

Schmidt & Bender GmbH & Co. KG

General Terms and Conditions of Sale (Version: GTCS_SCHMIDT+BENDER_GB_4060537032369_R00)

1. Scope and Form

- (1) These General Terms and Conditions of Sale ("**GTCS**") apply to all business relationships between Schmidt & Bender GmbH & Co. KG, Am Grossacker 42, 35444 Biebertal, Germany ("**Schmidt & Bender**") and our customers ("**Buyer**"). The GTCS only apply where the Buyer is an entrepreneur (Section 14 of the German Civil Code, "**BGB**"), a legal entity under public law or a special fund under public law.
- (2) The GTCS apply in particular to contracts for the sale and/or delivery of movable items ("**Goods**"), regardless of whether Schmidt & Bender manufactures the goods itself or purchases them from suppliers (Sections 433, 650 BGB). Unless agreed otherwise, the GTCS in the version valid at the time of the Buyer's order or at least in the version last communicated to the Buyer in text form shall also apply as a framework agreement for similar future contracts without Schmidt & Bender having to refer to them again in each individual case; the current version is available at **[schmidt-bender.com/terms-conditions](https://www.schmidt-bender.com/terms-conditions)**.
- (3) These GTCS from Schmidt & Bender shall apply exclusively. Any deviating, conflicting or supplementary general business terms of the Buyer may only form an integral part of the contract insofar as Schmidt & Bender explicitly approves their applicability. This approval requirement shall also apply to all situations where, for example, even if Schmidt & Bender carries out the delivery to the Buyer without any reservations, knowing the general terms and conditions of the Buyer.
- (4) Individual arrangements made with the Buyer on a case-by-case basis (including supplementary agreements, addenda and amendments) shall prevail over these GTCS in any case. A written contract or a written approval by Schmidt & Bender shall be decisive in respect to the contents of such arrangements in the absence of any evidence to the contrary.
- (5) Legally relevant declarations and notifications by the Buyer concerning the contract (for example, deadlines, notices of defects, withdrawal or reduction) shall be given in writing (for example, by post, email, fax). Statutory formal requirements and other evidence, especially in the case of doubts about the legitimacy of the declarant, remain unaffected.
- (6) References to the applicability of statutory regulations only have clarifying meaning. Even without such a clarification, the statutory regulations shall apply unless they are directly modified or expressly excluded by these GTCS.

2. Conclusion of Contract

- (1) Offers from Schmidt & Bender are non-binding and subject to any export restrictions (e.g. embargo regulations). This rule also applies where Schmidt & Bender provides the Buyer with catalogues, technical documentation (such as drawings, plans, calculations, references to DIN standards), other product specifications or documents (also made available in electronic form) to which Schmidt & Bender reserves intellectual rights and copyright.
- (2) The Buyer's order of the Goods shall be deemed a binding offer of a contract. Unless otherwise stated in the order, Schmidt & Bender is entitled to accept this contract offer within four (4) weeks of its receipt.
- (3) The order may be accepted either in writing (for example, through an order confirmation) or by means of delivering the Goods to the Buyer.

3. Delivery period and delay in delivery, delivery "on call", costs for later delivery than agreed at the Buyer's request

- (1) The delivery period shall be agreed upon individually or specified by Schmidt & Bender when the order is accepted and is subject to the issue of any export permits by the German Federal Office of Economics and Export Control ("**BAFA**"). Compliance with deadlines or delivery periods presupposes that the Buyer has fulfilled his contractual obligations properly and in good time, in

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particular that the Buyer has made agreed advance payments. For clarification Schmidt & Bender points out that the delivery period for an EXW delivery is met if the Goods are made available for collection in good time.

