

(Version: 01.03.2024)

## 1. Scope of Application

1.1 These Remote/iCorr® Services Terms and Conditions of BHS CORRUGATED Maschinen- und Anlagenbau GmbH, Paul-Engel-Str. 1, D-92729 Weiherhammer (hereinafter referred to as "BHS CORRUGATED") apply to all contracts with Customers

- for Remote Services,
- provision by way of lending or rental of a VSE computer or, for example, a computer with the required functions for Remote Services/BHS CORRUGATED and
- for the evaluation of machine and production data by BHS CORRUGATED and
- for iCorr® Services,

the items listed under intends 1 to 4 above also together **hereinafter referred to as "Remote Services"** (hereinafter referred to as "Remote Services Terms and Conditions / BHS CORRUGATED").

Should the Customer refer to its own contractual terms upon issue of the order, despite the reference to the applicability of these Remote Services Terms and Conditions BHS CORRUGATED, which have not been agreed individually with BHS CORRUGATED and then nevertheless accepts services of BHS CORRUGATED, consent to inclusion of the Remote Services Terms and Conditions/BHS CORRUGATED shall be implied by the Customer's acceptance of the first Remote Services. This shall not apply if the Customer objects immediately after assumption of the Remote Services and rejects acceptance of the Remote Services.

1.2 In the case of future contracts with the Customer via Remote Services, the Remote Services Terms and Conditions/BHS CORRUGATED, as amended, shall apply without any further explicit reference thereto. BHS CORRUGATED is entitled to update the Remote Services Terms and Conditions/BHS CORRUGATED with future effect. For future contracts concluded for Remote Services/BHS CORRUGATED, the version of the Remote Services Terms and Conditions/BHS CORRUGATED valid on [www.bhs-world.com](http://www.bhs-world.com) at

the time of the conclusion of the respective contract shall apply.

1.3 Deviations from and additions to Remote Service contracts must be in writing. This also applies to a conditional waiver of the written form requirement in individual cases. § 127 (2) BGB (German Civil Code) (Telecommunications Transfer and -Correspondence) applies.

1.4 For other BHS services and for the order/delivery of wear and spare parts of BHS CORRUGATED, the Service and Spare Parts Terms and Conditions/BHS CORRUGATED and for assemblies the BHS CORRUGATED/Assembly Terms and Conditions also apply. These can be requested from BHS CORRUGATED at any time by phone, fax or email; see [www.bhs-world.com](http://www.bhs-world.com), then click "Terms and Conditions",

1.5 The prices shown in the BHS CORRUGATED online shop when the order is placed or the prices shown in an offer from BHS CORRUGATED on the basis of which the order is placed apply, unless other prices have been agreed in writing.

## 2. Conclusion of contract

2.1 Offers from BHS CORRUGATED are non-binding and without engagement. A contract only comes into effect with the written order confirmation of BHS CORRUGATED, with the conclusion of a written contract or tacitly with the acceptance of the Remote Services by the Customer (hereinafter collectively referred to as "Contract").

2.2 For online orders, BHS CORRUGATED shall immediately confirm receipt of the order online. This confirmation of receipt is not an order confirmation within the meaning of Section 2.3.

2.3 Online orders require an order confirmation by BHS CORRUGATED for a Contract to be concluded. If BHS CORRUGATED determines that an error has occurred in the online shop concerning Remote Services, prices or ability to deliver, BHS CORRUGATED will inform the Customer in a timely manner. The Customer may confirm the modification of its order. Otherwise, regarding online orders, no Contract will be deemed to have been

concluded in the absence of acceptance of the order.

### 3. Subject matter of the Contract

3.1 BHS CORRUGATED agrees to the Remote Services of BHS CORRUGATED as described in detail in the offer and in the order confirmation and its possible annexes or in a written Contract.

3.2 At the latest at the time of contract signature or when the Customer places his order, in case of Remote Services provided outside EU, the Customer shall inform BHS CORRUGATED about all legal and technical regulation applicable for machine manufacturers regarding occupational safety requirements for the provision of Remote Services as well as all, technical requirements for the production, delivery, installation, and operation of the machinery or machine plant at its place of installation. This also applies within the European Union regarding (federal) state and municipal regulations enacted as laws, ordinances and statutes, etc.

