

General Conditions of Performance, Sales and Delivery



- I. Contract Terms, Territory, Offer
1. Contractual conditions formulated in advance for a wealth of contracts ("General Terms and Conditions" within the meaning of Art. 305 German Civil Code [BGB] which are used by the Purchaser do not become part of the contract. These General Terms and Conditions for Services, Sales and Deliveries of Milkron GmbH shall apply exclusively.
2. These conditions apply to all services of Milkron GmbH, irrespective of the legal type of contract that such performance is based on. This means that they apply to purchase contracts as well as to works contracts, work delivery contracts and combined contracts.
3. Individual agreements on the rights and obligations of the contracting parties shall have priority to these conditions.
4. All agreements entered into between Milkron GmbH and the Purchaser for the purpose of performing this contract shall be made in writing.
5. These installation conditions apply only to companies, legal entities of public law and public special funds (in accordance with § 310 German Civil Code (BGB)).
6. These terms and conditions shall also apply to all future business transactions between Milkron GmbH and the Purchaser.
7. If the order is to be classified as an offer according to § 145 BGB, Milkron GmbH can accept this within 4 weeks following the receipt of it.
- II. Documents, Business Secrets, Preparatory Work
1. Milkron GmbH reserves all rights, especially property and copyright, for cost estimates, calculations, plans, illustrations, design work, preparatory work, drawings and other documents. They may only be made accessible to third parties with the written consent of Milkron GmbH. Milkron GmbH undertakes to only make documents of the Purchaser, which are marked as confidential, accessible to third parties with the written consent of the Purchaser. Documents submitted by Milkron GmbH may only be used for the preparation of the contract and thereafter may only be used for the execution of the contract. Any other exploitation is prohibited.
2. The Purchaser undertakes not to communicate any business secrets of Milkron GmbH and affiliated companies of Milkron GmbH (within the meaning of § 15 German Stock Corporation Act), which were disclosed to the Purchaser to third parties. Milkron GmbH undertakes not to communicate any business secrets of the Purchaser and its affiliates (in the sense of § 15 German Stock Corporation Act), which were disclosed to Milkron GmbH to third parties.
3. Both, Milkron GmbH and the Purchaser are obliged to ensure that their entities and employees also observe the above obligations in an appropriate manner.
- III. Time and Scope of Delivery, Acceptance, Delay
1. The delivery period begins with the submission date of the order confirmation and clarification of all technical questions, but not before the delivery of the plans, documents, approvals, releases, permits to be procured by the Purchaser and prior to the receipt of an agreed down payment.
2. The performance owed by Milkron GmbH is deemed to be provided in good time if the object of the contract has been duly sent until the expiry of the delivery period or the Purchaser has been informed of the readiness for dispatch.
3. Defaults caused by Force Majeure do not entitle the Purchaser to any claims (in particular no claims for a contractual penalty or damages) against Milkron GmbH. Force Majeure includes all and any unforeseeable events or events which - even if foreseeable - are outside the influence of Milkron GmbH and the effects of which cannot be prevented by means of reasonable efforts by Milkron GmbH. These include, inter alia, delayed performances of subcontractors/suppliers, war (regardless if declared or not) war-like circumstances, riots, revolutions, rebellion, military or civil coups, revolt, uproar, riot, blockade, embargo, government act, sabotage, strike, go-slow, lock-out, epidemic disease, fire, flooding, storm floods, typhoons or other storms, general material shortage, shipwreck, lack of port and discharge capacity, transport-related delays, non-availability necessary ship space, proper change/exchange of freight forwarder and/or freight carrier and/or shipowner and/or other commercial transport companies, transport accidents, earthquakes, radioactive accidents, physical or artificial obstacles of any kind on the construction site/production site.
4. In all cases of any impediment for which Milkron GmbH is not responsible and regardless of its nature, Milkron GmbH is entitled to demand an appropriate extension of the execution periods and additional remuneration for the compensation of additional services and/or costs.
5. If the dispatch is delayed upon request of the Purchaser, the Purchaser has to reimburse the actual costs incurred by the storage of the contractual object. In the case of storage in a Milkron GmbH business facility, the latter is entitled to demand a flat-rate minimum amount of 0.5% of the agreed price for each month as compensation for the additional costs. The proof of increased (by the Milkron GmbH) or lower (by the orderer) costs is not excluded by this regulation.
6. No. 5 shall also apply to any other case of default of acceptance by the Purchaser. If the Purchaser is in default of acceptance or if he/she violates other cooperation obligations, the risk of accidental loss or accidental deterioration of the object of the contract also passes to the Purchaser at the time in which the latter is in default of acceptance.
7. Additional rights of Milkron GmbH are not excluded by this agreement.
8. Compliance with the delivery period requires timely and proper fulfillment of the contractual obligations of the Purchaser.
9. Partial deliveries from Milkron GmbH can only be rejected if they are not reasonable for the Purchaser.
