General Terms and Conditions of Sale and Delivery of BYK-Gardner GmbH

A.

(Version: December 2025)

1. GENERAL INFORMATION/SUPPLEMENTAL TERMS AND CONDITIONS FOR SERVICES

1.1 These General Terms and Conditions of Sale and Delivery of BYK-Gardner GmbH (hereinafter referred to as "BYK-Gardner") shall only apply to persons within the meaning of section (§) 14 of the German Civil Code (BGB), i.e. natural or legal persons who, when purchasing tangible and/or intangible goods from BYK-Gardner (hereinafter referred to as the “Goods”), are acting within commercial or self-employed professional activity (hereinafter referred to as "Customers"). Sales to consumers within the meaning of § 13 BGB shall be excluded.

1.2 These General Terms and Conditions of Sale and Delivery shall apply to contracts concluded between BYK-Gardner and Customers. This includes contracts made via the usual sales channels (orders by e-mail and fax, inter alia) as well as those concluded via BYK-Gardner's online platforms.

1.3 Once the General Terms and Conditions of Sale and Delivery of BYK-Gardner have been introduced to the Customer, they will apply to all further, similar business relationships between the Customer and BYK-Gardner, unless otherwise agreed to in writing.

1.4 These General Terms and Conditions of Sale and Delivery of BYK-Gardner shall apply exclusively. Any terms and conditions of the Customer that conflict with or deviate from these General Terms and Conditions of Sale and Delivery shall not apply unless BYK-Gardner has expressly accepted them in writing. Silence in response to such deviating terms and conditions shall not be deemed to be consent, also not regarding any future contracts.

1.5 If and insofar as the Customer requests BYK-Gardner to provide services that are subject to a charge - in particular, the repair and/or maintenance of Goods outside the warranty -, the "**Supplemental Terms and Conditions for Services**" under Section B. of these General Terms and Conditions of Sale and Delivery, shall apply in addition.

2. OFFERS AND ORDERS

2.1 General

2.1.1 BYK-Gardner's offers are subject to change and are non-binding, unless BYK-Gardner has expressly designated them as binding. They are merely invitations to the Customer to place a binding order thereon. A contract - even in the course of ongoing business - is formed as soon as BYK-Gardner confirms the Customer's order in writing (including by telefax or e-mail) or delivers the Goods. BYK-Gardner’s order confirmation determines the content of the delivery contract. If delivery is effected immediately, the invoice may replace the order confirmation.

2.1.2 The obligation to deliver an item defined only by its category does not mean BYK-Gardner assumes the risk of procurement. BYK-Gardner is only required to deliver from its own stock. BYK-Gardner shall not be deemed to have granted a guarantee, unless BYK-Gardner has specified a property as guaranteed in writing.

2.1.3 If the Goods ordered by the Customer are not in stock or available for immediate delivery at the time of such order, BYK-Gardner will send a notification of the estimated delivery date upon receipt of the Customer's order. This notification does not constitute an acceptance of the order. In this case, the Customer is entitled to revoke its order to BYK-Gardner in writing within 2 weeks after having received the notification of the estimated delivery date. If the Customer does not revoke its order within that period of time, the Customer shall be bound to its order. Section 2.1.1 applies accordingly for the process of order confirmation.

2.1.4 If after the conclusion of the contract BYK-Gardner’s continuous development leads to changes to the Goods, BYK-Gardner may deliver the technically modified version of such products. BYK-Gardner shall be permitted to deviate from illustrations, drawings, descriptions, colours as well as dimensions, weight, quality, and other specifications, provided that, when taking the interests of both parties into consideration, such deviation will be acceptable to the Customer.

2.2 Conditions for orders placed via online platforms

2.2.1 Only registered Customers are entitled to order via BYK-Gardner's online platforms. There is no right to registration nor continued registration. Once registered, the Customer agrees to the exclusive applicability of these General Terms and Conditions of Sale and Delivery of BYK-Gardner.

2.2.2 Customer orders of the Goods listed on BYK-Gardner’s online platforms are deemed to be offers submitted by the Customer to conclude a corresponding contract with BYK-Gardner. By selecting the appropriate button, the Customer can add Goods to the "shopping cart" and specify the desired quantity of the Goods. If the Customer clicks on the "shopping cart" button, the Customer can view its shopping cart at any time without any obligation, change the desired quantity and remove individual items from the shopping cart by clicking on the "remove" button. If the Customer wishes to submit an offer to conclude a purchase contract for the Goods, the Customer can continue the ordering process by clicking on the "proceed to checkout" button displayed in the shopping cart. Next, the Customer enters the necessary data (e.g., delivery address and desired shipping method). The "continue" button takes the Customer to the next input step and finally on to the order overview. In the order overview, the Customer can check the data entry once again. Input errors or change requests can be corrected before finally placing the order by clicking the "edit", "edit shopping cart" or "back" button. Before sending the offer as part of the ordering process, the Customer must accept the General Terms and Conditions of Sale and Delivery once again. By clicking on the "send order" button, the Customer submits a legally binding offer to conclude a contract.

2.2.3 After the order has been completed, BYK-Gardner will send electronic information to the Customer regarding the receipt of the order, which does not, however, constitute acceptance of the order. The order shall only be deemed accepted when the Customer receives an order confirmation, or the ordered Goods are delivered. The order confirmation determines the content of the contract. In case of immediate delivery, the invoice may replace the order confirmation. BYK-Gardner is not obligated to accept the offer or the order.

3. DEMO DEVICES, DOCUMENTS

3.1 The product properties of demo devices are only binding to the extent BYK-Gardner expressly agreed to specific product properties of the Goods in writing.

3.2 BYK-Gardner reserves title and all copyrights and intellectual property rights to demo devices, illustrations, drawings, data, cost estimates and other documents relating to the Goods disclosed or provided to the Customer. The Customer undertakes not to give third parties access to the demo devices, data and/or documents stated in sentence 1, unless BYK-Gardner has given its express written consent.