- (2) The delivery period begins on the day on which all the papers and documents required to complete the order are available, in particular import licenses abroad or delivery permits in the country of Schmidt & Bender. In the absence of any other agreement, the Buyer is obliged to obtain import licenses, delivery, export and transfer permits or other official permits and to comply with the Buyer's obligations specified in Section 10 of these GTCS.
- (3) If the delivery or service is delayed by Schmidt & Bender at the request of the contractual partner, the Buyer shall bear the costs incurred as a result (in particular storage costs) starting one month after receipt of the notification of readiness for dispatch by the Buyer, but at least 0.5% of the respective net invoice amount per month.
- (4) If Schmidt & Bender is not able to meet binding delivery deadlines for reasons not attributable to it (non-availability of the service), it shall inform the Buyer thereof without delay and at the same time set a new estimated delivery deadline. If the service remains unavailable within the new delivery period, Schmidt & Bender is entitled to withdraw from the contract in whole or in part; any consideration already provided by the Buyer shall be reimbursed immediately by Schmidt & Bender. Non-availability of the service exists, for example, in the event where a supplier of Schmidt & Bender fails to make a timely delivery in a situation where Schmidt & Bender entered into a matching cover transaction, in the event of other disruptions in the supply chain, for example due to force majeure, or if Schmidt & Bender is not obliged to procure in the individual case.
- (5) The foregoing shall be without prejudice to the Buyer's rights under Section 8 of these GTCS and to statutory rights of Schmidt & Bender, in particular in situations exempting from the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent performance).

4. Delivery, transfer of risk, delay in acceptance

- (1) The delivery shall be made EXW (Incoterms 2020) Am Grossacker 42, 35444 Biebertal, Germany or from another location to be named by Schmidt & Bender, which is also the place of performance for the delivery and any subsequent performance. The Goods can be shipped to another destination on the Buyer's request and at the Buyer's expense (in case of sale with shipment to a destination other than the place of execution). Unless explicitly agreed otherwise, Schmidt & Bender may independently choose the shipment form (and in particular the carrier, shipment route, packaging).
- (2) Schmidt & Bender is entitled to make partial deliveries if this is reasonable for the Buyer; partial deliveries are particularly reasonable for the Buyer if the partial delivery can be used by the Buyer within the scope of the contractual purpose, the delivery of the remaining ordered Goods is ensured and the Buyer does not incur any significant additional work or costs as a result.
- (3) The risk of accidental loss and damage is transferred to the Buyer not later than the transfer of the Goods. In case of sale with shipment to a destination other than the place of execution, the risk of accidental loss or damage of the goods and the risk of delay is deemed transferred to the Buyer when the Goods are delivered to the forwarder, carrier or any other party or agency engaged to ship the Goods. If the parties agree on acceptance of the Goods, acceptance of the Goods shall be decisive for the transfer of risks. For the rest, the statutory provisions of the law on contracts for work and services apply accordingly to an agreed acceptance. The delay of acceptance attributable to the Buyer shall be deemed equivalent to the handover or acceptance.
- (4) If the Buyer delays acceptance or fails to cooperate or if the delivery from Schmidt & Bender is delayed for any other reasons attributable to the Buyer, Schmidt & Bender shall be entitled to claim the resultant damages including additional expenses (such as storage costs). For this purpose, Schmidt & Bender calculates a flat-rate compensation for each completed calendar week in the amount of 0.5% of the net price (delivery value), but in total no more than 5% of the delivery value, starting with the delivery period or - if there is no delivery period - with the notification of the readiness for dispatch of the Goods. The foregoing shall be without prejudice to the right of Schmidt & Bender to provide proof of a higher damage and its legal claims (in

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particular claims for reimbursement of additional expenses, appropriate compensation, termination of the contract); the flat-rate compensation shall be deemed included, however, in further monetary claims, if any. The Buyer shall be free to prove that Schmidt & Bender has incurred no damage at all or only considerably lower damage than the above flat penalty.