10. If an acceptance was contractually agreed or is required by law, the statutory provisions for the acceptance of a work contract shall apply.
- IV. Price and Payment
1. The agreed prices are ex works. The Purchaser bears all shipping costs, including the cost of packaging, loading, storage and unloading. The applicable value added tax at the time of delivery must be added to the prices.
2. If Milkron GmbH is required by the Packaging Ordinance to take back the packaging used for transport, the Purchaser bears the costs for the return transport of the used packaging and the reasonable costs of its recycling. If the returned packaging can not be reused, the Purchaser bears the costs incurred by Milkron GmbH for their material recycling. In addition, the Purchaser shall, if applicable, pay the duties, customs clearance costs, taxes and charges resulting from the withdrawal of transport packaging.
3. Transport containers are not contractual objects and are not considered as packaging. They shall remain property of Milkron GmbH. They must be reimported and returned to Milkron GmbH by the Purchaser at its own expense (transport costs, duties, customs clearance costs, taxes and duties) and risk.
4. Tools, surplus material, welding gas bottles and other auxiliary materials are not contractual objects. They shall remain property of Milkron GmbH. They must be reimported and returned to Milkron GmbH by the Purchaser at its own expense (transport costs, duties, customs clearance costs, taxes and duties) and risk.
5. The agreed remuneration and expenses shall be paid in cash without any deduction.
6. Milkron GmbH is entitled to payment of maturity and default interest in accordance with statutory regulations. The possibility of asserting further damage and rights of Milkron GmbH remains unaffected thereby.
7. The Purchaser shall only have rights of set-off and retention if its counterclaims have been found justified by a binding and final decision of the competent court, are undisputed or recognized by Milkron GmbH and their assertion has been notified to Milkron GmbH at least one month before.
8. If Milkron GmbH becomes aware of circumstances that give rise to reasonable doubt about the creditworthiness of the Purchaser after the conclusion of the contract, Milkron GmbH may demand security through the provision of a simple (not payable on first demand, but) irrevocable bank guarantee or bank guarantee with an indefinite term in the amount of the agreed price concurrently with payment of the remuneration owed.
9. Milkron GmbH shall be entitled to increase the agreed remuneration appropriately if after the conclusion of the contract, costs increase, in particular as a result of wage agreements or price increases for raw materials, auxiliaries, operating materials or other materials. Upon request Milkron GmbH will prove the increased costs to the Purchaser.
10. Milkron GmbH shall be entitled to increase the agreed remuneration appropriately if, after conclusion of the contract, the Purchaser requests changes to the subject matter of the contract leading to additional costs. Upon request Milkron GmbH will prove the additional expenses to the Purchaser.
11. The Purchaser must pay the agreed remuneration at his own risk and expense to one of the bank accounts specified by Milkron GmbH.
- V. Transfer of Risk
1. The risk of accidental loss and accidental deterioration of the object of the contract passes on to the Purchaser upon delivery of the object of the contract to the first carrier. This also applies if partial deliveries are made, or if Milkron GmbH has to bear additional costs, for example, shipping costs, or other services such as cost for transport, installation or assembly of the object of the contract.
2. If the object of the contract or parts thereof are ready for dispatch and the dispatch or handover is delayed for reasons caused by the Purchaser, the risk of accidental loss and accidental deterioration will pass to the Purchaser from the date the deliverables were ready for dispatch.
3. If Milkron GmbH arranges the transport of the object of the contract and a transport damage or a transport-related material defect occurs after it was handed over to the carrier, Milkron GmbH assigns to the Purchaser all potential claims resulting from this against the transport insurance(s) and the carriers - under exclusion of liability for the existence of these claims - concurrently against payment of the agreed overall price for the object of contract and all other amounts to be reimbursed. Any further claims against Milkron GmbH due to a transport damage or a transport-related material defect are excluded. This also applies if the object of the contract includes installation services or the construction of a turnkey construction.
4. Limitation periods according to transport and maritime law, cut-off periods, exclusions of liability in favor of the (natural or legal) entities entrusted by Milkron GmbH with the transportation/loading/unloading/storage of the object of the contract and specified in the contractual relationship of such entities to Milkron GmbH in favor of Milkron GmbH shall equally apply in corresponding situation.
5. The Purchaser undertakes to examine the object of the contract immediately upon unloading in the destination port for damages and, in the event of suspected damage, to accept the receipt under reserve and to notify Milkron GmbH without delay of the damage. In the case of non-compliance with the aforementioned obligations, the liability for the transport insurance(s) shall cease to apply. If the liability for the transport insurance(s) for the aforementioned reason ceases to apply, the liability of Milkron GmbH also does not apply for such damages subject to the liability exclusion clause of the transport insurance(s).
- VI. Retention of Title