3.3 The provisions of sections 3.1 and 3.2 shall apply vice versa to documents, drawings, or data provided by the Customer; BYK-Gardner, however, may make these available to any third parties who have permission to take care of BYK-Gardner's contractual delivery obligations or who are BYK-Gardner's agents or suppliers.

4. PROPERTIES OF THE PRODUCTS AND GUARANTEES

4.1 Unless otherwise agreed, BYK-Gardner's Technical Specifications exclusively determine the product properties of the Goods. BYK-Gardner's Technical Specifications can be provided to you upon request and are hereby incorporated into these General Terms and Conditions of Sale and Delivery. Any other subjective or objective requirements concerning the Goods are excluded.

4.2 Information on product properties and shelf-life as well as other product information only constitute a guaranty if agreed to or specifically documented as such.

4.3 BYK-Gardner's technical advice - whether verbally, in writing and/or through tests – is based on current knowledge. Before using the Goods, it is the Customer's responsibility to examine the suitability of the Goods and test them for quality and fitness for a particular purpose. This also applies to any potential infringement of intellectual property rights of third parties. Details and information about suitability and use of the Goods, even if mentioned in the Technical Specifications, are non-binding and do not constitute a commitment regarding the Goods' properties or use.

5. TERMS OF PAYMENT, PROVISION OF SECURITY

5.1 Unless agreed otherwise, invoice amounts are due for payment without deduction within 30 days after the date of the invoice. Invoice amounts are payable in Euros to one of BYK-Gardner's bank accounts. If the Goods are exported, any costs associated with the payment shall be borne by the Customer, if they were incurred in the country of the Customer. If the payment deadline is exceeded, the Customer will be in default without requiring any prior reminder. Upon default, default interest shall be due immediately at a rate of 9 percentage points above the base interest rate of the European Central Bank applicable on the due date of the claim for payment. The assertion of any further damage is reserved.

5.2 The acceptance of orders and the execution of deliveries may be made dependent on the provision of a security or an advance payment. BYK-Gardner is also entitled to demand payment concurrently with the delivery of the Goods.

5.3 If the Customer's financial situation deteriorates significantly after the conclusion of the contract, be this because of an application for the begin of insolvency proceedings on the part of the Customer, the begin of insolvency proceedings, the application for the submission of an affidavit or a detention order, or because there is a suspension of payments not based on rights of retention or other rights, and this jeopardizes the Customer's ability to fulfil its contractual duties, BYK-Gardner is entitled to deliver the Goods after the Customer has made advance payment.

5.4 The Customer only has a right of retention or set-off regarding counterclaims that have not been disputed or have been legally determined binding by a court, unless the counterclaim is based on a breach of essential contractual duties (see section 11.1 for the definition) by BYK-Gardner. The Customer may only exercise a right of retention if the counterclaim is based on the same contractual relationship.

6. DELIVERIES, SHIPMENTS AND FORCE MAJEURE

6.1 Binding delivery dates and deadlines must be agreed expressly and in writing. In the case of non-binding or estimated (approximately, about, etc.) delivery dates or deadlines, BYK-Gardner will make reasonable efforts to meet delivery dates and deadlines. Any unilateral requests by the Customer shall not be binding on BYK-Gardner, unless BYK-Gardner expressly agrees to them in writing. Fixed-date transactions must be expressly designated as such and confirmed in writing by BYK-Gardner.

6.2 If, despite proper stockkeeping, BYK-Gardner does not receive deliveries or services from its suppliers for reasons beyond BYK-Gardner's control, or does not receive them correctly, in full or on time, or if events of force majeure occur, BYK-Gardner will inform its Customers timely in writing or by e-mail. In this case, BYK-Gardner is entitled to postpone the delivery for the duration of the impediment, or to withdraw from the contract in whole or relating to the non-fulfilled part, if BYK-Gardner has met its above obligation to notify and has not assumed the procurement risk. Events of force majeure are strikes, lawful lockouts, actions of authorities, energy and raw material shortages, epidemics or pandemics, legally binding national or international embargo regulations, provisions for the fight against terrorism, transportation bottlenecks through no fault of BYK-Gardner, and impairment of operations through no fault of BYK-Gardner, for example due to fire, water or machine damage, and all other hindrances which, from an objective point of view, were not culpably caused by BYK-Gardner. If a delivery date or a delivery period has been bindingly agreed and if the agreed delivery date or delivery period is exceeded due to events such as those under this section 6.2, the Customer is entitled to withdraw from the contract relating to the non-performed part of such contract after a reasonable grace period has expired, if it would be objectively unreasonable for the Customer to continue to be bound by the contract. In this case, the Customer has no further claims. If the impediment lasts longer than six months or if delivery becomes impossible, both parties are entitled to withdraw from the contract.

6.3 If there is a force majeure event and/or a case of late/incomplete delivery on the part of a supplier for BYK-Gardner pursuant to section 6.2, BYK-Gardner is also entitled to initially make only partial deliveries in its sole discretion (§ 315 BGB) – without compromising the rights in section 6.2 – and to reduce the delivery quantities amongst its Customers, including affiliated companies, at its sole discretion (§ 315 BGB) and/or to interrupt the delivery. BYK-Gardner will inform the Customer about this in due time in writing or by e-mail. The delivery will be continued, or the quantities remaining after the reduction will be delivered once the force majeure event or the case of late/incomplete delivery on the part of a supplier pursuant to section 6.2. has ended. The rights of the Customer pursuant to section 6.2 remain unaffected.

6.4 The Customer’s claims for damages due to delay in delivery are capped at 0.5% of the net delivery price of the delayed Goods for each completed week of delay, not to exceed in total 5% of the stated net delivery price. If the delay is due to intent or gross negligence or constitutes a breach of an essential contractual duty (for the definition see section 11.1), the statutory liability remains in effect, which, in the event of a merely negligent breach of a contractual duty, is limited to the respective contract-typical and foreseeable damage.

