



STANDARD TERMS OF SALES AND DELIVERY

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1 SCOPE OF APPLICATION

Any sales, deliveries and other services of BITZER SE, BITZER Kühlmaschinenbau GmbH and BITZER Kühlmaschinenbau Schkeuditz GmbH (hereinafter referred to as "BITZER") are exclusively based on these General Terms and Conditions of Sales and Delivery (hereinafter referred to as "Terms of Delivery"), which the Ordering Party acknowledges and accepts by placing the order or by accepting the delivery (the Ordering Party and BITZER are hereinafter also referred to as "Parties"). These Terms of Delivery are an integral part of all contracts which BITZER concludes with the Ordering Parties with respect to the deliveries or services offered by BITZER. They shall apply also to any future business transactions with the Ordering Party, even if they are not explicitly agreed upon again.

The application of any deviating or additional terms and conditions of the Ordering Party or any third party is excluded even if BITZER does not explicitly reject them. Even if BITZER refers to a letter containing terms and conditions of the Ordering Party or a third party or any reference thereto, this shall not be construed as an acknowledgment of the applicability of those terms and conditions.

2 CONCLUSION OF CONTRACT

- 2.1 Product- and service presentations of BITZER, as well as those on trade fairs, including virtual ones, in catalogues, including electronically ones, on BITZER homepages, myBITZERshop, or elsewhere in the Internet shall not constitute a binding offer to enter into an agreement. They shall only be regarded as non-binding invitation to make an offer to order product or services. In response to such invitation the Ordering Party may submit a binding offer to enter into a contract (§ 145 of the German Civil Code – BGB). Notices of receipt sent by BITZER, for example using e-mails, generated automatically, are only acknowledging the receipt of such offer and shall not be regarded as acknowledgement or confirmation of such offer.

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- 2.2 If an order of the Ordering Party can be regarded as binding offer pursuant to § 145 BGB, BITZER may acknowledge such offer within 2 weeks after receipt.
- 2.3 The offers submitted by BITZER are non-binding and subject to confirmation.
- 2.4 A contract shall be concluded only when BITZER expressly confirms the offer in writing, per Telefax, per e-mail or in other electronic form and shall be based exclusively on the contents of the order confirmation and these Terms of Delivery. Any oral agreements or commitments must be confirmed by BITZER in writing in order to become effective.
- 2.5 The legal relationship between BITZER and the Ordering Party shall be governed exclusively by the express order acknowledgment and these Terms of Delivery. These are reflecting the entire agreement between the Parties with respect to the subject matter of the contract. Any oral commitments made by BITZER before the conclusion of the contract shall not be legally binding and any oral agreements between the Parties shall be substituted by the written contract, unless it is explicitly confirmed therein that they shall continue to be effective and legally binding. Any amendments or modifications to agreements entered into, including the order acknowledgment and these Terms of Delivery, must be made in writing in order to be effective. Except for managing directors and persons having full power of attorney, the employees of BITZER shall not be authorized to enter into any deviating oral agreements. The requirement of written form shall also be fulfilled by sending a telefax or an e-mail; in case of a transmission by e-mail, however, the statement contained therein shall only be valid if the sender adds his/ her name and signs the electronic document with a qualified signature according to the German Trust Services Act (VDG). In case of a contract, each Party must sign an identical document with a qualified electronic signature.
- 2.6 Any details provided by BITZER regarding the delivery items or services offered (e. g. weight, dimensions, utility values, capacity, tolerances and technical data) as well as the corresponding presentation (e. g. drawings and illustrations) shall have only approximate validity unless an exact correspondence of data and values is required for the usability of the delivery items for the contractually agreed purpose.
They do neither represent any guaranteed qualities nor characteristics but are only descriptions of the product or service. Deviations that are customary in trade or that are due to legal provisions or deviations that represent technical improvements as well as the replacement of components by equivalent parts shall be admissible as far as the use for the contractually agreed purpose is not impaired thereby.
- 2.7 BITZER reserves all rights, in particular property rights and copyrights, to the offer- and sales documentation (in particular calculations, illustrations, drawings, weight and dimension figures). They must not be made available to any third party and are to be returned to BITZER immediately on request. Only after a prior written consent from BITZER has been obtained shall it be admissible to pass such documents on to a third party
- 2.8 BITZER's fulfillment of the contract is subject to the proviso that there are no national or international provisions of Foreign Trade Law or no embargos (and/or any other sanctions) opposing such fulfillment.
- 2.9 In connection with deliveries from BITZER, the Ordering Party agrees to refrain from the following business transactions in any case:
- (a) Business transactions with persons, organizations or institutions which are included in a sanction list pursuant to EU regulations or US export rules.
 - (b) Business transactions which are prohibited with embargo states.
 - (c) Business transactions for which the required approvals are missing.
 - (d) Business transactions which could be made in connection with ABC weapons or for a military end-use.
- 2.10 Any serious contravention or repeated contraventions against the Terms of Delivery shall be a reason for an immediate termination or another form of cancellation of the contractual relationship.