3.3 Insofar as BHS CORRUGATED software is installed on the Customer's computer or on their machine's internal processors as part of the Remote Services Contract or otherwise transferred to the Customer due to a contract with BHS CORRUGATED, BHS CORRUGATED grants the Customer a non-exclusive, non-transferable right to use for the object code of the software limited to the hardware on which the software of BHS CORRUGATED was installed. The Customer is not entitled to make changes and additions to the software. BHS CORRUGATED reserves the right to make changes and additions to the software during the term of the Contract insofar as these do not affect the existing system, in particular interfaces with the Customer. The Customer has no right to decompile or otherwise reverse-engineer the software, unless BHS CORRUGATED, despite several attempts within a reasonable time, is unable to eliminate errors that have occurred in the software and impede the operating procedure significantly, or to provide a workaround option that is reasonable for the Customer. The source code of any software of BHS CORRUGATED is not subject to any grant of a license to the Customer.

Insofar as BHS CORRUGATED installs software from third parties in the course of the provision of Remote Services, the above granting of rights is subject to the provision that BHS CORRUGATED itself has been granted a right of use by the third party for sublicensing or as a Remote Services-related license. Upon request, regarding specific licenses BHS CORRUGATED will provide the Customer with information about

licensing for the specific software installed in the item delivered.

3.4 Insofar as BHS CORRUGATED provides a VSE computer (VSE = virtual service engineer) or another computer for Remote Services/BHS CORRUGATED, which remains the property of BHS CORRUGATED at the operational site of the Customer's machines, the Customer shall have no right of use or access to the software installed on this/these VSE computer(s) or computer® of BHS CORRUGATED.

3.5 BHS CORRUGATED is entitled to commission sub-contractors insofar as they are contractually bound by BHS CORRUGATED in the reciprocal confidentiality obligation between the Customer and BHS CORRUGATED in Section 10 below.

3.6 BHS CORRUGATED reserves all property rights and/or rights of possession, as well as copyrights and other industrial property rights as well as the protection of business and trade secrets to the programs and data on a VSE computer or another computer of BHS CORRUGATED; to illustrations, drawings, calculations, computer programs; to data and databases to which the Customer has access, e.g. via the iCorr® platform of BHS CORRUGATED; to models, tools, offer documents and other items; as well as to BHS CORRUGATED's technical or commercial knowhow, collectively referred to as "BHS CORRUGATED Information". They may not be made available for viewing by third parties or handed over in copy or as made available by BHS CORRUGATED without the express written consent of BHS CORRUGATED; cf. Section 10 of these Remote Services Terms and Conditions/BHS CORRUGATED. BHS CORRUGATED information may only be used by the Customer in connection with the examination of the BHS CORRUGATED offer as well as on the occasion of subsequent contractual performance and the contractual use of the technical equipment supplied and, if applicable, the Remote Services themselves. BHS CORRUGATED Information must be kept secret from third parties and must be protected by the Customer through in-house organizational and technical measures or by third parties to the extent required to prevent unauthorized access. **The Customer will provide BHS CORRUGATED with information on the type and scope of its protective measures regarding BHS CORRUGATED Information.**

3.7 Computers, tools or other objects as well as data and data evaluations of or by BHS CORRUGATED, which are located at the site of the Customer or to which the Customer has access through or via BHS CORRUGATED,