1. Until the irrevocably, unconditionally receipt of all payments owed by the Purchaser, Milkron GmbH remains the owner of the object of the contract. Up to this time, the Purchaser is not entitled to encumber or resell the object of the contract with a security right (for example, ownership by way of security, pledge, mortgage, land charge, etc.). In the event that the "right of retention" is not known at the place of the construction site (lex rei sitae), the security right at the place of the construction site, which comes closest the "right of retention" according to the applicable law or the corresponding common type of security (e.g. "pledge" or "security interest, attached and perfected") shall apply. The Purchaser is obliged to cooperate (in particular, to provide declarations of intent) which are required under the applicable law for the agreement and justification of a fully effective retention of title or a fully effective other security.
 2. The Purchaser shall inform Milkron GmbH immediately about any seizures, confiscations or other measures of third parties to the object of the contract and shall provide Milkron GmbH with all documents necessary for an intervention by Milkron GmbH.
 3. As long as Milkron is the holder of any of the rights in the object of the contract described No. 1, Milkron GmbH shall be entitled to demand the surrender of the delivered contract object after prior announcement in case of any breach of duty by the Purchaser, especially if Milkron GmbH's title in the object of the contract is endangered, if the delivered goods are not properly handled by the Purchaser or if the Purchaser is in default of payment. If the Purchaser does not comply with the request, an adequate number of staff members of Milkron GmbH are inevitably authorized to enter the construction site/production site of the Purchaser removing the delivered contractual object and taking it with them. The return of the object of the contract does not constitute a withdrawal from the contract unless explicitly declared by Milkron GmbH in writing. Seizure of the object of the contract by Milkron GmbH always constitutes a withdrawal from the contract.
 4. Milkron GmbH is entitled to exploit the object of the contract after the object of the contract has been returned. The proceeds from the sale must be credited to the liabilities of the Purchaser - minus appropriate costs of exploitation.
 5. Processing or transformation of the object of the contract by the Purchaser is always performed for the benefit of Milkron GmbH. If the object of the contract is processed with other objects not belonging to Milkron GmbH, Milkron GmbH acquires the co-ownership of the new object in proportion to the value of the object of the contract to the other processed objects at the time of processing. Otherwise, for the subject resulting from the processing the same shall apply as for the object of the contract, which was delivered under reservations.
 6. If the object of the contract is mixed inseparably with other materials not belonging to Milkron GmbH, Milkron GmbH acquires the co-ownership of the new object in proportion to the value of the object of the contract to the other mixed objects at the time of their mixing. If the goods are mixed in such a manner that the Purchaser's item is to be regarded as the main item, then it is agreed that the Purchaser of Milkron GmbH proportionally assigns co-ownership to Milkron GmbH. The Purchaser shall store the resulting sole proprietorship or co-ownership for Milkron GmbH.
 7. In order to safeguard the claims of Milkron GmbH against the Purchaser, the Purchaser also assigns the claims to Milkron GmbH, arising in favor of the Purchaser due to the combination of the object of the contract with a piece of land against a third party.
 8. Milkron GmbH undertakes to release the securities to which it is entitled, upon request of the Purchaser insofar as the value of the securities exceeds the secured accounts receivable of Milkron GmbH by more than 20%; Milkron GmbH may select the securities to be released at its own discretion.