3 DELIVERY DATES AND DEADLINES

- 3.1 Delivery dates and deadlines shall only be binding if they have been confirmed in writing by BITZER and if the Ordering Party has provided or made available to BITZER in due time all and any information and documentation required for the execution of the delivery and if any agreed down-payments have been received. The right to plead non-performance of contract is reserved. The agreed deadlines shall start with the date of the order confirmation. In case of any additional orders or an extension of the order, the deadlines shall be extended accordingly. If shipment has been agreed, the delivery deadlines shall refer to the date when the delivery items are handed over to the forwarding company, carrier or any other party charged with the transportation. BITZER, notwithstanding its rights from a default of the Ordering Party, may request an extension or postponement of the deadlines set for the delivery of delivery items and services by the period of time during which the Ordering Party fails to comply with its contractual obligations vis-à-vis BITZER.
- 3.2 Any unforeseen and unavoidable events beyond BITZER's scope of influence and for which BITZER cannot be made responsible for, such as force majeure, war, natural disasters, directives issued by public authorities, operational disorders of any kind, difficulties with the procurement of material and energy, delays in transportation, lack of labor, energy or raw materials, incorrect or delayed deliveries from suppliers, labor disputes and/or legal lockouts shall release BITZER from its obligation to provide in time delivery of delivery items or services for the duration of the event. Agreed deadlines shall be extended for as long as the event lasts; the Ordering Party shall be informed appropriately about the occurrence of the event. If the end of the disturbance is not foreseeable or if the event lasts for more than three months, each Party shall be entitled to withdraw from the contract.
- 3.3 If the deliveries from BITZER are delayed, the Ordering Party shall be entitled to cancellation only if BITZER is to be held responsible for the delay and if an adequate period of time set by the Ordering Party for the fulfillment of the delivery has lapsed without success.
- 3.4 If the Ordering Party is in default with the acceptance of the delivery or if it negligently violates any other obligations to cooperate, BITZER, subject to the provisions of section 4.3, shall be entitled to store the delivery items adequately at the risk and costs of the Ordering Party and to claim further additional expenditures from the Ordering Party. Further claims remain reserved. If previously mentioned conditions apply, the risk of accidental loss or accidental deterioration of the delivery items shall pass to the Ordering Party at the time the Ordering Party is in default of acceptance. Notwithstanding its other rights, BITZER shall be entitled to cancellation if a reasonable grace period granted to the Ordering Party for the acceptance of the delivery has lapsed without success.
- 3.5 BITZER shall be entitled to provide partial deliveries if the partial delivery can be used by the Ordering Party in the framework of the contractually agreed purpose, the delivery of the remaining delivery items is safeguarded and no significant additional work and expenses or additional costs arise for the Ordering Party as a result of the partial deliveries unless BITZER agrees to bear these costs.

4 DISPATCH, TRANSFER OF THE RISK, INSURANCE

- 4.1 As far as the Ordering Party has given no directives, it shall be within the reasonable discretion of BITZER to dispatch the delivery items by an adequate means of transportation and in usual packaging.
- 4.2 The risk shall pass to the Ordering Party at the latest when the delivery items are handed over to the transportation or forwarding company, the carrier or any other third party responsible for executing the transportation or to the Ordering Party itself (the start of the loading process being decisive). This shall apply even when partial deliveries are made or when BITZER has agreed to carry out additional services (e. g. dispatch or installation). When the handing over or dispatching of the delivery items is delayed due to reasons the Ordering Party is responsible for, the risk shall pass to the Ordering Party on the day when a ready-for-dispatch note regarding the delivery items has been issued.



- 4.3 The costs for storing the delivery items after the risk has passed to the Ordering Party shall be borne by the Ordering Party. In case of storage by BITZER, the storage costs shall be 0.25 % of the invoice amount of the delivery items to be stored per full week.
- 4.4 BITZER shall insure the good against theft, breakage, fire and water damage or any other insurable risks only upon the explicit request of the Ordering Party and at the latter's costs.

