compensation is to be reduced in proportion to the extent that the expense or detriment was not incurred, as demonstrated by the Customer.

## §11 Retention of title

1. All articles delivered by Schukat will remain the property of Schukat until all its claims and also its future claims against the Customer under their business relationship have been fulfilled in full. If a claim for payment is suspended under an open account, the respective balance is subject to retention of title. If cheques have been given in payment, they will only be considered as having been paid once they have been cashed.

2. Until ownership has passed to the Customer, the Customer undertakes to treat the articles with care. In particular, the Customer, at his/her own expense, must adequately insure the articles for the reinstatement value in the event of theft, fire or water damage, insofar as the items sold are high-value goods. If maintenance and inspection work has to be carried out, the client must ensure that this is done in a timely manner at his/her own

expense. Until ownership has passed to the Customer, the Customer must inform Schukat in writing and without delay if the delivered articles are seized or otherwise subject to interference by third parties. Insofar as the third party is not able to reimburse Schukat for the legal or extralegal costs of a successful claim under § 771 ZPO (Zivilprozessordnung: German code of civil procedure), the Customer bears the liability for any loss incurred by Schukat.

3. The goods subject to the retention of title will be treated and processed for Schukat as manufacturer within the meaning of §950 BGB without placing Schukat under an obligation. The processed goods will be regarded as being goods subject to retention of title within the meaning of Section 1. If the goods subject to retention of title are processed, joined and mixed with other goods by the Customer, Schukat will be entitled to co-ownership to the new thing in proportion to the invoice value of the goods subject to retention of title to the invoiced value of the other goods used. If the Customer's title lapses as a result of the goods subject to the retention of title being joined or mixed, the Customer consequently assigns herewith to Schukat the title rights to the new inventory or thing on the scale of the invoiced value of the goods subject to the retention of title to which Schukat is entitled and will keep them in safekeeping for Schukat free of charge. The co-ownership rights created in accordance with Sentence 3 and 4 are regarded as being goods subject to the retention of title within the meaning of Paragraph 1.

4. The Customer is only entitled to sell, process or join the goods subject to the retention of title with other goods or otherwise to install them (resale) in the course of proper business operations and as long as the Customer is not in default in payment, and subject to the imposition that the Customer has agreed a retention of title with its own Customers within the meaning of these terms and conditions.

5. The Customer's accounts from the resale of the goods subject to the retention of title are herewith assigned to Schukat. Schukat accepts the assignment. The assigned account serves as a security for Schukat up to the value of the invoice concerned for the respective goods subject to the retention of title. Should the goods subject to the retention of title be sold together with goods not belonging to Schukat, be it without or after processing, mixing or being joined, the assignment of the account from the resale will consequently only apply up to the value of the invoice for the respective goods subject to the retention of title sold or in the event of the sale of goods to which Schukat has co-ownership, to the invoice value of the co-ownership proportion/s.

6. The Customer is entitled to collect accounts from resale until revocation by Schukat, which is permissible at any time. Schukat is entitled to revocation if the Customer fails to fulfil its payment obligations properly, in particular if the Customer is in default with payment or is in breach with the duties regulated in this paragraph. In this case Schukat can notify the Customer's customers of the assignment and collect the account itself.

7. Upon demand by Schukat, which may be made at any time, the Customer is to store the goods subject to retention of title separately and to mark them. In breaches of duty, in particular breaches of the duties regulated in this paragraph or in the event of default, Schukat - in addition to his other rights - is entitled to take back the articles. After taking back the goods, Schukat will notify the Customer within a reasonable period of time whether Schukat will rescind the contract and demand damages. Schukat is entitled to sell articles it has taken back on the open market and to offset the proceeds from the sale against its account with the Customer.

8. Schukat undertakes to release the securities to which it is entitled at its discretion, provided that their value exceeds the accounts to be secured by more than 30% and provided that these accounts remain unpaid.

## §12 Place of jurisdiction/Place of performance

1. Provided that Schukat's contractual partner is a businessperson, a legal person under public law or a public law special fund (sec. 38 German Civil Procedure Act), it is agreed that the local court in Langenfeld will be the place of jurisdiction for all claims (this does not, however, apply to exclusive jurisdictions, as for a debt recovery action). However, Schukat is also entitled to take legal action in support of its rights at the place of jurisdiction of the Customer.

2. The place of performance for all transactions between the parties is the business seat of Schukat, provided that the parties to the concluded contract or to these terms and conditions have not agreed otherwise.

## §13 Miscellaneous

1. All contracts entered into with Schukat are governed by German substantive law alone, to the exclusion of its conflict of laws rules. The application of the UN Convention on Contracts for the International Sale of Goods (CISG) is also excluded.

2. All amendments to these terms and conditions must be made in writing. The same applies for any amendments there may be to this agreement on the requirement for written form.

3. Should individual provisions of these terms and conditions be partially or completely invalid, this will not affect the validity of the remaining provisions. Instead, the invalid provision, by way of a supplementary contractual interpretation, is to be replaced by a provision which is as consistent as possible with the legal or economic purpose of the parties. The foregoing applies mutatis mutandis in case of gaps or omissions.