- must be carefully stored or saved by the Customer, provided that the objects that are the property of or in the possession of BHS CORRUGATED are to be protected by the Customer through technical and organizational access regulations in such a way that no unauthorized persons can access them. Any losses, damage or unauthorized access must be reported to BHS CORRUGATED immediately. The Customer shall be liable in its area of responsibility in the event of responsibility (1) for damage or loss of the computer(s) transferred to them by way of lending and/or rental and for tools or other objects that are the property of or in possession of BHS CORRUGATED, (2) for software and/or data that is the property of or in possession of BHS CORRUGATED being copied, deleted or modified without authorization, as well as (3) in the event of unauthorized access to the VSE computers) or other computer(s) for Remote Services/BHS CORRUGATED and to data and data evaluations of BHS CORRUGATED on BHS CORRUGATED's iCorr® platform, and in the event of a breach of confidentiality of the BHS CORRUGATED Information named above in Sections 3.6 and 3.7 or the access protection provided there.
- 3.8 By concluding the Remote Service Contract with BHS CORRUGATED, the Customer agrees that BHS CORRUGATED and any subcontractors may collect and process data (such as machine and production data) from the installation and operation of the Customer's machine and/or system by, transfer it to their own computers or those of their subcontractors and use it for the operational purposes of BHS CORRUGATED and/or those of its subcontractors for an unlimited period of time (hereinafter jointly referred to as "Use of Data"), limited in extent by Section 4.3 (Data Protection for Personal Data) and Section 10 "Confidentiality" (below). The Customer is not entitled to compensation for this Use of Data.
- 3.9 The Customer warrants that the machines or systems for which it has placed an order for Remote Services to BHS CORRUGATED will be used in accordance with the instruction manuals and that neither the Customer nor any third party will make any changes or additions to or interfere with or in the machines/installation without BHS CORRUGATED being informed in advance.
- 3.10 **Accessibility of BHS CORRUGATED**  
 Insofar as BHS CORRUGATED accepts 24/7 accessibility as a component of its Remote Services, this shall be on condition that the accessibility of BHS CORRUGATED is not prevented by force majeure or disruptions of the electricity, telecommunications, computer and/or cloud connections within the area of responsibility of third parties (including BHS CORRUGATED's own contractors).
- In the event of an interruption due to force majeure (see Clause 5.6), the duration of the exception from the contractually agreed accessibility of BHS CORRUGATED shall be deemed to include the duration of the interruption itself and a reasonable period for the resumption of the agreed Remote Services on a case-by-case basis.
- 3.11 The Customer will provide employees of BHS CORRUGATED or third parties authorized by BHS CORRUGATED and commissioned with the performance of contractual obligations with unrestricted access to the machine/system and, if necessary, provide BHS CORRUGATED with the desired assistance in the performance of its obligations. If this support includes the provision of staff, those persons must be sufficiently qualified. Third-party staff must not be in competition with BHS CORRUGATED.
- 4. Newsletter/Data Protection**
- 4.1 BHS CORRUGATED notifies its Customers upon being contacted by the Customer about products and services of BHS CORRUGATED and corporate activities via email.
- If a BHS CORRUGATED Customer does not wish to receive further advertising or product and service information from BHS CORRUGATED, the Customer can unsubscribe via the **address** ["unsubscribe-newsletter@bhs-world.com"](mailto:unsubscribe-newsletter@bhs-world.com).
- 4.2 The collection, storage, transmission and use of data of the Customer on the occasion of the Remote Services of BHS CORRUGATED is carried out using technology, such as sensors, on the relevant machine/installation as well as via input by the operating personnel during operation of the machine/system. Here, BHS CORRUGATED collects production and machine data.
- 4.3 As far as any data are collected which qualify as personal data for either the Customer or BHS CORRUGATED and/or its subcontractors and/or the Customer is collected as well, the parties shall enter into a data processing agreement.
- 5. Terms of payment**
- 5.1 Unless specifically agreed otherwise in the Contract, the prices of BHS CORRUGATED valid at the time of conclusion of the Contract apply for Remote Services, which can be retrieved by telephone, fax or e-mail from BHS, see [www.bhs-world.com](http://www.bhs-world.com), "Contact" or the prices stated in the BHS CORRUGATED online shop apply.
- 5.2.1 The prices of BHS CORRUGATED are based on the respective cost factors of

service provision, production and purchasing in the German mechanical engineering industry at the time the Contract is concluded or the order is placed.

5.2.2 If the costs for the services of BHS CORRUGATED up to the delivery or provision of the service undergo a significant change for reasons for which BHS CORRUGATED is not responsible, that have an influence on the pricing of the delivery and/or service of the previous net price, BHS CORRUGATED reserves the right to increase the net price to the extent of the cost increase since the conclusion of the Contract or placing of the order, less a business risk share for BHS CORRUGATED in the price concerned.