- VII. Rights of the Purchaser in Case of Defects
1. Milkron GmbH shall be liable to Purchaser that the contractual object rendered at the time when the risk is transferred to the Purchaser is free of material and legal defects. Insignificant deviations from the agreed quality do not constitute a defect.
 2. Milkron GmbH, however, is not liable for defects or damages as results of the following reasons:
Defects which are attributable to constructions specified or determined by the Purchaser or materials specified, determined or provided by the Purchaser, including sample materials or other items determined by the Purchaser.
Deficiencies or damages caused after the transfer of risk by faulty or improper treatment, operation by unskilled personnel, excessive strain, inappropriate operating equipment, defective construction work, unsuitable foundation or caused by special external influences which are not stated in the contract, as well as non-reproducible software errors.
If the Purchaser or third parties implement improper modifications or repair work, Milkron GmbH shall not be liable for such actions and the resulting consequences.
 3. Milkron GmbH is also not liable for wear parts (to be defined), which are part of the installation service. Wear is the progressive loss of material from the surface of a solid body caused by mechanical causes, for example, contact and relative movements of a solid, liquid or gaseous counterpart.
A wear part is a part used in places where wear is unavoidably caused by the operation and which in this way protects other units from wear and which is designed to be replaced from time to time.
 4. In case of a defect in the object of the contract and under consideration of the corresponding claims for defects by the Purchaser as described in the clauses 1 to 3 above, the Purchaser initially only has the right to supplementary performance within a reasonable period. Milkron GmbH may choose between defect removal or replacement delivery at its own discretion. If the damage claims are based on the fact that Milkron GmbH has maliciously concealed a defect or has assumed a guarantee for the quality of the object of the contract, the Purchaser has the right to choose between defect removal or replacement delivery. All necessary expenses of supplementary performance are to be borne by Milkron GmbH. Replaced parts shall become property of Milkron GmbH.
5. If the defect does not require repair at the place of installation, the Purchaser must send the defective parts for repair or replacement with a spare part to Milkron GmbH upon a corresponding request and at the expense of Milkron GmbH.
In such a case, Milkron GmbH's duty to provide supplementary performance shall be deemed to be fully satisfied with regard to the defective part if Milkron GmbH, at its own costs, either returns the properly repaired part to the Purchaser or sends a corresponding spare part.
Claims of the Purchaser for expenses necessary caused by the request for supplementary performance, in particular, transportation costs, route-related transport costs, labor costs and cost of materials are excluded to the extent that the expenses increase because the object of the delivery has subsequently been moved to a different facility of the Purchaser. This does not apply, however, if such a shipment is performed in accordance with its intended use.
 6. If the defective part is a product supplied by a third party, the liability of Milkron GmbH shall initially be limited to the assignment of the liability claims of Milkron GmbH to such a third party. Only after the Purchaser has filed legal actions against such a third party, Milkron GmbH's own liability is resurrected. This limitation of liability does not apply if the liability of Milkron GmbH is based on the fact that Milkron GmbH has maliciously concealed a defect or has given a guarantee for the quality of the product supplied by the third party.