5 PRICES, TERMS OF PAYMENT

- 5.1 If the Contracting Parties have not agreed upon a particular price, the price shall be determined by the BITZER price list valid at the date of the conclusion of the contract.
- 5.2 All prices of BITZER are quoted ex works, plus the applicable Value Added Tax (VAT) and any customs fees, but including the costs for the usual packaging. Any special packaging shall be invoiced separately. Any additional and special services shall be invoiced separately.
- 5.3 In case of small orders of a net order value (price of delivery item without forwarding expenses, VAT, customs etc.) below € 100,00 BITZER is entitled to a small order handling fee of € 58,00.
- 5.4 In case an order of a net order value of at least € 100,00 is, on request of the Ordering Party, divided into separate partial deliveries, due to extra processing expenses BITZER is entitled to a handling fee of € 58,00 for each separate partial delivery with a net order value below € 100,00.
- 5.5 The full amount of all invoices or any equivalent payment schedules shall be due for payment immediately after receipt. A prompt payment discount may only be deducted upon respective written agreement between the Ordering Party and BITZER. In case of non-payment, the Ordering Party shall be in default 30 days after the due date and receipt of the invoice or equivalent payment schedule, at the latest, without any further notice or reminder from BITZER being required if the date for payment is not specified on the invoice or the equivalent payment schedule according to calendar.
- 5.6 In case of default in payment, BITZER shall be entitled to charge the applicable interest rate of arrears of currently 9 % p.a. above the relevant basic interest rate and a lump sum charge of € 40,00. The right to claim any further damages for default shall remain unaffected.
- 5.7 Drafts, bills of exchange and checks shall only be accepted on account of performance if this has been especially agreed and without any costs or fees for BITZER; they shall be considered as payment only after they have been honored or cashed.
- 5.8 The Ordering Party shall be entitled to offset any amounts only if its counter-claim is undisputed or has been established in court as final and conclusive.
- 5.9 The Ordering Party shall be entitled to retain any payments only if its counter-claim is based on the same contract and is undisputed or has been established in court as final and conclusive.
- 5.10 If, after the conclusion of the contract, BITZER recognizes that there is a risk that the Ordering Party might not be able to perform, BITZER shall be entitled to provide any outstanding deliveries only against advance payment or security. If the advance payments or the securities have not been provided even after an adequate additional period granted for performance has elapsed, BITZER shall be entitled to withdraw, entirely or partially, from individual or all contracts concerned. BITZER's right to assert further claims remains unaffected.



6 AGREEMENT ON QUALITY WITHOUT GUARANTY

- 6.1 BITZER shall warrant that the delivery item has the agreed quality at the moment of the transfer of the risk; this quality shall be based exclusively on the concrete agreements concluded in writing between the Parties with respect to the properties, features and characteristics of performance of the delivery item.
- 6.2 BITZER has not the intention and the contract between the Parties is not designed in such a way that BITZER assumes any additional commitment (guaranty) regarding the quality of the delivery item beyond the agreement on quality as defined in section 6.1.
- 6.3 Pursuant to section 6.2, any data contained in catalogs, price lists and any other information material provided to the Ordering Party by BITZER shall in no way be deemed to represent any kind of guaranty for particular properties of the delivery item or the fitness of the delivery item for a particular purpose.