5. Prices and Terms of Payment

- (1) Unless otherwise agreed in individual cases, the current Schmidt & Bender prices at the time the contract is concluded apply, namely EXW (Incoterms 2020) from the Schmidt & Bender headquarters (Am Grossacker 42, 35444 Biebertal, Germany) or from another location to be named by Schmidt & Bender, plus statutory sales tax and packaging.
- (2) In case of sale with shipment to a destination other than the place of execution (see Section 4 (1)), the Buyer shall bear the transport costs ex works or another location to be named by Schmidt & Bender and the costs of any transport insurance requested by the Buyer or insurance against other insurable risks. Unless otherwise agreed, Schmidt & Bender is not obliged to insure the Goods. All customs duties, levies, taxes and other official charges shall be at the expense of the Buyer.
- (3) The purchase price is due and payable within ten (10) days of invoicing and delivery or acceptance of the Goods. However, Schmidt & Bender reserves the right to make its deliveries subject to advance payment in part or in full at any time - also in the course of ongoing business relations. Schmidt & Bender shall make such reservation known not later than with the confirmation of the purchase order.
- (4) The Buyer shall be deemed in delay with payment upon expiry of the above-mentioned payment term. Interest is to be paid on the purchase price during the delay at the applicable statutory default interest rate. Schmidt & Bender reserves the right to claim further damages caused by the delay. The entitlement to demand commercial maturity interest (Section 353 of the German Commercial Code, "HGB") from merchants remains unaffected.
- (5) Fulfilment by transferring the payment amount only occurs when the amount has been credited to Schmidt & Bender's account and it finally has received the amount at its free disposal.
- (6) Payments to third parties (e.g. commercial agents, authorized dealers) do not release the Buyer from its obligation to pay under a contract concluded between the Buyer and Schmidt & Bender.
- (7) The Buyer may claim offsetting or retention solely to the extent the Buyer's claims have been established as legally valid or undisputable. The Buyer's counterclaims and in particular the rights arising from Section 7 (6) Sentence 2 hereof shall not be affected in case of a defective delivery.
- (8) Should it become apparent after the contract is concluded that the claims of Schmidt & Bender for payment of the purchase price are exposed to the risk of unenforceability because of the Buyer's inability to pay (e.g. because of a petition filed for instituting of insolvency proceedings), Schmidt & Bender shall become entitled to refuse to make deliveries under the contract and to withdraw from the contract upon expiry of the period of notice, if necessary, in accordance with the law (Section 321 of the BGB). Schmidt & Bender shall be entitled to notify its withdrawal from the contract with immediate effect in case of any contract for the manufacture of specific items (custom-made items); the foregoing shall be without prejudice to the statutory provisions governing the lack of necessity to set a deadline.

6. Retention of Title

- (1) Schmidt & Bender retains the title of ownership to the sold Goods until full settlement of all current and future amounts receivable by Schmidt & Bender and arising from the purchase contract and the on-going business relationship (secured amounts receivable). The Buyer is obligated to fulfil the requirements that are placed on the effectiveness of the agreement of a retention of title, which are required according to the applicable law of the country in which the reserved goods are located.
- (2) The Buyer shall treat the reserved Goods with care. The Buyer shall insure them adequately at his own expense against fire, water and theft damage at replacement value.