 7. The Purchaser is obligated to inspect the contractual object immediately upon receipt and to notify Milkron GmbH immediately of any obvious defects. This immediate obligation to communicate also exists when a defect later becomes apparent. If the Purchaser fails to submit such a notification, the contractual object is deemed to have been approved despite the defect.
 8. If the Purchaser does not accept the contractually agreed supplementary performance offered by Milkron GmbH, Milkron GmbH shall be released from the liability with regard to the defect, following the setting and unsuccessful expiry of a grace period.
 9. If the supplementary performance fails to be successful, the Purchaser shall be entitled to assert his other claims for defects under consideration of the contractually agreed conditions, including those resulting from the actual General Terms and Conditions for Services, Sales and Deliveries. A defect of the supplementary performance exists in particular if Milkron GmbH ignores a reasonable grace period to provide supplementary performance set by the Purchaser or Milkron GmbH unreasonably withholds or refuses such supplementary performance or if a reasonable number of attempts of subsequent performance turned out to be unsuccessful.
 10. Milkron GmbH may refuse to remedy the defect if the Purchaser fails to comply with the agreed payment obligations. In principle, the Purchaser may only withhold payments if there is absolutely no doubt as to the legitimacy of the notice of defects that has been lodged. The right of retention is limited to an amount four times the cost of remedying the defect. If the Purchaser asserts a claim for defects and subsequently, in particular after an appropriate investigation by Milkron GmbH, it is found that the defect claimed by the Purchaser does not exist for actual or legal reasons, Milkron GmbH shall be entitled to appropriate remuneration and reimbursement of all expenses for its services, in particular in connection with the investigation.
 11. The following restrictions, modifications and exclusions pursuant to clause VIII shall apply to claims for damages.
- VIII. Limitation or Exclusion of Liability of Milkron GmbH
1. The Purchaser is obliged to carefully read the manual and operating instructions as well as the safety instructions of Milkron GmbH. In particular, the Purchaser shall follow the instructions of Milkron GmbH to determine how the object of the contract is to be used free of risk, which precautionary measures must be taken regularly and in individual cases, and which misuse shall be avoided. If the Purchaser violates this obligation, Milkron GmbH shall not be liable for the resulting damage.
 2. Limitation of liability of Milkron GmbH in case of defects and subsequent damages thereof:
Milkron GmbH is not liable for defects (including damages resulting from loss of profit) and subsequent defects, for whatever legal reason. This exclusion of liability does not apply to claims of the Purchaser for compensation for damages based on gross negligence (willful intent/gross negligence).
 3. Limitation of liability of Milkron GmbH in case of simple/slight negligence:
Any claims of the Purchaser for compensation of damages for whatever legal reason, which are not based on gross negligence (willful intent/gross negligence) of Milkron GmbH are excluded, unless the damage is caused by a defect or a breach of essential contractual obligations enabling due implementation of the contract in the first place (so-called "cardinal obligations").
 4. Limitation of liability of Milkron GmbH in case of not typical foreseeable damages:
Any claims of the Purchaser for compensation of damages for whatever legal reason, which are not based on gross negligence (willful intent gross negligence) of Milkron GmbH and which are not already excluded by the limitation of liability of Milkron GmbH in the event of damage caused by defects or subsequent damages thereof (No. 2) and in case of simple slight negligence (No. 3), are limited to the amount of the loss which Milkron GmbH has known or should have known at the conclusion of the contract taking considering all circumstances