7 WARRANTY, OBLIGATION TO INSPECT

- 7.1 In accordance with the provisions set forth below in this Section 7, BITZER shall provide warranty for any defects of the delivery items. Warranty shall not apply if the Ordering Party modifies the delivery item or has it modified by a third party without BITZER's consent, making thereby the remedy of defects impossible or complicating it in an unacceptable way. In any case, the Ordering Party shall bear the additional costs for the remedy of defects resulting from the modification.
- 7.2 The Ordering Party may claim any warranty rights only if it has inspected the delivery item after receipt and reported any defects in writing to BITZER without delay, at the latest, however, two weeks after receipt; any hidden defects must be reported in writing to BITZER immediately after they have been detected.
- 7.3 In case of any notice of defects, BITZER shall be entitled to inspect and examine the delivery item which is the object of the complaint. The Ordering Party shall grant to BITZER the necessary period of time and opportunity for this purpose. BITZER shall also be entitled to request the Ordering Party to return the delivery item complained about to BITZER at the Ordering Party's costs. If a notice of defects by the Ordering Party turns out to be unjustified, the Ordering Party shall be obligated to reimburse all expenses BITZER incurred in this regard, e. g. travel expenses, installation or shipment costs.
- 7.4 Defects for which BITZER has to provide warranty shall be remedied by BITZER, at its own discretion, either by repairing the defect without any costs for the Ordering Party or by providing a part free from defects or by replacing the entire delivery item (supplementary performance).
- 7.5 The Ordering Party shall grant to BITZER the necessary period of time and opportunity for the repair or the replacement delivery. Only in urgent cases, if the operational safety is at risk or if an unproportionally high damage is to be prevented or if BITZER is in default with remedying the defect, shall the Ordering Party be entitled to remedy the defect itself or have it remedied by a third party once BITZER has been informed and to request the reimbursement of all necessary costs from BITZER unless the Ordering Party is responsible for bearing the costs in accordance with section 7.3.
- 7.6 Any parts replaced by BITZER in the framework of supplementary performance pursuant to section 7.4 must be returned. BITZER shall be entitled to take back any defective delivery items against reimbursement even outside the warranty period.
- 7.7 BITZER shall not assume any warranty for damage caused by inadequate or inappropriate use of unsuitable operating materials (in particular of oils not released by BITZER), incorrect assembly, incorrect commissioning or incorrect installation by the Ordering Party or due to natural wear and tear insofar as BITZER is not responsible for the damage.

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- 7.8 The expenses for material, shipment and labor required for the purpose of supplementary performance as well as any other costs shall be borne by BITZER except for the additional costs arising due to the fact that the delivery item is at another place than the place of delivery or its intended use.
- 7.9 If BITZER refuses seriously and definitely to fulfill the contract, if there are special circumstances which, carefully considering the mutual interests, justify the immediate assertion of other rights than those stated in section 7.4, if the remedy of defects or the replacement delivery fails, is unacceptable for the Ordering Party or is refused by BITZER in accordance with § 439, section 3 BGB because the costs therefor would be unproportionally high, the Ordering Party, at its discretion and in accordance with the legal provisions, may withdraw from the contract, reduce the purchase price or request damages instead of the performance (or, as the case may be, reimbursement of its expenses).
- 7.10 The period of limitation for any warranty claims starts at the date of delivery at the Ordering Party or, if acceptance is required, with acceptance.
- 7.11 Regarding new delivery items the period of limitation for a warranty claim shall be one year.
- 7.12 With regard to certain new delivery items, the period of limitation for a warranty claim may amount up to a total of five years. The length of the warranty extension may vary by annual periods from a minimum of one year up to a maximum of four years, according to the order and the delivery item. A distinction has to be made between warranty extension free of charge and warranty extension with costs. The latter can only be ordered when the respective delivery item is ordered.
- Uniform preconditions for the extension of the warranty period for all kinds of warranty extensions are
- (a) the registration of the delivery item at <https://www.bitzer.de/webservices/activate.aspx> before its initial commissioning,
 - (b) the provision of a complete operating parameters report (hereinafter referred to as "data log") to BITZER, taken at commissioning of the delivery item in accordance with the specifications show at <https://www.bitzer.de/webservices/activate.aspx>, and,
 - (c) starting from the 3rd year of the warranty period, the provision of an annual data log to BITZER, showing the operating parameters of the delivery item.
- 7.13 BITZER offers a free of charge extension of the warranty period by one year for delivery items from its product line "BITZER IQ INTELLEGENT COMPRESSORS" (hereinafter referred to as "IQ-products") and for delivery items which are equipped with an optional "BITZER IQ MODULE" (hereinafter referred to as "IQ-module"). BITZER furthermore offers a warranty extension with costs for IQ-products and delivery items equipped with an IQ-module. In deviation from the preconditions stated within section 7.12, the data log to be provided to BITZER has to be the data log generated by the IQ-product or the IQ-module, respectively. As further precondition of a warranty extension the application limit monitoring of the IQ-product or the IQ-module, respectively, has to be activated from first commissioning until the end of the warranty period. The warranty extension is applicable for the IQ-product, the IQ-module and the dedicated compressor equipped with the IQ-module.
- 7.14 If the law provides for longer statutory periods of limitation pursuant § 438 section 1 No. 2 BGB (governing buildings and construction-related objects), § 479 section 1 (governing claims under a right of recourse) and § 634 section 1 No. 2 BGB (governing defects of construction works) such periods shall apply.
- 7.15 If BITZER remedies the defect in the framework of supplementary performance (cf. section 7.4), the period of limitation shall be suspended for the time the remedy of the defect lasts and shall be extended accordingly. If a new delivery item is delivered as replacement, a new period of limitation of one year for warranty claims shall start, unless the replaced delivery item is subject to a warranty extension, than such warranty extension shall apply also to the new delivery item delivered as replacement, however, the overall period of limitation shall not exceed five years from the commencement of the primary warranty period.