6.5 If the Customer gives BYK-Gardner a reasonable grace period after a delay in delivery and such grace period has expired, the Customer is entitled to withdraw from the contract. The Customer is only entitled to claim damages due to non-performance in the amount of the foreseeable damage if the non-performance is due to intent or gross negligence or due to a breach of an essential contractual duty (see section 11.1 for the definition).

6.6 The limitations of liability pursuant to sections 6.4 and 6.5 shall not apply if the parties agreed to a fixed-date transaction; the same applies if the Customer can assert that the immediate assertion of the claim for damages instead of performance is appropriate due to the delay for which BYK-Gardner is responsible (§ 281 para. 2 BGB).

6.7 BYK-Gardner shall not be in default for as long as the Customer is in default with the fulfilment of its obligations towards BYK-Gardner, including those arising from other contracts.

6.8 Unless agreed otherwise, loading and shipping shall be carried out uninsured at the risk of the Customer ex works, i.e., EXW Geretsried in accordance with the Incoterms 2020.

6.9 BYK Gardner has the right to choose the transport route and the means of transportation. BYK-Gardner, however, will strive to take the Customer's wishes into account with regards to the shipping method and shipping route; any additional costs incurred due to this – even if freight-free delivery was previously agreed – shall be borne by the Customer.

6.10 If the parties agreed to Incoterms other than as set forth in section 6.8 and no representative of the Customer is present to receive the ordered Goods when they are delivered to the Customer, and if there is no discernible unloading area/depot at the delivery address that is accessible, secured and lockable for delivery, the confirmation of the driver (the transport company) shall suffice as proof that the Goods were delivered properly.

7. PRICES

7.1 BYK-Gardner will execute placed orders at the prices as agreed in the contract with the Customer (see section 2.1.1); the prices are in Euros and include packaging. Unless agreed otherwise, prices are ex works, i.e., EXW Geretsried in accordance with the Incoterms 2020. Value-added tax will be invoiced separately at the respective applicable rate in accordance with the pertinent tax regulations.

7.2 BYK-Gardner is entitled, at its reasonable discretion (§ 315 BGB, judicially reviewable pursuant to § 315 para. 3 BGB), to unilaterally increase the prices for its Goods in the event of an increase in personnel, production, material, raw material and/or procurement costs, logistics costs, wage and ancillary wage costs, social security contributions, and energy costs (e.g. for electricity and gas) as well as costs due to legal requirements, environmental regulations, currency regulations, changes in customs duties, and/or other public charges if this increase directly or indirectly affects the costs of the Goods and increases them by more than 5%, and if there are more than 4 months between the price agreement and the delivery. Such an increase is precluded if the cost increase for some or all of the above factors is offset by a cost reduction for some of the other above factors in relation to the overall cost burden for the Goods (cost netting). If the new price exceeds the original price by 30% or more, due to the aforementioned right to price adjustment, the Customer is entitled to withdraw its orders that have not yet been executed completely, i.e., from the part that has not yet been fulfilled. The Customer may, however, only assert this right immediately upon notification of the increase in prices.

8. RETENTION OF TITLE

8.1 BYK-Gardner retains the title to all Goods delivered by BYK-Gardner (hereinafter referred to as "Conditional Goods"), until all claims of BYK-Gardner arising from the business relationship with the Customer, including any future claims from contracts concluded later, have been settled. This also applies to any balance in favour of BYK-Gardner, if any specific individual claim or all claims on the part of BYK-Gardner have been included in a current invoice (current account) and the balance has been drawn.

8.2 At its own expense the Customer shall sufficiently insure the Conditional Goods, especially against fire, water, damage, and theft. Any claims against an insurance company arising from damage caused to the Conditional Goods is hereby already assigned to BYK-Gardner in the amount of the value of the Conditional Goods. BYK-Gardner hereby accepts the assignment.

8.3 The Customer is entitled to resell the delivered Conditional Goods in the normal course of business. Any other disposition, in particular pledges or the granting of security rights is not permitted. If the Conditional Goods are not paid for immediately upon resale by the third-party purchaser, the Customer is obligated to resell them while retaining title to the Conditional Goods. The right to resell the Conditional Goods expires instantly if the Customer ceases payment or defaults on payment to BYK-Gardner or if the Customer applies for or insolvency proceedings on its assets have begun. The same shall apply if the Customer is affiliated with a group of companies and/or if one of the circumstances described in the previous sentence occurs at the Customer's parent company or holding company.

8.4 The Customer hereby assigns to BYK-Gardner all claims, including securities and ancillary rights, which the Customer has against the end user or against third parties as a result of or in connection with the resale of the Conditional Goods. BYK-Gardner accepts the assignment. The Customer is not permitted to enter into any agreement with its purchasers that excludes or impairs BYK-Gardner's rights or nullifies the advance assignment of the claim in any way. If the Conditional Goods are sold together with other items, the claim against the third-party purchaser in the amount of the delivery price agreed between BYK-Gardner and the Customer shall be deemed to have been assigned, unless the amounts attributable to the individual Conditional Goods can be determined from the invoice.

8.5 The Customer remains entitled to collect the claims assigned to BYK-Gardner until such right is revoked by BYK-Gardner, which is permissible at any time. Upon BYK-Gardner's request, the Customer shall provide BYK-Gardner with the information and documents necessary for the collection of the assigned claims and, if BYK-Gardner does not do so itself, the Customer shall inform its purchasers immediately about the assignment to BYK-Gardner.

8.6 If the Customer incorporates any claims from the resale of Conditional Goods into a current account relationship with its purchasers, the Customer hereby assigns to BYK-Gardner in advance an acknowledged final balance that the Customer has in its favour in the amount which corresponds to the total amount of the claim from the resale of BYK Gardner's Conditional Goods incorporated in the current account relationship. BYK-Gardner hereby accepts the assignment.