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- (3) The Goods covered by the title retention clause may not be pledged to third parties or assigned as security prior to full settlement of the secured claims. The Buyer shall notify Schmidt & Bender in writing without delay if a petition is filed for instituting insolvency proceedings or if a third party gains access to the Goods owned by Schmidt & Bender (e.g. by way of seizure of the Goods).
- (4) If the Buyer is in breach of the contract and in particular if the Buyer does not pay the outstanding purchase price, Schmidt & Bender shall become entitled to withdraw from the contract in accordance with the statutory provisions and/or to request return of the Goods by virtue of the retention of title. Such request to return the Goods shall not be deemed to mean a simultaneous withdrawal notice; on the contrary, Schmidt & Bender shall be entitled to request solely the return of the Goods and to reserve the right to withdraw from the contract. If the Buyer does not pay the outstanding purchase price, Schmidt & Bender may only assert these rights where it had unsuccessfully set the Buyer a reasonable deadline for payment and it was not met or where the applicable law allows omitting such deadline setting.
- (5) Until revoked, the Buyer is authorized in accordance with c) below to resell and/or process the Goods subject to retention of title in the ordinary course of business. In this case, the following additional provisions shall apply:
 - (a) The title retention shall extend to the full value of the products created through processing, mixing or combining the Goods of Schmidt & Bender and thereby Schmidt & Bender shall be considered the manufacturer thereof. If the title of ownership held by any third party is retained in case of processing, mixing or combining the Goods with third party goods, Schmidt & Bender shall become a co-owner of the processed, mixed or combined goods in proportion to the invoiced values. In all other respects, the same rules apply to the resulting product as to the Goods delivered subject to retention of title.
 - b) The Buyer hereby assigns to Schmidt & Bender as security all possible claims to third parties arising from resale of the Goods or the product to the full value of these claims or to the amount which is pro rata to the possible co-ownership title of Schmidt & Bender emerged in accordance with the preceding clause hereof. Schmidt & Bender accepts the assignment. The obligations of the Buyer specified in Paragraph 3 also apply with regard to the assigned claims.
 - c) In addition to Schmidt & Bender, the Buyer remains authorized to collect the claim. Schmidt & Bender undertakes not to collect the claim as long as the Buyer meets its payment obligations towards Schmidt & Bender, there is no deficiency in its ability to pay and Schmidt & Bender does not assert the retention of title by exercising a right in accordance with Paragraph 4. In this case, however, Schmidt & Bender may demand that the Buyer notifies Schmidt & Bender of the assigned claims and debtors thereunder, provides all information necessary for claim recovery, makes available the relevant documents and informs the debtors (third parties) of the assignment. In this case, Schmidt & Bender is also entitled to revoke the Buyer's authority to resell and process the Goods subject to retention of title.
 - (d) If the realisable value of the security exceeds the claims of Schmidt & Bender by more than 10%, Schmidt & Bender shall release, on the Buyer's request, parts of the security chosen at own discretion.

7. Buyer's Claims for Defects

- (1) Unless otherwise stated herein below, the Buyer's rights shall be governed by statutory provisions in case of defects of material and defects of title (including incorrect or incomplete delivery, faulty assembly or inadequate assembly instructions). In any case, the special statutory provisions on the reimbursement of expenses in the case of final delivery of the newly manufactured goods to a consumer (supplier's recourse pursuant to Sections 478, 445a, 445b BGB) shall remain unaffected, unless an equivalent compensation has been agreed, e.g. within the scope of a quality assurance agreement.
- (2) The Schmidt & Bender's liability for defects is primarily based on the agreement made on the quality and condition and the anticipated use of the Goods (including accessories and instructions). All product descriptions and manufacturer information that are the subject of the individual contract or that have been made public by Schmidt & Bender (in particular in catalogues or on the Schmidt & Bender website) at the time the contract was concluded are deemed to be

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quality agreements. If no agreement has been made regarding the quality and condition of the Goods, statutory provisions shall be decisive for the determination as to whether the Goods are defective (Section 434 Paragraph 3 BGB). Public statements made by the manufacturer or on its behalf, especially in advertising or on the label of the Goods, shall take precedence over statements made by other third parties.