8 DAMAGES AND LIMITATION OF LIABILITY

8.1 The liability for damages of BITZER, irrespective of the legal cause, in particular for impossibility, default, defective or wrong delivery, breach of contract, violation of obligations during the contract negotiations or tortious act, as far as a fault of BITZER must be given in all these cases, shall be limited in accordance with this Section 8.

8.2 BITZER shall not be liable

(a) in case of ordinary negligence of its management bodies, legal representatives, employees or any other authorized agents,

(b) in case of gross negligence of its non-executive employees or any other authorized agents,

as far as it is not a violation of any essential contractual obligations. Essential contractual obligations are the obligation to provide deliveries and installation services in due time and free from any defects as well as any obligations of advice, protection and custody which are to permit the Ordering Party the use of the delivery item according to the contract or which aim at protecting the health and life of the Ordering Party's employees or of any third party or at protecting the Ordering Party's property against considerable damage.

8.3 As far as BITZER is to be held liable for damages on the merits according to section 8.2, its liability shall be limited to the damage which could be foreseen by BITZER at the time of conclusion of the contract as a possible consequence of a breach of the contract or which BITZER, applying due diligence, should have foreseen considering the circumstances which were known to BITZER or which BITZER should have known. Furthermore, any indirect or consequential damage resulting from a defect of the delivery item shall be compensated only as far as such damage may be typically expected in connection with the appropriate use of the delivery item.

8.4 Sections 8.1 – 8.3 shall apply to all claims for damages, irrespective of their legal cause, in particular also to liability for tortious act.

8.5 The above exclusions and limitations of liability shall apply to the same extent in favor of the management bodies, legal representatives, employees and any other authorized agents of BITZER.

8.6 As far as BITZER provides technical information or consultation services and this information or these consultation services do not belong to the due range of services contractually agreed, this shall be done free of charge and under the exclusion of any liability.

8.7 The limitations of liability stated in this section 8 shall not apply to liability on the part of BITZER for deliberate action, guaranteed properties, damage to life, limb and health or to liability under the German Product Liability Act.

8.8 The Ordering Party shall be obligated to take appropriate measures for preventing and minimizing damage.

9. RETENTION OF TITLE

9.1 The delivery items shall remain the property of BITZER until any and all payments due to BITZER under the business relationship with the Ordering Party have been settled.

9.2 In case of current accounts, the retained property shall serve as a security for the balance claims due to BITZER.



- 9.3 The Ordering Party shall be entitled to sell the delivery items under retention of title only within the ordinary course of business. The Ordering Party shall not be authorized to pledge the delivery items under retention of title, to transfer them by way of security or to make any other dispositions endangering the property of BITZER. Already today, the Ordering Party assigns the claims from the resale to BITZER; BITZER accepts this assignment already today. If the Ordering Party sells the delivery items under retention of title after processing or transformation or after combination with other products or together with other products, the assignment of claims shall be deemed to have been agreed only in the amount of the part which corresponds to the price agreed between BITZER and the Ordering Party plus a security margin of 10 % of this price. The Ordering Party shall be revocably entitled to collect the claims assigned to BITZER in its own name on behalf of BITZER. BITZER may revoke this authorization as well as the right to resell the delivery items if the Ordering Party is in default vis-à-vis BITZER with respect to essential contractual obligations such as payment.
- 9.4 If the delivery items delivered under retention of title are combined with other objects, BITZER shall acquire co-ownership of the new item proportionally to the value of the delivery items delivered by BITZER under retention of title as against the other objects at the moment of the combination. If the combination is made in such a way that the object of the Ordering Party is to be considered as the major item, it shall be deemed to have been agreed that the Ordering Party shall assign a co-ownership share to BITZER according to proportion. The co-ownership share thus created shall be maintained for BITZER by the Ordering Party.
- 9.5 The Ordering Party shall provide BITZER, at any time, any and all information requested concerning the delivery items delivered under retention of title or the claims assigned to BITZER hereunder. Any access or claims to the delivery items under retention of title by a third party shall be immediately reported to BITZER by the Ordering Party and all necessary documents shall be provided. At the same time, the Ordering Party shall inform the third party about BITZER's retention of title. The costs for defense against such access and such claims shall be borne by the Ordering Party.
- 9.6 During the period of the retention of title, the Ordering Party shall be obligated to treat the delivery items delivered under retention of title with care.
- 9.7 If the realizable value of the securities exceeds the total of the payments due to BITZER by more than 10 %, the Ordering Party shall be entitled to request a release in this respect.
- 9.8 If the Ordering party is in default with essential contractual obligations, such as payment, vis-à-vis BITZER, the latter, notwithstanding any other rights, may take back the delivery items delivered under retention of title and use them otherwise in order to satisfy its claims for payment vis-à-vis the Ordering Party. In this case, the Ordering Party shall immediately grant to BITZER or the authorized representative of BITZER access to the delivery items delivered under retention of title and hand over these delivery items. If BITZER requests that the delivery items be handed over based on this provision, this shall not be considered as a withdrawal from the contract.
- 9.9 In case of deliveries in countries with other legal systems where the retention of title specified above does not have the same securing effect as in the Federal Republic of Germany, the Ordering Party shall use its best efforts to grant similar rights of security to BITZER without delay. The Ordering Party shall cooperate in implementing all measures, such as registration, publication, etc., which are necessary for and conducive to the validity and enforceability of such rights of security. At BITZER's request, the Ordering Party shall be obligated to insure the delivery items delivered under retention of title in an adequate way, to provide the corresponding evidence for the insurance to BITZER and to assign the claims from the insurance contract to BITZER.