8.7 If the Customer has already assigned claims from the resale of the Conditional Goods delivered or to be delivered by BYK-Gardner to third parties, in particular on the basis of recourse or non-recourse factoring, or has made any other agreements on the basis of which BYK-Gardner's present or future security interests stated in this clause may be impaired, the Customer shall immediately notify BYK-Gardner. In the event of recourse factoring, BYK-Gardner is entitled to terminate the contract and demand restitution of the Conditional Goods already delivered; the same applies in the event of non-recourse factoring, if the Customer is unable to freely determine the purchase price of the claim under the contract he made with the factor.

8.8 If the Customer breaches the contract, especially if he is in default of payment, BYK-Gardner is entitled to take back all Conditional Goods – without BYK-Gardner having to first terminate the contract; in this case, the Customer must immediately surrender the Conditional Goods, unless the Customer has only committed a minor breach of duty. To determine the stock of the Conditional Goods delivered by BYK-Gardner, representatives of BYK-Gardner may enter the Customer's business premises at any time during normal business hours. The return of the Conditional Goods only constitutes termination of the contract if BYK-Gardner expressly declares this in writing or if this is required by mandatory statutory provisions. The Customer shall inform BYK-Gardner about any access third parties have to the Conditional Goods or to any claims assigned to BYK-Gardner.

8.9 If pursuant to above provisions BYK-Gardner is entitled to securities whose value exceeds the secured claims by more than 10 %, BYK-Gardner will, if requested by the Customer, release the securities proportionately in its sole discretion.

8.10 Once the Customer has suspended payment or filed an application for insolvency, the Customer is no longer entitled to sell any of the Conditional Goods. In this case, the Customer shall store and label the Conditional Goods separately and hold in trust for BYK-Gardner any amounts it receives which arise from assigned claims, result from deliveries of the Consigned Goods and are due to BYK-Gardner.

8.11 If retention of title expressly agreed herein is not recognised by the law of the country into which the Goods are delivered, or only subject to certain conditions, the Customer shall notify BYK-Gardner about this at the latest at the time the contract is concluded. If the law of such country does not allow retention of title, or the extended retention of title, but permits BYK-Gardner to reserve other rights regarding the Goods which serve purposes of security in a similar manner as a retention of title, BYK-Gardner declares herewith that BYK-Gardner will avail itself of these rights. The Customer undertakes to cooperate in fulfilling all the required measures (in particular, compliance with formal requirements). If such other rights, which serve to safeguard the rights of suppliers, do not exist either, the Customer shall provide equivalent securities, if BYK-Gardner so requests. If the Customer does not comply with this request, BYK-Gardner may demand the immediate payment of all open invoices, regardless of any previously agreed payment deadlines.

9. RIGHTS OF USE FOR SOFTWARE

9.1 Any software which is provided to the Customer or made available for download, is a copyrighted work of BYK-Gardner and/or its licensors. In the relationship with the Customer, all rights in the software are therefore held exclusively by BYK-Gardner and/or its licensors.

9.2 Upon full payment of the agreed price, BYK-Gardner will grant the Customer a simple, non-exclusive, non-sublicensable and non-transferable right, unlimited as to time, for the use of the software provided in the object code, solely for the Customer's purposes at its company. The right of use includes the right to install the software on a data-processing device and to reproduce it as far as such reproduction is necessary for its contractual use. The necessary reproduction includes installing the software in the mass memory of the hardware used and loading the software into the main memory. Not included is the simultaneous use on several data-processing devices.

9.3 If BYK-Gardner provides software to the Customer along with other Goods, the Customer may only use the software to the extent and for the purpose required to use the Goods. The Customer may only use the software within the scope specified in BYK-Gardner's offer (e.g. regarding the maximum number of users). The temporary or permanent provision of software within a third-party data centre (e.g. as „Software as a Service ") as well as rental to third parties are prohibited.

9.4 The Customer is entitled to make a backup copy if this is necessary to secure the contractual future use of the software. This backup copy shall be identified as such. Backup copies must be kept in a safe place secured against the unauthorised access of third parties. The Customer is obligated to prevent the unauthorised access to the software by third parties by taking appropriate precautions.

9.5 The Customer shall not receive any rights to edit the software and may only perform software editing, as far as this is expressly allowed by mandatory laws or contractually agreed. Even minor changes may lead to considerable, unforeseeable disruptions in the running of the software. The Customer is only entitled to decompile the software within the limits of § 69e UrhG (Act on Copyrights and Related Rights) and only if, after a written request and a reasonable period of time, BYK-Gardner has not made the necessary data and/or information available to provide interoperability with other hardware and software.

9.6 References to the holder of the rights in the software and the documentation, as well as serial numbers and other features serving to identify the program may not be removed. The same applies to the removal of such references in the on-screen display.

9.7 If Goods containing software are resold, the rights of use and obligations mentioned above shall transfer to the purchaser. In this case, the Customer shall stop using the software, remove all installed copies of the software from all its data-processing devices and delete all copies on data media or hand them over to the purchaser.

9.8 The software may include parts of Open Source Software, for which separate licensing conditions of the respective rights holders apply. The respective licensing conditions of the rights holders take precedence over the rights of use conceded under section 9.2 above. This also applies to exclusions of warranty and liability of the Open Source Software licensing conditions. As far as required, Open Source Software and the licensing conditions which apply to it separately will be listed in the contractual software and/or stated in the readme.txt, notices.txt or licenses.txt attached to the software versions. The Source Code of the Open Source Software is available at the link provided or upon request, where applicable. As far as the licensing conditions of

an Open Source Software require the Customer's right to edit the software for its own purposes, and therefore to perform reverse engineering in order to correct defects in a software which accesses this Open Source Software, BYK-Gardner will grant this right to the Customer; any regulations in the respective software licence agreement stating otherwise are therefore not applicable.

