

## General terms and conditions of sale, delivery and payment for commercial and industrial systems of Bosch Industriekessel Austria GmbH

### 1. General information

1.1 The following conditions apply to contracts of Bosch Industriekessel Austria GmbH, Haldenweg 7, 5500 Bischofshofen, Austria (hereinafter referred to as "we" or "us") on the sale and/or delivery of movable goods including any software and additional services contained within them or supplied with the goods, such as commissioning, suggestions and advice. The following conditions apply exclusively. Diverging, conflicting or supplementary General Terms and Conditions of the Customer shall only become a component of the Contract to the extent that we have explicitly consented to their validity. This requirement for consent applies in any case, for example even if we make an unconditional delivery to the Customer in the knowledge of the Customer's General Terms and Conditions.

1.2 These conditions shall only apply to entrepreneurs, legal persons under public law or special assets under public law. If our deliveries include software (see Point 1.1), our licence conditions shall take priority; if our deliveries include Open Source software (hereinafter referred to as "OSS"), the respective OSS licence conditions shall take priority over all conflicting licence and other delivery-related conditions. We shall deliver these licence conditions together with the goods or shall make them available to the customer in advance on request. To the extent that the OSS licence conditions provide for a different kind of provisioning of the respective OSS licence conditions, we shall also make these available on the communication channel provided for.

1.3 Our offers are non-binding. Supply agreements and all other agreements (including ancillary agreements) shall only come into effect through our explicit confirmation. Legally binding declarations and notices by the Customer in relation to the Contract (e.g. the setting of deadlines, defect notifications) must be submitted in writing or text, to the extent that there are no stricter formal requirements under law.

1.4 The business post created by us using data processing systems (e.g. order confirmations, invoices, credit notes, account statements, payment reminders) shall be legally binding even without signature.

1.5 Unless otherwise explicitly agreed in deviation, the delivery items shall meet the applicable statutory product requirements, including labour and environmental protection regulations, on the Austrian market. In the case of export by the Customer, it shall be the Customer's obligation alone to ensure product conformity for the respective destination country and to procure the necessary documents and approvals for the respective destination country.

1.6 The Customer shall be obligated to specify the correct data with regard to the data required for processing of the Contract. In the event that personal data is incorrect, we may be unable to meet our contractual obligations.

1.7 If, at a later time, parts of the deliveries become the subject of a field campaign required for product safety reasons, the Customer shall be obligated to support us in determining which of the Customer's own customers are affected by such a field campaign by providing us with their address and contact information.

### 2. Prices

2.1 The prices agreed by the Parties in the Contract shall apply plus VAT in the respective statutory amount. They shall apply at the agreed delivery time from the place specified in the order confirmation, including loading (systems and conversions FCA – Incoterms 2020, spare parts DAP – Incoterms 2020). Unless otherwise agreed, the prices shall be exclusive of packaging.

2.2 All public charges (taxes, fees, customs duties, etc.) incurred outside of Austria due to or in connection with the completion or processing of the order, shall be borne by the Customer.

2.3 The agreed prices shall apply only upon acceptance of the agreed quantities.

2.4 Partial deliveries shall be charged separately, unless explicitly otherwise agreed.

### 3. Terms and conditions of payment

3.1 The agreement of the terms and conditions of payment for the delivery of systems and conversions shall be order-based. In principle, and unless otherwise agreed, spare parts shall only be shipped against prepayment.

3.2 All payments shall, without consideration of other instructions or dedications of the Customer, always be made first to interest and costs and then to our oldest receivables.

3.3 In the event of default in payment, we shall charge statutory default interest rates. We reserve the right to assert a claim to further compensation.

3.4 In the event of default in payment, non-redemption of cheques or bills of exchange, cessation of payment, initiation of an action to settle debts, non-compliance with the terms and conditions of payment or in the event of circumstances that could reduce the customer's creditworthiness, all our receivables shall be due immediately – even in the event of a deferral. We shall also be entitled to execute outstanding deliveries only against prepayment or to withdraw from the Contract after setting a reasonable grace period and demand compensation instead of performance.

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3.5 The Customer may only offset against receivables that are undisputed or legally established.