5.2.3 In the case of continuing obligations, such as iCorr® Contracts, BHS CORRUGATED is entitled to demand a renegotiation of the last contractually agreed remuneration from the Customer for the first time after a 1-year contractual term, provided that significant cost changes have occurred at BHS CORRUGATED since then (see 5.2.1.), for which BHS CORRUGATED is not responsible, which have an influence on the pricing for the Remote Services that are the subject of the relevant continuing obligation. If a price change demanded by BHS CORRUGATED for continuing obligations amounts to more than 10% of the previous net price, the Customer has an extraordinary right of termination subject to a notice period of three months from receipt of the price change request at the time the increase comes into effect. A price change requires a notice period of at least four months before it comes into effect. Termination notices must be in writing to be effective.

5.3 Invoices of BHS CORRUGATED must be transferred by the Customer to one of the specified bank accounts of BHS CORRUGATED within 30 days of the date of invoice without deduction of discounts. Payment dates agreed in the Contract are binding and take precedence over the above payment period.

5.4 If the Customer defaults on payment within the business relationship with BHS CORRUGATED or is in default of taking delivery or acceptance, BHS CORRUGATED is entitled to demand a prepayment for the Remote Services, if applicable, in deviation from other contractual terms of payment.

5.5 All receivables of BHS CORRUGATED that have already arisen but have not yet become due shall be due immediately, irrespective of the term of any debited and credited bills of exchange or deferrals granted, if the Customer fails to comply with the contractual terms of payment or if BHS CORRUGATED

becomes aware of circumstances that are suitable to reduce the creditworthiness of the Customer.

5.6 In cases of force majeure such as

- in the event of a pandemic recognized by the government that has a specific impact on the fulfillment of the Contract by BHS CORRUGATED, or
- in the event of operational disruptions for which BHS CORRUGATED is not responsible, labor disputes not caused by BHS CORRUGATED such as lockouts, civil unrest, subcontractor delays for which BHS CORRUGATED is not responsible
- any other events that BHS CORRUGATED cannot prevent,

as well as in similar actual situations such as

- substantial legal or administrative measures as for example punitive tariffs which increase the contract price for the product by more than 10% or other substantial non-tariff barriers as for example approval requirements for products which increase the own costs of BHS CORRUGATED for the distribution of a product by more than 10%,
- which were not known at the time of the conclusion of the Contract or issuing of the order confirmation, BHS CORRUGATED is entitled either to postpone delivery and/or the installation and/or commissioning for the duration of 1 year max, plus possibly a reasonable restarting time on part of BHS CORRUGATED as necessary from case to case, or
- if a performance of the Contract cannot be reasonably expected BHS CORRUGATED is entitled to withdraw from the Contract. In this case, reciprocal payments already made will be back processed as far as possible.

Instead of BHS CORRUGATED declaring to withdraw from the Contract, BHS CORRUGATED may request the Customer to amend the Contract so that the contractual scope of services already provided by BHS CORRUGATED remains with the Customer and the Customer pays the contractually agreed price, less any expenses saved by BHS CORRUGATED, unless this amendment to the Contract is unreasonable for the Customer. The Contract is amended by a unilateral written declaration by BHS CORRUGATED *vis-à-vis* the Customer. The objection on the basis of a lack of reasonableness has to be declared in writing by the Customer to BHS CORRUGATED. Until a decision is made regarding the justification of the objection, the contractual conditions of the existing

Contract continue to apply, reduced accordingly by the scope of services not performed by BHS CORRUGATED.

In the event of a withdrawal of the Contract by BHS CORRUGATED, the Customer is entitled to, within a notice period of three weeks from the withdrawal of the contract by BHS CORRUGATED, to demand that the Customer retains the contractual scope of services already provided and pays the contractually agreed price to BHS CORRUGATED less any expenses saved by BHS CORRUGATED instead of the whole contract being reversed. In this case, the Parties hereby agree that the contractual conditions will apply accordingly reduced by the scope of services not provided by BHS CORRUGATED despite the withdrawal.

A claim for damages against BHS CORRUGATED arising from a delay in delivery, installation and/or commissioning due to the hindrance or due to a withdrawal of the Contract or a declared amendment to the Contract is hereby excluded.

## 6. Poor Performance/Deficiency Claims

Claims arising from any Poor Performance of services, in the event of a defect in case of a rental or work performance (hereinafter collectively referred to as "Warranty").

The services of BHS CORRUGATED can be allocated to different types of contracts within the terminology of the German Civil Code (BGB) and can therefore also be subject to different warranty systems.