10. WARRANTY, NOTIFICATION OF DEFECTS

10.1 The Customer shall inspect the delivered Goods for defects regarding their quantity and quality immediately upon delivery and shall notify BYK-Gardner of any defects immediately, but no later than 8 days after receipt of the Goods; otherwise, the Goods shall be deemed approved. The Customer shall notify BYK-Gardner of any defects not noticeable during this inspection immediately, within 8 days at the latest, upon discovery – but no later than within the period of statute of limitations set forth in item 10.3.

The delivery of any Goods to the Customer which are different from those contractually owed by BYK-Gardner (so-called wrong delivery) shall also be considered a defect. The provisions under section 10 shall apply likewise to a wrong delivery.

10.2 Any notice of defects shall be communicated in writing specifying the order data as well as the invoice and shipment number. Any complaint not made in due form and time shall exclude any claim of the Customer for breach of duty due to poor performance.

10.3 The statute of limitations period for claims arising from defects is 12 months from the delivery of the Goods to the Customer. This does not apply to cases pursuant to section 11.1 (1) – (8) below. The statute of limitations periods of §§ 438, para. 1, no. 2, 445b para. 1 and 634a para. 1 no. 2 BGB (German Civil Code) remain unaffected.

10.4 If the Customer returns the Goods within Germany or the EU, the Customer shall send them, ideally in the original packaging, carriage paid, to the registered office of BYK-Gardner in Geretsried. Upon completion of the repair, BYK-Gardner will return the Goods to the Customer, carriage paid.

If the Customer returns the Goods by air freight, they shall be sent ideally in the original packaging to Munich Airport (CPT Incoterms 2020), carriage paid. Upon completion of the repair, the Goods will be returned to the Customer's nearest airport (according to CPT Incoterms 2020). The Customer shall be responsible for customs clearance.

The above stipulations do not apply to valid warranty claims.

10.5 If the Customer timely notified BYK-Gardner of provable defects, BYK-Gardner will, in its sole discretion, remedy the defect itself, have it corrected by third parties or subsequently deliver Goods free of defects (subsequent performance). In the case of delivery recourse (§§ 445a, 445b, 478 BGB), the Customer has the right of choice. Before returning the Goods, the Customer shall seek BYK-Gardner's consent. Any returned Goods will become the property of BYK-Gardner. If BYK-Gardner does not meet its obligation to remedy or replace the defective Goods within a set appropriate grace period , if subsequent performance fails (whereby BYK-Gardner is entitled to make two attempts), if BYK-Gardner refuses to provide subsequent performance, or if this subsequent performance is unreasonable for BYK-Gardner, the Customer – pursuant to statutory provisions - can withdraw from the contract, reduce the purchase price, demand reimbursement of expenses as well as compensation for damages within the limits mentioned under section 11. If the defect is only minor, there are no rights to withdraw from the contract or to reduce the purchase price. The right to claim damages pursuant to section 11, however, remains unaffected.

10.6 BYK-Gardner's liability pursuant to section 11 remains unaffected.

10.7 If the Customer wants to cancel the purchase order together with the contractually owed and delivered Goods, because the Customer - for example - ordered the wrong Goods, the provisions of sections 10.1 and 10.2 apply correspondingly. Even if the Customer sends a timely and written complaint, BYK-Gardner shall have the right to either refuse the cancellation of the purchase order or to take the Goods back as a gesture of goodwill but withhold 20% of the net purchase price for additional work and effort (e.g., quality control, restocking the Goods in the warehouse). If the Goods are no longer in their original packaging, damaged, used or otherwise reduced in value, BYK-Gardner may withhold a higher percentage of the net purchase price, or refuse the return of the Goods. In every such case BYK-Gardner will provide its reasoning.

10.8 BYK-Gardner warrants that the software was developed in accordance with the generally recognised rules of technology, checked carefully, and is generally suitable for the workflows described in BYK-Gardner's product documentation. In addition to the stipulations under sections 10.1 to 10.7 the following applies to the delivery and provision of software:

The Customer shall notify BYK-Gardner of any noticeable defects, stating all known information useful for their detection. Within reasonable limits, the Customer shall adopt those measures that facilitate the detection of defects and their causes. The notification shall in particular include the following:

- the problems encountered,
- the program function impacted,
- the number of users affected, a screenshot of the problem, as far as it is visible on the user interface, and a fault description,
- the description of the system and hardware environment, as well as any third-party software used simultaneously.

For defective software, BYK-Gardner first warrants subsequent performance. For this, in its sole discretion BYK-Gardner will provide the Customer, either with a new software release free of defects, in particular, patches, bugfixes or the latest version of the software, or will remedy the defect in another way. The Customer shall accept the new software release and install it in its hardware and software environment pursuant to BYK-Gardner's installation instructions, as long as the contractual functional scope of the software is maintained. The removal of a defect can also be effected in the form of specific instructions („work around") to the Customer. The Customer shall follow such instructions.

11. LIABILITY, EXCLUSION AND LIMITATION OF LIABILITY

11.1 BYK-Gardner is generally only liable for intentional acts and gross negligence on the part of BYK-Gardner and its executive and non-executive employees, legal representatives, and vicarious agents, as well as its subcontractors. BYK-Gardner's liability for slight negligence is excluded.

The above exclusion of liability does not apply to

(1) the breach of essential contractual duties whereby essential contractual duties are those whose fulfilment characterise the contract and which the Customer may trust to be fulfilled,
(2) the breach of duties within the meaning of § 241 para. 2 BGB, if the Customer can no longer be reasonably expected to allow BYK-Gardner's performance.
(3) death or personal injury,
(4) the assumption of a guarantee for the quality of a performance, for the existence of a successful performance or for a procurement risk,
(5) deceit,
(6) initial impossibility,
(7) claims resulting from strict product liability law, or
(8) other cases of mandatory statutory liability.

11.2 Unless BYK-Gardner is liable for intentional breach of its contractual obligations, death or personal injury or there are other cases of mandatory statutory liability, BYK-Gardner is only liable for the contract-typical and foreseeable damage.