### **4. Retention of title**

4.1 We reserve ownership of the deliveries until complete payment of the agreed service in return (hereinafter referred to as "goods subject to retention of title").

4.2 If it is necessary to carry out maintenance and inspection work on the goods subject to retention of title, the Customer shall duly do so at its own expense.

4.3 The Customer shall be entitled to process or combine with our goods subject to retention of title in the context of its ordinary course of business. To protect our claims specified in Point 4.1, we shall acquire co-ownership of the products resulting from the processing or combining. The Customer shall keep the goods subject to retention of title safe as an accessory contractual obligation free of charge. Our share of the joint ownership shall be determined by the ratio of the value of our deliveries (calculated on the basis of the total invoice amount including VAT) to the value of the product resulting from the processing or combining of goods at the time the processing or combining took place.

4.4 The Customer shall be entitled to resell our goods subject to retention of title in the ordinary course of business against cash payment or under retention of title. The Customer shall hereby assign to us all of its receivables arising from the resale of the goods subject to retention of title, in full and together with ancillary rights, irrespective of whether our goods subject to retention of title have undergone further processing, and undertakes to take all the steps required for this (in particular the book entry). The assigned receivables shall serve as collateral for our claims in accordance with Point 4.1. The Customer shall be entitled to collect the assigned receivables. We may revoke the rights of the Customer in accordance with this Point 4.4 if the Customer does not properly meet its payment obligation to us, defaults with payment, ceases payment, or if the Customer requests the opening of insolvency proceedings or comparable proceedings to settle debts on its assets. We may also withdraw the rights of the Customer in accordance with this Point 4.4 in the event of a significant deterioration of the Customer's financial circumstances or the threat of a significant deterioration, or if the Customer becomes insolvent or over-indebted.

4.5 If the sale or other use of our retained-ownership goods – in whichever condition – occurs together with the sale or other use of items covered by third party rights and/or in connection with the provision of services by third parties, the assignment in advance shall be limited to the invoice amount of our invoices.

4.6 At our request, the Customer shall provide us with immediate written notification of the party to which it has sold the goods subject to retention of title and which receivables it is owed from the resale, as well as providing us with officially certified documents of the assignment of receivables, at its own expense.

4.7 The Customer shall have no entitlement to any other disposal of our goods subject to retention of title or to the receivables assigned to us. The Customer shall inform us without delay of any attachments or other legal impairments with respect to the goods subject to retention of title or receivables. The Customer shall bear all the costs incurred in removing access by third parties to our goods subject to retention of title and in replacing the goods subject to retention of title, unless such costs can be reclaimed from third parties.

4.8 Should the value of the collateral in place for us exceed our receivables by more than 10% in total, we shall, at the Customer's request, release the security provisions to that extent at our discretion.

4.9 If the Customer's conduct is in violation of the Contract, in particular if the due purchase price is not paid, we shall be entitled to withdraw from the Contract in accordance with the statutory regulations and/or demand surrender of the deliveries on the basis of retention of title. The surrender shall not include the declaration of withdrawal at the same time; rather, we shall be entitled to only demand the surrender of deliveries and reserve the right to withdraw. If the Customer does not pay the purchase price due, we may only assert these rights if we have first set a reasonable but unsuccessful period for payment by the Customer or if such a deadline is not necessary in accordance with statutory regulations.

### **5. Delivery**

5.1 Changes and supplements to the delivery items following completion of the Contract shall require our written consent.

5.2 Delivery limits (interfaces) and service exclusions are defined in the description of the scope of delivery and services in the order confirmation.

5.3 Unless otherwise explicitly agreed, our deliveries for systems and conversions shall be implemented FCA – Incoterms 2020 to the location specified in the order confirmation. The delivery shall be made through provision for collection by the Customer at the location specified in the order confirmation. Transport to a different location shall not be part of our scope of delivery and service, unless otherwise explicitly agreed.

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For spare parts deliveries, the delivery shall be made, unless otherwise explicitly agreed, DAP – Incoterms 2020 to the location specified by the Customer in the purchase order.

5.4 If the transport is organized by us and/or the shipping costs are accepted by us, recognizable transport damage must be reported immediately upon delivery, and externally indistinguishable transport damage must be reported within seven days of delivery, otherwise perfect delivery shall be assumed.