which Milkron GmbH should have foreseen as consequence of any breach of an obligation and/or any breach of contract (typical foreseeable damage).

5. Limitation of liability of Milkron GmbH in case of a default:
If the Purchaser asserts a claim for damages against Milkron GmbH for default in performance because of any breach of a contractual obligation or in lieu of the performance and if this is not based on gross negligence (willful intent/gross negligence) and not already excluded by the limitation of liability of Milkron GmbH in the event of damage caused by defects or subsequent damages thereof (No. 2) and in case of simple slight negligence (No. 3), the claim for damages is limited to the typical foreseeable damage (No. 4) to a maximum of 10% of the delivery price. A default in performance is deemed to have occurred if there are obstacles impeding the performance of the contractual relationship which make the fulfillment of contractual obligations difficult or impossible, or if the other party is infringed by the other party.
6. Limitation of liability of Milkron GmbH for damages caused by delay:
The above mentioned limitations on liability in favor of Milkron GmbH regarding damage caused by defects and subsequent damages thereof (No. 2), in case of simple slight negligence (No. 3), non-typical foreseeable damage (No. 4) and impairment of performance (No. 5) also apply to claims of the Purchaser against Milkron GmbH for compensation for any damage caused by delay, provided it is not based on gross negligence (willful intent/gross negligence). In addition, both claims for damages asserted by the Purchaser due to a delay in delivery as well as claims for damages in lieu of delivery - in all cases considered as delayed delivery and even after expiry of a deadline for delivery set by Milkron GmbH - are limited to 0.5% for each completed week of delay, however, to a maximum of 5% of the price of the part of the deliveries which could not be put into operation due to the delay.
7. Limitation of liability of Milkron GmbH for its vicarious agents:
Any liability of Milkron GmbH for its vicarious agents (§ 278 BGB), for whatever legal reason, is excluded, except in cases of gross negligence (willful intent/gross negligence) of the vicarious agent violating such contractual obligations that facilitate due implementation of the contract at all. In no event shall Milkron GmbH's liability for a vicarious agent exceed the liability of Milkron GmbH for its own negligence under consideration of the above mentioned limitations of liability. According to § 278 BGB a vicarious agent is a natural person or legal entity employed by the debtor in the performance of his or her obligations.
8. The withdrawal of the Purchaser from the contract due to Milkron GmbH's failure to provide the agreed services or not to perform in conformity with the contract is excluded. This shall not apply if Milkron GmbH has not rendered its contractually agreed services intentionally or due to gross negligence.
9. The above limitations on liability (clauses VIII.1 to VIII.8) shall not apply to claims pursuant to § 1 et seq. [German] Product Liability Act, not to claims based on a maliciously concealed defect, not to claims based on the assumption of a guarantee for the condition or for claims due to infringement of life, body or health of the Purchaser, its entities and its employees, and not to claims arising out of an impediment to performance which Milkron GmbH knew or was not aware of at the time of conclusion of the contract such ignorance however, lies within the responsibility of Milkron GmbH. No change of burden of proof to the disadvantage of the Purchaser is connected with the preceding provisions.
10. If the Purchaser determines the freight forwarder, Milkron GmbH shall not be liable for costs arising from additional safety tests or for time delays resulting from the requirements of the Air Safety Act and the provisions of EU Regulations (EC) No. 300/2008, (EC) No. 185/2010, (EU) No.173/2012, (EC) No. 272/2009 and all other current national and international legal provisions. The Purchaser shall indemnify Milkron GmbH from all costs and damages on the first demand arising from related additional safety tests and subsequent delays.

