

Appendix attached to the Orgalim general conditions M 17 regarding necessary adaptations to German law

October 2017

Where the Contract is governed by German Law (cf. clause 44 of the Orgalim Conditions), the present amendment shall apply jointly with the Orgalim Conditions in order to pay due regard to the provisions of the German Civil Code *BGB* concerning general terms and conditions.

regarding clause 23, last paragraph (amendment):

"The limitation of liability does not apply in the event of intent or Gross Negligence according to Clause 2 or in the event of a negligent breach of a fundamental condition of the contract ("*wesentliche Vertragspflicht*") of the Contractor. In the latter case, liability for slight negligence shall be limited to reasonably foreseeable damage that is intrinsic to the contract."

regarding clause 33, last paragraph (amendment):

"This limitation of the Contractor's liability shall not apply if he has been guilty of intent or Gross Negligence according to Clause 2 or where an injury or the death of a person is caused through negligence.

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 slight negligence, the Contractor shall be liable only for reasonably foreseeable damage that is intrinsic to the contract.

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

regarding 35 (amendment):

"This limitation of the Contractor's liability shall not apply if he has been guilty of intent or Gross Negligence according to Clause 2.

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 slight negligence the Contractor shall be liable only for reasonably foreseeable damage that is intrinsic to the contract.

Nor shall the said limitation of liability apply in the case of strict liability under the Product Liability Act ("*Produkthaftungsgesetz*"). Furthermore, the said limitation shall not apply in the case of damage attributable to fraudulent concealment or under a specific guarantee granted."

regarding clause 36, second paragraph, last sentence (to be replaced by the following):

"This limitation of the Contractor's liability shall not apply if he has been guilty of intent or Gross Negligence according to Clause 2 or where an injury or the death of a person is caused through negligence.

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 slight negligence the Contractor shall be liable only for reasonably foreseeable damage that 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 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 Contractor has fraudulently concealed or whose absence he has guaranteed."

regarding 43 (amendment):

"This exclusion of liability shall not apply in cases of intent or Gross Negligence according to Clause 2 or where an injury or the death of a person is caused through negligence.

Furthermore, the exclusion of liability shall not apply in cases of negligent breach of a fundamental condition of contract ("*wesentliche Vertragspflicht*"). In cases of slight negligence, the Contractor shall be liable only for reasonably foreseeable damage that 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 death or personal injury, or damage to items of property used privately. Furthermore, the said exclusion of liability shall not apply in cases of defects the Contractor has fraudulently concealed or whose absence he has guaranteed."