### **6. Delivery time and delivery difficulties**

6.1 Delivery times or delivery dates shall be agreed individually. Unilateral specifications are non-binding. Delivery times shall begin with the date of our order confirmation, but not before clarification of all execution details and all other requirements to be established by the Customer for proper processing of the Contract. Delivery dates shall change according to the time between conclusion of the Contract and the availability of all delivery prerequisites. Early deliveries and partial deliveries shall be permissible. The day on which the goods are provided to the agreed shipping point of our delivering factory or warehouse shall be deemed the delivery day.

6.2 For delivery items that we ourselves do not manufacture, we reserve the right to timely and correct delivery by our suppliers, unless we are responsible for the delayed or incorrect/non-delivery.

6.3 Events of force majeure shall extend the delivery time to a reasonable extent and shall entitle us to withdraw from the Contract in whole or in part in the case of an unforeseeable end to the delivery delay. Industrial action, operating faults or other events for which we are not responsible and which are unavoidable (unavailability of goods and services, e.g. due to epidemics, official orders, wars, terrorist attacks), which make delivery significantly more difficult or impossible for us, shall be considered as force majeure. This shall apply even if the above-mentioned circumstances occur during a delay or at one of our suppliers.

6.4 The start of our delivery delay shall be determined in accordance with the statutory regulations. However, the Customer may only withdraw from the Contract in accordance with the statutory regulations if we are responsible for the delay. Point 10 applies to claims for compensation due to default.

6.5 If the Customer culpably defaults in acceptance, defaults in acceptance of the delivery, culpably omits to carry out an act of cooperation, or if our delivery is delayed for other reasons for which the Customer is responsible, we shall be entitled to demand compensation for the resulting losses, including additional expenses (e.g. storage costs), and/or to withdraw from the as yet unfulfilled part of the supply agreement. We shall also be entitled to store or ship the goods at the cost and risk of the Customer.

### **7. Additional services**

7.1 Services not explicitly mentioned in the Contract, which are required for performance of the order or are executed at the Customer's request, shall only be a component of the Contract with our consent. To the extent that the Parties have not reached any particular remuneration agreement for such services, these shall be remunerated in addition, in accordance with our respective valid cost rates. These cost rates can be requested from us if required.

7.2 For work outside of normal business hours (Monday to Thursday, 7:00 am to 5:00 pm and Friday 7:00 am to 2:00 pm), surcharges shall be applied in accordance with our respective valid cost rates.

7.3 Waiting times for which we are not responsible and/or repeated arrivals and departures shall be charged additionally according to time and travel costs based on our respective valid cost rates.

7.4 Should it not be possible to begin commissioning for reasons for which we are not responsible, or should commissioning be cancelled, this commissioning shall be charged in full and the new performance or continuation of the commissioning shall also be charged according to our respective valid cost rates.

### **8. Return**

The return of delivery items from our deliveries is excluded.

### **9. Performance, consumption, and emissions levels; Inspections and factory acceptance tests**

9.1 The binding performance, consumption and emissions levels are agreed in the Contract.

9.2 If the performance of inspections or acceptance tests in the manufacturing plant is desired by the Customer or by third parties commissioned by the Customer, the Customer must agree this with us in such time that it does not result in a disruption of the production workflow. All costs for inspections and factory acceptance tests shall be borne by the Customer in addition.

### **10. Commissioning**

10.1 To the extent that Commissioning is agreed with us, we and the Customer shall agree a date for commissioning within Austria with a lead time of at least four weeks, and for commissioning abroad with a lead time of at least eight weeks. We shall not be obligated to undertake commissioning or other on-site deployments in regions to which a (partial) travel warning from the Federal Ministry for

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European and International Affairs applies.

10.2 The documents to be provided by the Customer in accordance with the commissioning checklist shall be submitted by the Customer at the latest two days prior to commissioning. We shall send the commissioning checklist to the Customer prior to commissioning. In addition, the Customer must ensure that the system is assembled ready for operation and that, at the time of commissioning, the system is supplied with all necessary energy sources and media as well as an adequate output reduction. Costs in this regard shall be borne by the Customer.

10.3 We shall only be obligated to perform commissioning if, prior to the start of commissioning, we have received all contractual payments due before that time.