11.3 Liability for indirect or consequential damages is excluded, unless BYK-Gardner acted intentionally or gross negligently or violated an essential contractual duty (see section 11.1 for the definition).

11.4 BYK-Gardner's liability is capped at EUR 1,000,000.00 for each occurrence. This limitation of liability does not apply if BYK-Gardner is accused of deceit, intentional acts or gross negligence, if there are claims resulting from death or personal injury, tortious action or not fulfilling an expressly assumed guarantee or the assumption of a procurement risk pursuant to § 276 BGB or in cases where higher liability amounts are mandatory as prescribed by the law.

11.5 Any additional liability for damages beyond what is described above shall be excluded without regard to the legal nature of the claim asserted. This applies, in particular, to claims for damages resulting from culpability in contract negotiations, other breaches of duty, or because of tort claims for damages pursuant to § 823 BGB.

11.6 The exclusions or limitations of liability pursuant to sections 11.1 to 11.5 above equally apply to BYK-Gardner's executive and non-executive employees, its legal representatives, and vicarious agents, as well as its subcontractors.

11.7 Any claims the Customer may have for damages resulting from this contractual relationship the Customer may only assert within one year of the commencement of the statute limitations period. The same applies to competing claims from tortious acts as well as to any claims of consequential damages. This does not apply to cases listed in sections 11.1 (1) to (8). The statute of limitations period for delivery recourse pursuant to §§ 445a, 445b, 478 BGB also remains unaffected.

11.8 The above provisions shall not lead to a reversal of the burden of proof.

12. LIABILITY WITH REGARD TO SOFTWARE

12.1 In addition to the exclusions or limitations of liability pursuant to section 11, BYK-Gardner is also not liable for damages, including consequential damages, caused by software products and software incorporated into BYK-Gardner's Goods, such as:

- the loss or change of data, especially customer data, measuring data, data bases
- production downtimes and delays
- defective production results due to „incorrect measuring results" or „inconsistent data basis";

if and as far as such damages can be traced exclusively to actions or inaction by the Customer, (e.g., deficient/missing virus protection or inadequate security precautions for the IT environment for which the Customer is responsible), and the respective breach of duty and/or obligation is solely attributable to the Customer. The security precautions to be taken by the Customer include the immediate installation of security patches, prevention of unauthorised access and the possible change of configuration and data on critical systems and the infrastructure components of the IT environment (servers, network components, WIFI access points etc.) for which the Customer is responsible. The exclusion of liability described above does not, however, apply when the Customer proves that the damages that occurred were not caused by the Customer's breach of duty or obligation.

12.2 Furthermore, if data is lost or destroyed, BYK-Gardner shall only be liable as far as BYK-Gardner caused the destruction wilfully, through gross negligence or in breach of an essential contractual duty. BYK-Gardner's liability for slight negligent breach of an essential contractual duty in the above case is limited in its amount to direct damages that would have occurred even if the Customer had secured the data properly.

13. DATA PROTECTION

BYK-Gardner stores and processes personal data provided by the Customer in accordance with applicable laws and regulations, as far as is necessary for establishing, defining, executing, or changing the contractual relationship.

By using BYK-Gardner's online platforms, the Customer grants BYK-Gardner the right to use the information and data made available or transmitted (including data in connection with Customer orders), as well as the information and data generated on this basis within the scope of the online platforms for the purpose of fulfilling its contractual duties, operating the online platforms, for data analyses, in particular for the purposes of marketing and customer service, and compliance with legal requirements and administrative orders. This includes in particular the right to transmit the declarations and data of the Customer to a third party, to the extent necessary to conclude or execute contracts with the Customer. The data protection information pursuant to Art. 13, 14, 21 and 77 EU General Data Protection Regulation is available at: https://www.byk-instruments.com/dataPrivacy.

14. CONFIDENTIALITY

14.1 The Customer shall hold in strict confidence all facts, documents and information (about Goods) which the Customer gains knowledge of in the course of the contractual relationship with BYK-Gardner, which includes technical, financial, business and market-related information about the company or the Goods of BYK-Gardner, provided that BYK-Gardner has declared the respective information as confidential or there is an obvious interest in the confidentiality (hereinafter referred to as "Confidential

Information“). The Customer will use the Confidential Information exclusively for the purpose of implementing and executing the contractual relationship with BYK-Gardner.

14.2 The Customer shall require from its directors, officers and employees, who process or get to know the Confidential Information, equal confidentiality and restricted use obligations not less strict than herein. The passing-on of Confidential Information to third parties by the Customer requires BYK Gardner‘s express prior consent in writing or by e-mail.

14.3 The above obligations of confidentiality and restricted use shall not apply if the Customer can prove that the respective Confidential Information:

(a) is in the public domain at the time of disclosure;

(b) is published or otherwise becomes part of the public domain through no fault of the Customer;

(c) was in the possession of the Customer at the time of disclosure;

(d) was made available to the Customer by a third party who had the right to legally disclose it;

(e) was independently developed by the Customer without using or making any reference to the Confidential Information;

(f) is required to be disclosed pursuant to a law, regulation, rule or ordinance of any governmental body or court provided that the Customer - if legally permitted - has given prompt written notice to BYK-Gardner of any such requirement.

15. COMPLIANCE

The Customer is obligated to comply with all applicable laws regarding the Goods, especially anti-corruption regulations, regulations combating money laundering or financing of terrorism and anti-trust laws. Applicable anti-corruption regulations within the meaning of the previous sentence include but are not limited to the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act.

16. EXPORT CONTROL

16.1 The Goods are – unless otherwise agreed in writing - always designated to remain, to be used, as well as to be sold in the first country of delivery agreed upon with the Customer. Unless required by law or otherwise agreed in writing, BYK-Gardner is under no obligation to make available documents to the Customer for the import of the Goods into or export of the Goods out of the first country of delivery. If BYK-Gardner does make such information available to the Customer on an individual basis, this shall be done without any warranty or guarantee of the accuracy of the information. This does not give the Customer any right to obtain or use this information from BYK-Gardner for any future business.