As such, the legal consequences of a contract withdrawal for possible works or a termination due to defects in services and/or rental of hardware are uniformly legally constructed in these Remote Services Terms and Conditions/BHS CORRUGATED for all contractual performances under the legal consequences as a "termination of contract".

6.1 Data or characteristics of a service provided by BHS CORRUGATED are not to be deemed to be a guaranteed characteristic unless such a guarantee has been expressly agreed in writing with BHS CORRUGATED or declared in writing by BHS CORRUGATED.

BHS CORRUGATED only warrants and is only liable for such information on the quality of the delivery items that became part of the Contract or that are part of BHS CORRUGATED's advertising brochures. However, this does not apply to general advertising claims made in advertisements, at trade fairs or in other advertising media, unless the Customer has expressly informed BHS CORRUGATED of the intended binding nature of such a general statement as part of the

Contract prior to conclusion of the Contract without BHS CORRUGATED having objected.

6.2 If services of BHS CORRUGATED are faulty or incomplete, BHS CORRUGATED undertakes to eliminate the faults free of charge or to subsequently provide the complete service. If this is not possible because the service is related to a particular occasion and cannot be provided subsequently, BHS CORRUGATED undertakes to take all necessary organizational and technical measures to avoid a repetition of the type of fault in the service or service omitted. Should poor performances of services by BHS CORRUGATED be repeated, the Customer is entitled to terminate this Contract. This requires the Customer to have notified BHS CORRUGATED unsuccessfully in writing in advance, threatening the assertion of statutory claims, with a reasonable period of notice on a case-by-case basis for BHS CORRUGATED to eliminate the cause for the warning of the Customer error or omission.

6.3 Any claims arising from poor services shall become time barred 12 months after the performance of the related service. This limitation in time shall not apply if the cause of a claim is due to intent, bad faith or gross negligence of BHS CORRUGATED and in the case of liability under the Product Liability Act or liability for injury to life, limb and health.

6.4 Work with machine/installation data at the site of the Customer can only be as good as the quality of the data. It is the responsibility of the Customer to ensure that the machine/installation is operated in accordance with the operating instructions and that the Customer or third parties do not make any changes or additions to or interfere with the machine/installation without informing BHS CORRUGATED in advance. Insofar as the Customer does not guarantee this without exception, BHS CORRUGATED cannot assume any responsibility for the correctness of the evaluations when collecting and analyzing data on the occasion of Remote Services, since external influences can occur that cannot be taken into account by BHS CORRUGATED due to lack of knowledge.

6.5 For equipment rental or other objects of rent, BHS CORRUGATED will eliminate defects or, if reasonable for the Customer, bypass them. If BHS CORRUGATED fails several times to eliminate or bypass defects in the rental equipment or applications made available for use, the Customer is entitled to terminate this Contract. Termination also covers the service components of Remote Services/BHS CORRUGATED that are of a service or work contract nature.

6.6 In the case of a work performance the warranty period is 12 months after commissioning. This time limit does not apply if the cause of claims is based on intent, malice or gross negligence or injury to life, limb or health or liability due to product liability.

The Customer may first demand supplementary performance, which BHS CORRUGATED can provide at its discretion by eliminating the defect or providing a defect-free product/software. With software, a workaround is sufficient as far as this does not affect the functionality of the software. If a workaround does not resolve the problem within a reasonable period of time, BHS CORRUGATED shall be entitled to undertake a second attempt to eliminate the defect within a reasonable period of time. If an elimination of a defect is not successful and no workaround reasonable for the Customer is provided, the Customer has the right to terminate this Contract. Termination also covers the service components of Remote Services that are of a rental or service contract nature.

6.7 As far as the Contract includes services attributable to purchase, works and/or service contracts and/or a rental, the Customer's right to withdraw from the Contract does not apply to such works, services, rentals and/or sales which have been already performed by BHS CORRUGATED or which have been called by the Customer already. This limitation to withdraw from the Contract shall not apply if the Customer has a legitimate interest to withdraw from the total Contract.

6.8 A claim for damages due to poor performance or a defect requires that BHS CORRUGATED can be accused of intent or gross negligence as the cause or in case of statutory product liability. Moreover, the liability regulation in Section 7 of these Remote Services Terms and Conditions/ BHS CORRUGATED also applies.