10.4 Commissioning shall be implemented within the context of the respective technical requirements and conditions, with the aim of optimal function of the system. We reserve the right to make necessary changes and additions to the system during commissioning. Successful commissioning shall be documented in writing in the commissioning report and must be confirmed by the Customer.

10.5 The Customer must meet all prerequisites that are required in accordance with our specifications for uninterrupted commissioning and secure start-up of continuous operation of the system. The necessary prerequisites result from the commissioning checklist as well as the regulations in these Terms and Conditions. The Customer must make its staff available for training and assistance and must also provide energy and suitable, high-quality assembly aids and all other materials free of charge, to the extent that these are required according to our specifications for performing the acceptance tests and making final changes during preparation for testing. Official and other approvals must be provided by the Customer. On request, we can provide the Customer with the necessary documents for our scope of delivery and service. Evidence required by authorities or other third parties as well as any measuring tools required for this, shall be provided by the Customer.

### **11. Material defects and defects of title**

11.1 Unless otherwise specified in these terms and conditions of supply including the following provisions, the statutory regulations shall apply to material defects and defects of title. For defects of title due to the violation of third party copyrights, see Point 12.

11.2 The delivery item is free from material defects if it corresponds to the product description or – to the extent that there is no product description – the respective state of the art, or if it is being used by the Customer in live operation. We reserve the right to make changes to the construction and/or design that do not impair the functionality or value of the delivery item and do not represent a material defect.

11.3 Guarantees for the condition and service life of the delivery item shall be deemed accepted only to the extent that we have explicitly declared the guarantee as such. We shall only be responsible for public statements, in particular in advertising, if we arranged them. Claims for defects can only be asserted due to such statements if the statement actually influenced the Customer's decision to buy. Guarantees accepted by our suppliers in guarantee declarations, applicable advertising or other product documents are not arranged by us. They obligate only the suppliers declaring acceptance of these guarantees. Point 11.1 remains unaffected.

11.4 Claims for defects by the Customer require that the Customer meets its statutory obligations of examination and notifications of non-conformity.

11.5 If the supplied item has defects or does not correspond to a guaranteed condition, we shall eliminate the defect free of charge within a reasonable period either through repair or delivery of a non-defective item (subsequent fulfilment). The Customer shall grant us or our authorised representatives time and opportunity to do so. If this is not the case or if changes or improper repairs are made to the defective item, we shall be exempt from the liability for defects.

11.6 If the contractual item is used at a place other than the contractually agreed location or outside of Austria, we shall only reimburse the expenses, in particular transport, travel, labour and material costs, required for the purpose of subsequent fulfilment (Point 11.5.) or return following withdrawal from the Contract to the extent to which they would have been incurred if the delivery item had been installed at the contractually agreed location or within Austria.

11.7 Claims for defects shall not be valid in the case of faults that occurred following the transfer of risk due to e.g. natural wear, the violation of condition, maintenance and installation guidelines, as well as the worksheets and guidelines specified in the Contract, unsuitable or improper use, incorrect or negligent handling, storage or installation or due to interventions in the supplied goods by the customer or a third party. This applies in particular to losses through the use of unsuitable main controllers, energy sources, firing, current types and voltages, or those in deviation from the requirements, or through incorrect selection or adjustment of the burner. The product documentation (condition, maintenance and installation guidelines) is part of the scope of delivery of the product. For steam boilers and hot water boilers, this is also available on request.

11.8 The following limitation periods apply to claims for defects:

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11.8.1 Claims due to defects in combined heat and power units and spare parts shall expire in 12 months and claims due to defects in other delivery items shall expire in 24 months.

11.8.2 For systems and accessories or spare parts supplied with systems, the limitation period begins upon commissioning of the system, or at the latest three months after the agreed delivery date, to the extent that we were ready to deliver at this time.

11.9 Notwithstanding the above-mentioned limitation periods, the service life of a wearing part (e.g. anodes, batteries, gaskets, electrodes, desulphurisation cartridges, filters/sieves, filter dryers, lamps, oil nozzles, fireproof clay, fuses and thermocouples or consumables, such as sealing compound or granules) results from its wear and tear when used as intended (usual service life). This can be shorter than the periods specified in Point 8.8. To the extent that the replacement of a wearing part is required after expiry of its usual service life, this shall not justify a claim for defects.