- (3) Schmidt & Bender shall be liable for difficulties arising from the provisions of commercial legal protection in the event of resale by the Buyer in countries other than that of the Buyer or the use of Schmidt & Bender products by the Buyer in countries other than that of the Buyer only in accordance with Section 8, and otherwise the liability shall be excluded.
- (4) Schmidt & Bender assumes no liability for damage caused by unsuitable or improper use, faulty assembly (in particular for the selection of wrong assembly variants that lead to a restriction of the functional scope of the Goods from Schmidt & Bender) or faulty commissioning by the Buyer or third parties, natural wear and tear, incorrect or negligent handling of the Goods or non-observance of operating or maintenance instructions from Schmidt & Bender, provided the Buyer does not disprove a corresponding substantiated assertion that one of these circumstances caused the defect.
- (5) In principle, Schmidt & Bender shall be not liable for defects that the Buyer is aware of at the time the contract is concluded or is unaware of due to gross negligence (Section 442 BGB). Furthermore, the Buyer's claims for defects presuppose that he has complied with his statutory inspection and notification obligations (Sections 377, 381 HGB). In the case of Goods intended for installation or other further processing, an inspection must be carried out immediately before processing. If a defect is detected during the delivery or inspection of the Goods or at a later stage, it shall be notified to Schmidt & Bender in writing without delay. In any case, obvious defects shall be notified in writing within eight (8) working days of the delivery and defects not detected by the inspection shall be notified in writing within a similar same period of the detection thereof. If the Buyer fails to perform the inspection and/or to notify the defect in due course, Schmidt & Bender shall be exempted in accordance with the statutory provisions from any liability for the defects notified late or with infringements against the notification procedure. In the case of goods intended for installation or mounting, this also applies if the defect only became apparent after the corresponding processing as a result of the breach of one of these obligations; in this case, the Buyer has no claims for reimbursement of corresponding costs ("removal and installation costs").
- (6) Only the direct Buyer is entitled to make warranty claims against Schmidt & Bender and may not assign them.
- (7) If the delivered Goods are defective, Schmidt & Bender may initially choose to remedy the defect by means of either its elimination (rectification) or delivery of defect-free replacement Goods (replacement). If the type of subsequent performance chosen by Schmidt & Bender is unreasonable for the buyer in an individual case, the buyer may reject it. This shall be without prejudice to the right of Schmidt & Bender to refuse rectification in accordance with the statutory requirements.
- (8) Schmidt & Bender shall be entitled to make the rectification of defects subject to payment of the outstanding purchase price by the Buyer. However, the Buyer shall be entitled to retain a reasonable portion of the purchase price which is proportionate to the defect.
- (9) The Buyer shall give Schmidt & Bender the time and opportunity necessary for subsequent performance. In particular the Buyer shall upon request of Schmidt & Bender submit the Goods covered by the defect claim to Schmidt & Bender for inspection; however, the Buyer does not have a right of return. In case of replacement, the Buyer shall return the defective Goods to Schmidt & Bender in accordance with the statutory provisions. Subsequent performance does not include removal or dismantling of the defective item, nor the installation or mounting of a defect-free item if Schmidt & Bender was not originally obliged to provide these services; Buyer's claims for reimbursement of corresponding costs ("removal and installation costs") remain unaffected.
- (10) The necessary costs associated with the inspection and subsequent performance and in particular transportation, travel, labour and material costs, as well as, if applicable, removal and installation costs shall be at the expense of Schmidt & Bender in accordance with the law and these GTCS, if the defect is actually in place. Otherwise Schmidt & Bender shall become entitled

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to claim from the Buyer reimbursement for the costs caused by the unsubstantiated request to remedy the defect (in particular inspection and transport costs), excluding situations where the Buyer knew or was negligent in not knowing that there was in fact no defect.

- (11) In urgent cases, e.g. if operational safety is endangered or to prevent disproportionate damage, the Buyer has the right to remedy the defect independently and to demand reimbursement of the objectively necessary expenses from Schmidt & Bender. Schmidt & Bender must be informed immediately, if possible in advance, of such independent rectification. The right to independent rectification does not apply in case Schmidt & Bender would be entitled to refuse subsequent performance according to the statutory provisions.
- (12) If a reasonable period of time to be set by the Buyer for the subsequent performance has expired without success or is unnecessary according to the statutory provisions, the Buyer may withdraw from the purchase contract according to the statutory provisions or reduce the purchase price. No right of withdrawal emerges however in case of a minor defect.
- (13) Even in case of a defect, the Buyer's damage claims or claims seeking reimbursement of wasted expenses shall only be allowed in accordance with Section 8 hereof and are otherwise excluded.