6.9 On the occasion of Warranty work the Customer shall provide BHS CORRUGATED with staff and the ability to access the VSE computer or the computer(s) for Remote Services/BHS CORRUGATED free of charge and to the necessary extent, as well as to machines or the system and their sensor technology to enable repair work. Any necessary lifting tools and personnel will be provided by the Customer in a timely and appropriate manner free of charge.

6.10 BHS CORRUGATED may withhold the elimination of defects and omissions as long as the Customer does not fulfill its obligations to cooperate.

6.11 The Customer agrees to a proper notification of defects that allows BHS CORRUGATED to begin targeted repair work. The Customer

shall provide BHS CORRUGATED with the information available to it about the defect and assist free of charge and to a reasonable extent with the elimination of defects.

6.12 If, during work to eliminate defects or omissions, the cause of the defect is found to be the responsibility of the Customer, BHS CORRUGATED may charge its usual remuneration for the services provided.

6.13 If any defect should be fraudulently concealed by BHS CORRUGATED or in case an express guarantee for a specific characteristic was agreed on with the Customer the limitations of warranty set-out in Sections 6.3, 6.7 and 6.8 above do not apply. Instead, the statutory regulations on defects apply.

## 7. Liability

7.1 BHS CORRUGATED, its corporate bodies and vicarious agents are liable in the event of a culpable breach of contractual obligations, including pre-contractual and ancillary contractual obligations, in case tort and for any other legal reason not separately regulated in these Remote Services Terms and Conditions / BHS CORRUGATED, limited to cases of intent, fraudulent intent and gross negligence.

In the event of impossibility and inability of performance or in the case of culpable violation of an essential contractual obligation, BHS CORRUGATED is liable to the exclusion of cases of the slightest negligence. Essential contractual obligations are those which entail mutual obligations and the infringement of which jeopardizes the achievement of the purpose of the Contract or the fulfillment of which makes the proper performance of the Contract possible and upon the fulfillment of which the Customer can therefore rely. In cases of gross or simple negligence BHS CORRUGATED's liability is limited to such damages, which could have been foreseen by BHS CORRUGATED as a potential result of a culpable violation of essential contractual obligations at the date of its signing of the Contract by applying the due care of a prudent businessman.

The provisions on liability for damages in the event of a Poor Performance or a defect contained in Section 6.8 of these Remote Services Terms and Conditions / BHS CORRUGATED take precedence over Section 7, paragraphs 1 and 2.

7.2 BHS CORRUGATED is only liable for indirect damages, loss of production and loss of profit in cases of intent or gross negligence.

7.3 The liability of BHS CORRUGATED under the Product Liability Act as well as for life, limb and health shall always remain unlimited in its legal scope.

## **8. Term and Termination of a Remote Service Contract**

Remote Service Contracts have the term agreed in each respective Contract and are automatically extended by one year unless otherwise agreed in writing, should the Contract not be terminated in writing by the Customer or BHS CORRUGATED with a notice period of three months to the end of the contractual year.

Both the Customer and BHS CORRUGATED have the right to terminate the Contract prematurely for good cause. Good cause is deemed present in particular if the Customer repeatedly fails to meet its payment obligations in a timely manner, BHS CORRUGATED's performances are obstructed by the Customer, or if the Customer does not meet or does not meet its obligations of confidentiality or access protection *vis-à-vis* unauthorized third parties in Sections 3.5, 3.6 and 10 of these Remote Service Terms and Conditions/BHS CORRUGATED to the extent necessary, despite being reminded to do so.

## **9. (Re-)Export; Embargo**

- 9.1 Both parties have to ensure that, when concluding and executing a Contract covered by these Terms and Conditions of Sale/BHS CORRUGATED, they comply with the laws and regulations concerning (re-)export relating to the delivery items or parts thereof in Germany, in the EU and in the country of the registered office or place of installation of the relevant delivery item and, if applicable, in a third country. "Third country" within the meaning of this obligation is a country of origin of delivery items, which in turn may impose binding export regulations on the Customer or BHS CORRUGATED regarding the delivery item or parts thereof, such as the US Commerce Control List.
- 9.2 The same as above applies to state embargo regulations that affect the delivery item or parts thereof.
- 9.3 If BHS CORRUGATED is unable to deliver for these reasons, this is deemed to constitute a case of "force majeure" to which Section 3.11 of these Remote Services Terms/BHS CORRUGATED apply.
- 9.4 Should the Customer breach the above obligation, BHS CORRUGATED has a contractual claim against the Customer to be indemnified in full against any claims of third parties due to such breach(es) of contract and to be reimbursed for the costs of the necessary legal defense incurred by BHS CORRUGATED.

