

Appendix attached to the Orgalim General Conditions S 2022 regarding the application of German law

October 2022

Where the Contract is governed by German Law (cf. Clause 52 of the Orgalim Conditions S 2022), the present amendment shall apply jointly with the Orgalim Conditions to pay due regard to the provisions of the German Civil Code BGB concerning standard business conditions.

Furthermore, it should be noted that the Orgalim Conditions S 2022 (cf. Clause 52) may lead to the application of the UN Convention on Contracts for the International Sale of Goods (CISG). If this is not the intention of the Parties, a stipulation to the contrary will have to be expressly mentioned and agreed upon.

regarding Clause 8 second sentence (to be replaced by the following):

"If the Purchaser is not represented through his own fault, the test report shall be sent to the Purchaser and shall be accepted as accurate."

regarding Clause 15, para 5:

is deleted

regarding Clause 17 second sentence (to be replaced by the following):

"All other claims against the Supplier based on such delay shall be excluded, except where the Supplier has been guilty of a negligent breach of a fundamental condition of the contract ("wesentliche Vertragspflicht"), intent or Gross Negligence."

regarding Clause 28 (amendment):

"Claims for reimbursement of expenses of the Purchaser pursuant to Sec. 445a BGB (recourse of the seller) also become statute barred one year after the beginning of the statutory limitation period, provided that the last contract in the supply chain is not for sale of consumer goods. Suspension of the statute of limitations under Sec. 445b (2) BGB remains unaffected; it shall end, at the latest, five years after the point in time when the Supplier delivered the item to the Purchaser."

regarding Clause 31, para 3 second sentence:

is deleted

regarding Clause 38 b (amendment):

"The limitation of the Supplier's liability shall not apply if he has been guilty of intent, Gross Negligence or if the Supplier negligently causes damage to life, body or health.

Furthermore, the limitation of liability shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflicht"). In the case of a slightly negligent breach, the Supplier shall be liable only for reasonably foreseeable damage which is intrinsic to the contract.

The said limitation of liability shall also be inapplicable in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz"), for defects of the Product causing death or personal injury, or damage to items of property used privately. Furthermore, the said limitation of liability shall not apply in cases of defects the Supplier has fraudulently concealed or whose absence he has guaranteed."

regarding Clause 39 (to be replaced by the following):

"Save as stipulated in Clauses 24-38, the Supplier shall not be liable for defects. This applies to any loss the defect may cause including loss of production, loss of profit and other indirect loss. The limitation of the Supplier's liability shall not apply if he has been guilty of intent, Gross Negligence or if the Supplier negligently causes damage to life, body or health.

Furthermore, the limitation of liability shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflicht"). In the case of a slightly negligent breach, the Supplier shall be liable only for reasonably foreseeable damage which is intrinsic to the contract.

The said limitation of liability shall also be inapplicable in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz"), for defects of the Product causing death or personal injury, or damage to items of property used privately. Furthermore, the said limitation of liability shall not apply in cases of defects the Supplier has fraudulently concealed or whose absence he has guaranteed."

regarding Clause 40, last sentence (to be replaced by the following):

"The Supplier shall however not be liable for the Purchaser's loss of production, loss of profit, loss of use and loss of contract.

The exclusion of the Supplier's liability shall not apply if he has been guilty of intent, Gross Negligence or if the Supplier negligently causes damage to life, body or health. Furthermore, it shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflicht"). In the case of a slightly negligent breach of a fundamental condition of contract, the Supplier shall, however, be liable only for reasonably foreseeable damage which is intrinsic to the contract.

The exclusion of liability shall also be inapplicable in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz") for defects of the Product causing death or personal injury, or damage to items of property used privately. Furthermore, it shall not apply in cases of damage attributable to fraudulent concealment or under a specific guarantee granted."

regarding Clause 45:

is deleted

regarding Clause 50 (amendment):

"The exclusion of the Supplier's liability shall not apply if he has been guilty of intent, Gross Negligence or if the Supplier negligently causes damage to life, body or health. Furthermore, it shall not apply in cases of negligent breach of a fundamental condition of contract ("wesentliche Vertragspflicht"). In the case of a slightly negligent breach of a fundamental condition of contract, the Supplier shall, however, be liable only for reasonably foreseeable damage which is intrinsic to the contract.

The exclusion of liability shall also be inapplicable in cases of strict liability under the Product Liability Act ("Produkthaftungsgesetz") for defects of the Product causing death or personal injury, or damage to items of property used privately. Furthermore, it shall not apply in cases of damage attributable to fraudulent concealment or under a specific guarantee granted."

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