§ 8 Other Liability

- (1) Unless stipulated otherwise in these GTCS, in particular in the provisions below, Schmidt & Bender's liability for a breach of contractual and non-contractual obligations shall be governed by statutory provisions.
- (2) Schmidt & Bender may only be held liable for damages – irrespective of their legal grounds – within the framework of fault-based liability in the event of intent and gross negligence. In the event of simple negligence, Schmidt & Bender is only liable, subject to statutory liability limitations (e.g. due diligence in own affairs; insignificant breach of duty)
 - a) for damage arising from injury to life, limb and health,
 - b) for damage resulting from significant breach of a material contractual obligation (i.e. an obligation whose fulfilment is essential for the proper execution of the contract and on whose observance the contractual partner generally relies and may rely); in this case, however, the liability of Schmidt & Bender shall be limited to reimbursement for the foreseeable typical damage.
- (3) The limitations of liability resulting from Section 8, Paragraph 2 also apply towards third parties and in the event of breaches of duty by persons (also in their favour) for whose fault Schmidt & Bender is responsible according to statutory provisions. These limitations shall not apply to situations where Schmidt & Bender fraudulently concealed a defect or guaranteed the quality of the Goods and to claims under the German Product Liability Act.
- (4) The Buyer may withdraw from or terminate the contract due to breach of duty other than a defect only where such breach is attributable to Schmidt & Bender. The Buyer's right of free termination (in particular according to Sections 650 and 648 BGB) is excluded. The statutory requirements and legal consequences shall apply in all other respects.

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9. Limitation Period

- (1) Deviating from Section 438, Paragraph 1, No. 3 BGB, the general limitation period for claims from material defects and defects of title shall be two (2) years from delivery. Where acceptance of the Goods is agreed, the limitation period begins on the day of acceptance of the Goods.
- (2) Other special statutory provisions on the limitation period remain unaffected (in particular, Section 438, Paragraph 1, No. 1, Paragraph 3, as well as Sections 444 and 445(b) BGB).
- (3) The above limitation periods of the sales law shall also apply for the Buyer's contractual and non-contractual damage claims based on a defect in the Goods, unless the application of the ordinary statutory limitation period (Sections 195 and 199 BGB) leads to a shorter limitation period in individual cases. The Buyer's claims for damages according to Section 8, Paragraph 2, Sentence 1 and Sentence 2 a) and according to the German Product Liability Act shall lapse exclusively according to the statutory limitation periods.

10. Export Control; Reservation Regarding Contract Execution

- (1) The contract execution shall be subject to the absence of any obstacles arising from national and/or international statutory regulations and in particular provisions of the (US) export (and re-export) control laws as well as embargo regulations or other national or international export restrictions. The Buyer shall comply with the applicable national or international export control laws and regulations (and in particular with the US re-export/export control regulations) in case of resale or transfer of any Goods of Schmidt & Bender to a third party. In any case, the Buyer shall take into account and comply with the re-export/export control regulations of the Federal Republic of Germany, of the European Union and of the United States of America when reselling Schmidt & Bender Goods to a third party.
- (2) Prior to resale and transfer of Schmidt & Bender Goods to a third party the Buyer shall in particular check whether, and ensure by taking adequate steps that:
 - a) the requirements and conditions of all relevant and applicable sanction lists of the European Union and, if applicable, those of the United States of America regarding transactions with the companies, individuals and organisations listed therein are fulfilled;
 - b) resale or transfer of the Goods or provision of services related to them to a third party does not violate an embargo of the European Union and, if applicable, of the United States of America and/or the United Nations – also with account of possible restrictions on business transactions inside Germany and possible circumvention bans; and
 - c) Schmidt & Bender Goods are expressly not delivered to third parties for military use, in particular for armaments-related, nuclear or weapons-related use that is prohibited or subject to approval, unless the necessary approval has been obtained and do not violate other currently valid international sanctions regulations; the Goods and, if applicable, services are not intended for use in armaments, nuclear or weapons technology that is prohibited or requires approval, unless necessary approvals are available.
- (3) In order to carry out export control tests within Schmidt & Bender or due to an external request by authorities, the Buyer must immediately upon a corresponding request provide Schmidt & Bender with all information and/or documentation available to it regarding:

the final recipient,
the final destination, and
the intended use

of Schmidt & Bender Goods delivered to a third party by the Buyer or of the services provided by the Buyer in this respect as well as regarding the applicable export control restrictions.

If the submission of a DVC or IIC is required, the Buyer undertakes to submit these documents to Schmidt & Bender immediately.

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- (4) The Buyer must immediately and fully indemnify Schmidt & Bender from all claims asserted against Schmidt & Bender by authorities or other third parties due to non-compliance with or violation of the above export control obligations by the contractual partner, and undertakes an obligation towards Schmidt & Bender to compensate Schmidt & Bender for all damages and expenses incurred in this connection (legal fees, etc.). Schmidt & Bender shall be entitled to request advance payments.

11. Special Provisions for Purchase on a Trial Basis / for Inspection

- (1) In individual cases, the Goods can be delivered to the Buyer on a trial basis, which occurs in particular when the Goods are delivered to the customer for inspection and the customer can decide within a certain period of time to adhere to the purchase contract or to withdraw from it. In the case of such a purchase on a trial basis, the following additional special provisions shall apply.
- (2) Schmidt & Bender and the Buyer shall agree on a trial period or, in the absence of an agreed trial period, Schmidt & Bender shall set a reasonable deadline for the trial. The trial period ends with expiry of the last day of the set period of time.
- (3) The purchase contract is deemed to be terminated if the Goods have been returned undamaged to Schmidt & Bender by the end of the last day of the trial period. The Goods are to be returned in the condition in which Schmidt & Bender handed them over to the Buyer. Wear and tear caused by proper use shall not be taken into consideration. Schmidt & Bender is not entitled to any compensation for the time of use. If the buyer returns the goods in a timely manner in this way, the contract shall be deemed to be terminated. The Buyer shall return the Goods at its own expense.
- (4) If the Buyer withdraws from the contract within the meaning of Paragraph 3, Schmidt & Bender shall reimburse the Buyer for any advance payment made. The Buyer waives the right to claim interest from such an advance payment, if any.
- (5) For the duration of the trial period, the Buyer bears the risk of accidental damage and loss of the Goods. The Buyer undertakes to use the Goods only in the manner specified in the operating instructions and to treat them with care. During the trial period, the Buyer must let Schmidt & Bender carry out any maintenance or necessary repairs at its own expense.
- (6) During the trial period, the Buyer is not authorized to resell the Goods unless it has declared that it will adhere to the purchase contract. Otherwise Section 6 hereof applies.
- (7) If the trial period according to Paragraph 2 has expired without the Goods according to Paragraph 3 having been received by Schmidt & Bender, the purchase price must be paid within two weeks of the declaration of adherence to the contract or of the end of the trial period.

12. Governing Law and Jurisdiction

- (1) These GTCS and the contractual relationship between Schmidt & Bender and the Buyer are governed by German law to the exclusion of the international uniform law, in particular, of the United Nations Convention on Contracts for the International Sale of Goods.
- (2) If the buyer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – including international – place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is 35390 Giessen, Germany. The same applies if the Buyer is an entrepreneur within the meaning of Section 14 BGB. However, Schmidt & Bender shall be entitled in any case to bring an action claim at the delivery place of the delivery obligation in accordance with these GTCS or an overriding individual arrangement, or at the general place of jurisdiction of the Buyer. The foregoing shall be without prejudice to any overriding statutory provisions, including but not limited to those regarding exclusive competence.