16.2 The export of certain Goods may be subject to authorization – e.g. because of their nature, their intended use or their final destination. The Customer shall strictly comply with all applicable (re-) export control and sanctions regulations including but not limited to those of the Federal Republic of Germany, the European Union and its member states as well as the United States of America and the United Nations. The ALTANA Group has suspended business involving Russia, Belarus and Iran. Therefore, none of the Goods may be delivered, sold, exported, re-exported or transferred, directly or indirectly (via other countries, distributors, resellers or other third parties) to Russia, Belarus and/or Iran or for use in Russia, Belarus and/or Iran, even if permitted by law. Furthermore, the ALTANA Group reserves the right to restrict the direct or indirect delivery, sale, export, re-export and transfer of the Goods to a company serving the defense industry and therefore the Customer shall notify BYK-Gardner beforehand and BYK-Gardner shall review such a request on a case-by-case basis. The above obligations from ALTANA's policies do not apply to our Goods that Customer has incorporated into Customer's finished products.

16.3 Prior to any delivery of the purchased Goods to a third party, the Customer shall ensure through appropriate measures that
a) the delivery will not violate any embargo imposed by the European Union and its member states, the United States of America and/ or the United Nations; and
b) the Goods are only used in connection with armaments, nuclear technology or weapons, if and to the extent that is legal and Customer has obtained the required legal authorization; and
c) the regulations of all applicable Sanctioned Party Lists of the European Union and its member states, the United States of America and/or the United Nations concerning the trading with entities, persons and organizations listed therein are followed.

16.4 BYK-Gardner reserves the right to make additional requests including but not limited to signing of end-use declarations.

16.5 The Customer shall indemnify and hold BYK-Gardner harmless from and against any claim, proceeding, action, fine, loss, cost and damages arising out of or relating to any violation of the obligations set forth in the above-mentioned sub-sections 1. - 4., and the Customer shall compensate BYK-Gardner for all losses and expenses resulting therefrom including but not limited to the expenses of any legal defense and court proceedings as well as any fines or penalties imposed by authorities.

16.6 If obligations of this section constitute a breach of any applicable mandatory anti-boycott rule legislated by the European Union or any of its member states, such conflicting contractual obligations shall not be fulfilled.

17. JURISDICTION AND APPLICABLE LAW

17.1 The exclusive place of jurisdiction and venue shall be the City of Munich (Landgericht Muenchen I), Germany, for any and all disputes arising out of the contractual relationships governed by these General Terms and Conditions of Sale and Delivery. BYK-Gardner has, however, the right to file a lawsuit at the Customer’s general place of jurisdiction.

17.2 These General Terms and Conditions of Sale and Delivery shall be governed by the laws of the Federal Republic of Germany without regard to its conflict-of-law provisions. The United Nations Convention on Contracts for the International Sale of Goods (CISG) shall not apply.

17.3 If BYK-Gardner’s order confirmations contain an Incoterm clause, the latest version thereof shall apply unless otherwise stated in BYK-Gardner’s respective order confirmation.

B.

Supplemental Conditions for Services Rendered by BYK-Gardner GmbH

1. SCOPE OF APPLICATION

These Supplemental Conditions for Services Rendered by BYK-Gardner GmbH (hereinafter called **„Supplemental Conditions“**) shall apply in addition to the above General Terms and Conditions of Sale and Delivery, if the provision of services subject to a charge - in particular, the paid repair and/or maintenance of BYK-Gardner's Goods outside the warranty - (hereinafter called **„Services“**) is (also) owed in accordance with BYK-Gardner’s offer and/or order confirmation. Any statutory or additionally agreed warranty claims of the Customer (in particular, in according to section A. 10.) remain unaffected by these Supplementary Conditions.

2. SCOPE OF THE SERVICES

2.1 The scope of the Service and the amount of payment due for the Services to be rendered by BYK-Gardner are exclusively determined by BYK-Gardner’s offer/order confirmation (cf. section A. 2.1.1).

2.2 As far as this has been agreed with the Customer, the Customer will receive a cost estimate for the requested Services following receipt and examination of the Goods by BYK-Gardner. The Customer shall examine and release it without undue delay (no later than within 5 business days), and BYK-Gardner will subsequently confirm it. If the Customer rejects the cost estimate, BYK-Gardner will return the Goods to the Customer at the Customer’s expense and risk. In this case, BYK-Gardner is entitled to invoice the Customer for the costs for examining the Goods, for any material used as well as for the preparation of the cost estimate. BYK-Gardner will charge its hourly rates applicable at the time the cost estimate is prepared.

2.3 If the Services cannot be rendered at the costs stated in the cost estimate or if BYK-Gardner considers the performance of additional work necessary while rendering the Services, BYK-Gardner will obtain the Customer’s consent and submit a second cost estimate for release according to section 2.2 above, if the costs stated in the original cost estimate will be exceeded by more than 15 %.

2.4 BYK-Gardner shall be obligated to provide the Services agreed to in section B. 2.1 above but without a specific (commercial) outcome unless expressly agreed in writing or by e-mail. BYK-Gardner assumes no liability for fitness of the Services for a particular purpose intended by the Customer beyond the mandatory statutory liability.

2.5 Any reference to standards, technical regulations, technical, economic or other information, descriptions as well as illustrations of the Services in offers only constitute specifications of the Services if BYK-Gardner has expressly declared them as “specifications of the services”; otherwise, they are non-binding, general descriptions of anticipated performance.

2.6 Any data, items and information concerning the Services provided by the Customer and/ or sent by third parties on behalf of the Customer are solely the Customer’s responsibility and will only be checked for plausibility and not be validated by BYK-Gardner unless expressly requested by the Customer.