11.10 On request, the Customer shall, without delay, provide us with the operator's operating records and, to the extent that maintenance was not carried out by us, the maintenance protocols of the system, to check for the existence of a warranty case.

11.11 Parts replaced in the course of repair shall remain our property.

11.12 In terms of software, we meet our obligation to rectification if we provide a software version that no longer contains the defect or contains a suitable workaround. It shall be the Customer's responsibility to install software provided in the context of subsequent fulfilment, to the extent that the installation is technically possible for the Customer. For software, the repair can also be carried out by indicating a means of working around the defect, to the extent that this is acceptable to the Customer, taking into account the impact of the defect and the circumstances of the highlighted workaround solution. Our statutory right to refuse the subsequent fulfilment remains unaffected.

11.13 In principle, we shall perform the repair or replacement delivery out of goodwill and without recognition of a legal obligation. An acknowledgement resulting in the limitation period being restarted shall exist only if we explicitly declare this to the Customer.

11.14 We shall not be liable for losses due to commissioning that was not performed or arranged by us.

11.15 Apart from that, Points 12 and 13 apply to claims for compensation. Further claims of the Customer due to defects shall be excluded.

11.16 To the extent that we, at the special request of the Customer, have accepted planning aids beyond our delivery obligation, we shall only be liable to the extent that we correct our demonstrably faulty planning aids or provide them again, at our discretion. Any further liability for planning aid shall be excluded, to the extent that we are not liable in accordance with Points 12 or 13.

### **12. Property rights and copyright**

12.1 We shall be liable for claims resulting from the violation of industrial property rights or copyrights of third parties (hereinafter referred to as "property rights"), that take effect in Austria. This shall not apply if the Customer or end customer or a company in which the Customer holds, directly or indirectly, a majority of the shares or voting rights has or had ownership or usage rights to the property rights.

12.2 The Customer must inform us immediately upon becoming aware of the risks of violation and suspected violation cases and give us the opportunity to counteract corresponding claims amicably. At our request – if possible and permissible – the Customer must leave the management of legal disputes (including out of court) to us.

12.3 At our discretion, we shall be entitled, (i) to arrange a right of use for the deliveries violating a property right, (ii) to modify the deliveries such that they no longer violate the property right, or (iii) to replace the deliveries with similar deliveries that no longer violate the property right. We reserve the right to take these discretionary measures even if the violation of property rights has not yet been legally ascertained or acknowledged by us.

12.4 Claims by the Customer shall be excluded (i) to the extent that the Customer is responsible for or caused the violation of property rights, (ii) if the Customer does not provide us with reasonable support in defending claims by third parties, (iii) if the deliveries were made in accordance with the Customer's specifications or instructions, (iv) if the violation of property rights is due to usage in conjunction with another material (including software) that was not supplied by or approved by us or (v) if the deliveries are not used in accordance with the Contract.

12.5 Even in the case of violations of property rights, claims by the Customer to compensation for losses and expenses shall exist only in accordance with Point 13. Point 8.8 applies accordingly to the limitation period for claims due to violations of property rights. Claims by the Customer due to the violation of property rights that are farther reaching than those regulated in this Point 12 shall be excluded.



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### 13. Liability

13.1 We shall only be liable for compensation due to violation of contractual or non-contractual obligations (e.g. due to default or unauthorised handling)

- In the event of intentional or gross negligence;
- Due to culpable loss of life, personal injury or damage to health;
- Due to fraudulent concealment of a defect or assumption of a guarantee of quality or;
- According to the Product Liability Act for personal injury or material damage to privately used items.

13.2 Furthermore, we shall not be liable in cases of minor negligence.

13.3 The above-mentioned regulations shall apply in the same scope to our subcontractors and vicarious agents.

13.4 The Customer shall bear the full burden of proof.

### 14. Confidentiality

14.1 "Confidential information" means all business secrets and business or technical information (including features found in any transferred items, documents or software, and other knowledge or experiences) made accessible by us, regardless of whether they are marked as confidential or not. With regard to the protection of business secrets in accordance with the Trade Secrets Act, the Customer recognises that our non-disclosure measures are adequate.