10 PRODUCT LIABILITY

If the Ordering Party sells the delivery items without any changes or after processing, transformation or combination with other products, it shall indemnify BITZER from any claims raised for reasons of product liability by a third party as far as the Ordering Party is responsible for the fault that gives rise to the liability claims.

11 INDUSTRIAL PROPERTY RIGHTS

- 11.1 If the Ordering Party determines how BITZER is to manufacture the delivery item by providing certain instructions, data, documents, drafts or drawings, the Ordering Party shall warrant that the rights of any third party, such as patents, registered utility models or any other industrial property rights or copyrights, will not be violated by BITZER. Otherwise, BITZER shall guarantee in accordance with this section 11 that the delivery item is free from any industrial property rights or copyrights of a third party. Either Party shall inform the other one immediately in writing if any claims are raised towards it for violation of such rights.
- 11.2 In the event that the delivery item violates an industrial property right or copyright of a third party, BITZER, at its own discretion and its own costs, shall modify or exchange the delivery item in such a way that it no longer violates any third party rights but still fulfills the functions that have been contractually agreed or procure the rights of use for the Ordering Party by concluding a license agreement. If BITZER does not succeed with this within an adequate period of time, the Ordering Party shall be entitled to withdraw from the contract or to reduce the purchase price in an appropriate way. Any claims for damages of the Ordering Party shall be subject to Section 8 of these Terms of Delivery.
- 11.3 In case of a violation of rights by products from other manufacturers delivered by BITZER, the latter, at its discretion, shall assert its claims towards the manufacturers or upstream suppliers on the account of the Ordering Party or assign them to the Ordering Party. In these cases, claims towards BITZER shall only be possible in accordance with this section 11 if an enforcement by court order of the said claims vis-à-vis the manufacturers and upstream suppliers has failed or is futile, e. g. due to an insolvency

12 GENERAL PROVISIONS

- 12.1 Any modifications and additions to the order acknowledgement, a contract and/or these Terms of Delivery as well as any additional agreements must be made writing. This shall apply also to any modification to this requirement of written form.
- 12.2 If one provision of the contract and/or these Terms of Delivery is entirely or partially invalid, this shall have no effect on the validity of the remaining provisions. The Parties agree to replace in this case the invalid provision by a valid provision which comes closest to the economic purpose of the invalid one.
- 12.3 If the Ordering Party is a merchant, a legal person under public law or a special fund governed by public law, the exclusive place of jurisdiction for all disputes from the contractual relationship shall be Sindelfingen. This shall also apply if the Ordering Party does not have a legal venue in the Federal Republic of Germany or if it has moved its usual place of residence abroad after the conclusion of the contract. BITZER shall, however, be entitled to take legal action against the Ordering Party at any other place of jurisdiction available under the applicable law.
- 12.4 The law of the Federal Republic of Germany shall apply to these Terms of Delivery and to the entire legal relationship between the Parties, under exclusion of the UN convention on contracts for the international sale of delivery items (CISG).