2.7 BYK-Gardner will examine any requests for change the Customer may make regarding the Services agreed upon and take them into account, as far as feasible within the framework of work and time planning and in its sole discretion. As far as such changes affect the terms of the contract, the parties shall agree on an adaptation of the contract, particularly with respect to remuneration and time/deadlines of performance. If the parties cannot reach agreement on this, BYK-Gardner is under no obligation to implement the Customer’s change request with respect to the agreed Services.

3. CUSTOMER’S DUTIES TO COOPERATE

3.1 The Customer shall cooperate as far as necessary to enable BYK-Gardner to provide the agreed Services.

3.2 If the provision of the Services requires Goods to be sent to BYK-Gardner (e.g., to repair a technical device), the Customer undertakes to send the Goods to BYK-Gardner at its own expense and risk. The Goods shall be labelled such that they can be easily allocated to the Customer and to the Services commissioned. The Customer shall package the Goods properly and safely for transport and dispatch them timely so that they arrive at BYK-Gardner’s premises on the date agreed for rendering the Services.

3.3 Specific requirements for the Customer will be stated in the offer or in the order confirmation. The Customer is, however, specifically obligated to grant BYK-Gardner reasonable entry and access to the Customer’s plant premises, facilities, rooms, customer furnished items, information, and documents which BYK-Gardner requires to fulfil its contractual obligations. The Customer also shall reasonably ensure its employees possess the necessary professional qualification and language skills to be able to support BYK-Gardner appropriately and provide BYK-Gardner access to decision-makers in the project and other employees as well as third-party companies as required for rendering the Services.

3.4 The Customer shall provide the required data carriers in the physical and organisational interface format agreed upon in the offer at no cost. The Customer must ensure the data carriers submitted (e.g., CD-ROMs, USB-Sticks, e-mail attachments etc.) are free of viruses.

3.5 If the Customer does not meet one of its duties to cooperate in a proper or timely manner, the contractually agreed performance and implementation deadlines for the Services shall be extended. In this case, BYK-Gardner is also entitled to give the Customer a deadline for catching up on the required cooperation activities. If the Customer has not caught up on these by the time the deadline has expired, BYK-Gardner is entitled to withdraw from the contract.

4. PERFORMANCE TIMES/DEFAULT

4.1 Any requested changes by the Customer after placing the order will initiate a new deadline for rendering the Services subject to the agreed changes. In such a case, the agreed performance and completion deadlines shall be extended in accordance with the amended contract (cf. section B 2.7) by the date objectively required to implement the changes.

4.2 Unless agreed otherwise, BYK-Gardner shall render the respective commissioned Services at the time agreed in the order confirmation or, otherwise, during usual business hours. For Services rendered outside usual business hours the Customer shall pay in addition the appropriate surcharges for overtime, night work, weekend, and holiday work, per started hour per employee. The surcharges will be deemed appropriate in particular if the respective surcharges result from collective bargaining or other company arrangements, which BYK-Gardner shall prove to the Customer in an appropriate manner upon request.

4.3 If the parties did not agree to a specific date but rather a certain time period for rendering the Services, the period will not start until all details regarding the implementation of the order have been clarified and the Customer has met all other required prerequisites, including but not limited to, down payments, necessary information for rendering the Services, etc. The same applies to specific dates for performance.

4.4 If BYK-Gardner is late in its contractual performance, the Customer shall initially give BYK-Gardner an appropriate grace period of 14 business days („business days“ are Mondays – Fridays) for performance, as far as this is appropriate in the individual case. If this grace period expires, the Customer will only have a claim for damages based on breach of duty – for whatever reason – pursuant to sections B. 4. and A. 11. BYK-Gardner shall not liable to the extent the Customer is in default with the fulfilment of its own obligations towards BYK-Gardner, including other contracts.

5. COMPLETION OF THE SERVICES

5.1 Unless otherwise agreed, BYK-Gardner will inform the Customer in writing or by e-mail about the completion of the Services. Such a notification can also be seen in the communication of an agreed performance result, repair statement, report, etc. or the return of the Goods at the Customer’s expense and risk. With such acts, the Services shall be considered rendered and completed.

5.2 Unless agreed otherwise, payment for the Services is due no later than the date on which the Services were completed pursuant to section B. 5.1 and BYK-Gardner sends a corresponding invoice to the Customer.

6. LIABILITY

In addition to section A. 11, BYK-Gardner’s liability is excluded when defects or damages can be traced back to the fact that the Customer damaged the Goods or repaired/maintained the Goods improperly or had the Goods repaired/maintained improperly by third parties, exceeded maintenance intervals, or used the Goods contrary to their instruction or maintenance manuals, or used them in a way, not contemplated by the contract.

7. INTELLECTUAL PROPERY RIGHTS, OWNERSHIP AND RETENTION OF TITLE

7.1 BYK-Gardner grants the Customer the irrevocable, non-exclusive right of use of the work product – as far as it is protected by copyrights –, which right is unrestricted in time and space so that the work product may be used freely pursuant to the Customer’s wishes.

7.2 All concepts, plans or other engineering performances provided, prepared or used by BYK-Gardner in rendering the Services, as well as the skills, abilities and methods provided by BYK-Gardner continue to solely belong to BYK-Gardner along with the associated rights. BYK-Gardner will only grant the Customer a non-exclusive right of use to the extent necessary to use the Services.

7.3 A right of use granted by BYK-Gardner is only transferable to third parties with BYK-Gardner’s prior written consent. The granting of sublicences, the temporary provision of the work product to third parties or making the work product available in any other way requires BYK-Gardner’s prior written consent.

8. SUPPLEMENTAL APPLICABILITY OF THE GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

Unless otherwise stipulated in these Supplemental Conditions, the above General Terms and Conditions of Sale and Delivery apply. If there are any contradictions between the General Terms and Conditions of Sale and Delivery and these Supplemental Conditions, these Supplemental Conditions take precedence within their scope of application pursuant to section 1.