IX. Limitation Period

1. If claims arising from a defect are subject to the statutory limitation period of 2 years (for example, § 438 Section 1 No. 3 BGB; § 634a Section 1 No. 1 BGB [German Civil Code]), such limitation period shall be reduced to one year. Excluded from this reduction of the statutory period of limitation are claims for defects by the Purchaser due to the assumption of a quality guarantee. Otherwise the statutory limitation periods shall apply.
2. The limitation period starts with the delivery of the object of the contract and the installation obligation of Milkron GmbH to complete the installation.
3. If the Purchaser is in default of acceptance, the limitation period starts on the day of the acceptance delay.

X. Software

If Milkron GmbH provides software to the Purchaser, the following shall apply:

1. Milkron GmbH grants the Purchaser a simple usage right (non-exclusive exploitation right) according to § 31 Section 2 of the German Copyright Act (UrhG). § 31 (2) of the Copyright Act states: "A non-exclusive exploitation right shall entitle the rightholder to use the work in the manner permitted to him, without excluding other persons." Milkron GmbH remains the sole owner/holder of all intellectual property rights with regard to the software at any time.
2. The Purchaser may only use the software provided to him/her on the contractual object.
3. The Purchaser is not entitled to be provided with the source program/source code.
4. The Purchaser is entitled to use the provided software for an indefinite period during the entire economic life of the contractual object.
5. The Purchaser is not entitled to transfer its right of use to third parties, in particular, the Purchaser has no right to sell, lease, sublicense or otherwise make

the software and related documentation available to third parties. If the Purchaser transfers his company as a whole to a third party, the Purchaser is entitled to transfer the granted right of use to such a third party. When the Purchaser sells the deliverable in the ordinary course of business to a third party and such a third party is not a competitor of Milkron GmbH, Milkron GmbH is obligated to consent to transfer the granted right of use upon request, if Milkron GmbH does not provide a reasonable explanation that there is a risk that competitors of Milkron GmbH become aware of secret knowledge (business secrets) of Milkron GmbH.

6. The Purchaser's right of use is not exclusive. Milkron GmbH is entitled to grant usage rights of any kind with regard to the provided software to any number of other customers.
 7. The Purchaser may not make the software available to third parties, neither on a temporary basis or without remuneration. This prohibition does not apply to the Purchaser's employees.
 8. The Purchaser may not modify any identifications, copyright notes or proprietary information on the provided software.
 9. The Purchaser may not copy the software provided, except for the creation of a backup copy by a person who is authorized to use the program if this is necessary to secure its future use. The backup copy may not be used at the same time as the original software.
 10. The Purchaser may neither duplicate the documentation belonging to the software completely or partly by photocopying, microfilming, electronic storage or any other method.
 11. Disassembly, reverse engineering or decompilation of the software is prohibited and the Purchaser undertakes not to initiate or permit such an action, unless the requirements of § 69e UrhG [German Copyright Act] are met.
 12. All and any property rights, copyright and other industrial property rights to the software, including updates and documentation are exclusively reserved for Milkron GmbH. The same applies to changes and translations of the programs.
 13. Milkron GmbH is entitled to carry out the necessary software modifications at its own expense at the location of the Purchaser in response to third-party property right claims. The Purchaser cannot derive any claims for damages herefrom.
- XI. Place Of Jurisdiction, Applicable Law, Place Of Performance**
1. For all disputes arising from and in connection with the contractual relationship, if the Contractor is a domestic (German) merchant, a German legal entity under public law, or a domestic separate fund under public law, the place of the business seat of Milkron GmbH is the exclusive place of jurisdiction. The exclusive place of jurisdiction for legal action against Milkron GmbH filed by Purchasers who do not have a general court of jurisdiction in the Federal Republic of Germany the exclusive place of jurisdiction is also the place of business of Milkron GmbH. The exclusive place of jurisdiction for legal action by Milkron GmbH against Purchasers who do not have a general place of jurisdiction in the Federal Republic of Germany, additionally to statutory places of jurisdiction, the place of jurisdiction is also the place of business of Milkron GmbH. Any agreements to arbitrate between the parties shall have priority.
 2. Concerning the inclusion of these conditions of Milkron GmbH, and for all legal relations resulting from this contract and any ancillary transactions and/or subsequent transactions for the parties and their legal successors, the laws of the Federal Republic of Germany shall apply exclusively. This choice of law and the above agreement on place of jurisdiction are also subject to the laws of the Federal Republic of Germany. The application of the United Nations Convention on Contracts for the International Sale of Goods of April 11/1980 (CISG) is not excluded by the above-mentioned choice of law.
 3. The place of performance is the place of business of Milkron GmbH.

Origin of goods (USP) 0 = third country goods 1 = EU origin 2 = EFTA origin