14.2 Confidential information, to the extent that it is not demonstrably publicly known or intended by us for disclosure by the Customer, must be kept secret from third parties. In the Customer's own business, confidential information must only be made available to persons who may need to be involved in its use and who are also obligated to observe secrecy; such information remains our exclusive property. Without our written consent, confidential information must not be duplicated or used for commercial purposes; without corresponding consent, the Customer is also not authorised to reverse engineer the delivery items.

14.3 The Customer shall inform us immediately if it becomes aware that confidential information has been disclosed in violation of these agreements. In this case, the Customer must, to the best of its ability, ensure that this disclosed confidential information cannot be disclosed/used by the unauthorised recipient and is deleted. At our request, all confidential information (if relevant including copies or records produced of it) and items provided on loan must be immediately and completely returned to us, destroyed or deleted. We reserve all rights to the confidential information (including copyrights and the right to register industrial property rights, such as patents, utility models, semi-conductor protection). To the extent that this information was made accessible to us by third parties, this legal reservation also applies to the benefit of these third parties.

### 15. Data protection

15.1 Relevant information on our collection of personal data, where applicable, can be found in a separate Data Privacy Statement, which can be accessed under the following link: <https://www.bosch-industrial.com/agbs>

15.2 If we receive personal data regarding the customers of our contractual partner, our contractual partner shall be obligated to provide its customers with the information pursuant to Article 14 GDPR.

### 16. Export controls

16.1 Either contractual partner shall be entitled to refuse to perform a contract if such is restricted or prohibited by foreign trade regulations, particularly the applicable national and international [re]export control and customs regulations, including embargoes and other state sanctions, which, in accordance with these regulations, apply to this Contract (hereinafter referred to as "Foreign Trade Regulations"). In these cases, both contractual partners shall be entitled to terminate this Contract in the required scope.

16.2 If performance of the contract is delayed due to requirements for authorisation, permits or similar, or due to other procedures in accordance with Foreign Trade Regulations (hereinafter jointly referred to as "Authorisation"), then any agreed delivery dates and deadlines for delivery shall be extended/postponed accordingly; liability of the contractual party in connection with the delay shall be excluded. In the event that Authorisation is denied or is not granted within 12 months of the application being submitted, we shall be entitled to rescind the contract, at least to the extent that performance of the contract is dependent on Authorisation.

16.3 The contractual partners shall immediately inform each other upon becoming aware of regulations of foreign trade regulations, which could lead to the restrictions, prohibitions or delays specified in Points 15.1 and 15.2.

16.4 The Customer shall be obligated to provide us, at our request, with all information and documents that are required to comply with foreign trade regulations or are required by the authorities in this regard. These obligations may, in particular, include details regarding the end customer, the destination and the intended use of the deliveries. We shall be entitled to withdraw from the Contract

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or refuse to provide the service if the Customer does not provide us with this information and documentation within a reasonable period.

16.5 If the Customer transfers our deliveries to a third party (including affiliated companies of the Customer), the Customer shall undertake to comply with foreign trade regulations. If the Customer violates this obligation, we shall be entitled to refuse to fulfil the Contract or to terminate this Contract for just cause.

16.6 Our liability for losses in connection with or due to our refusal to fulfil the Contract or due to our termination of this Contract in accordance with Points 15.1, 15.2, 15.4 and 15.5 is – to the extent legally permissible – excluded.

### **17. Choice of law and place of jurisdiction**

17.1 This Contract shall be governed by Austrian law, excluding the reference norms or private international law and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

17.2 The exclusive place of jurisdiction for all disputes arising from or in connection with the business relationship between us and the Customer is the competent court in Vienna. However, we shall also be entitled to sue the Customer (i) at our registered office, (ii) at the registered office of our operating site executing the order, (iii) at the Customer's registered office, or (iv) at the place of performance of the delivery obligation. Mandatory or exclusive places of jurisdiction remain unaffected.

### **18. Partial invalidity**

Should one provision of these General Terms and Conditions of Sale, Delivery and Payment or one provision in the context of other agreements between the Customer and us be or become ineffective, this shall not affect the effectiveness of all remaining provisions or agreements.