## **10. Confidentiality**

- 10.1 BHS CORRUGATED information, cf. Section 3.6 and access options, see Section 3.7 of these Remote Services Terms and Conditions/BHS CORRUGATED, as well as all data and information otherwise provided by BHS CORRUGATED, may not be made available to third parties unless they are clearly intended for other persons aside from the Customer, as far as this is not required as part of the intended use of Remote Services/BHS CORRUGATED by the Customer. For the purposes of this section, "third parties" means natural persons or legal entities that are not members of the Customer's corporate bodies or its employees, as well as such contractors of the Customer who fail to commit themselves in writing to comply with the confidentiality provisions set-out in Section 3.6, the access protection provisions set-out in Section 3.7 and the confidentiality provisions set-out in Section 10 in these Remote Service Terms and Conditions/BHS CORRUGATED.
  - 10.2 In the event of a breach of these confidentiality obligations set out in Section 10.1 by a person attributable to the Customer (member of a corporate body, employee and/or contractor of the Customer), the Customer undertakes to pay a penalty of EUR 5,000 per act of infringement, notwithstanding further claims for damages. At the request of BHS CORRUGATED, the Customer has to provide complete information regarding the manner in which the BHS CORRUGATED Information is used and/or accessed by or through the Customer, in particular also with regard to a contractor of the Customer who violates these obligations.
  - 10.3 BHS CORRUGATED undertakes *vis-à-vis* the Customer not to disclose to third parties any data (such as machine and production data) of which it becomes aware in the course of its contractually agreed services to the Customer. The same applies to the analyses of data carried out for the Customer. The confidentiality obligation does not apply if the use of data within the meaning of Section 3.7 above by subcontractors of BHS CORRUGATED is necessary for the provision of contractual services of BHS CORRUGATED *vis-à-vis* the Customer. By concluding the contract, the Customer consents to the transfer of data to and use of data by the respective subcontractor. The regulation on the protection of personal data within the meaning of the reference made in Section 4.3 above applies in addition.
- ## **11. Miscellaneous**
- 11.1 The contracting parties are not entitled to transfer the Contract as such without the prior

written consent of the other party or to transfer or assign individual rights or claims therefrom to third parties.

- 11.2 The Customer is only entitled to declare a set-off or to assert a right of retention, including a commercial right of retention, if the claim in question is undisputed or has been legally established by a court of law.
- 11.3 Should any of the above provisions of these Remote Services Terms and Conditions/BHS CORRUGATED be or become invalid, this shall not affect the validity of the remainder of the Contract. The parties shall replace an ineffective provision by one that comes as close as possible to the economic purpose pursued. The same applies in the case of the existence of a loophole.
- 11.4 The law of the Federal Republic of Germany applies, with the exclusion of the provisions of the UN Convention on Contracts for the International Sale of Goods (CISG), insofar as applicable, and excluding those provisions of German private international law the application of which would lead to the application of a different legal system.
- In case of doubt and in the event of contradictions between a German and a foreign-language version of the same Contract, the German-language version takes precedence.
- 11.5 The place of performance for payment claims of BHS CORRUGATED arising from this Contract is at the registered office of BHS CORRUGATED; see Section 1.1.
- 11.6 The place of jurisdiction for any legal disputes arising from or in connection with this Contract for legal proceedings against Customers shall be the registered office of BHS CORRUGATED, at the discretion of BHS CORRUGATED, see Section 1.1 or another legal place of jurisdiction, and, in the event of legal proceedings by the Customer against BHS CORRUGATED, it shall be the registered office of BHS CORRUGATED in Section 1.1. This jurisdiction agreement applies only to merchants within the meaning of commercial law.