



General terms and conditions of purchase of LAP GmbH Laser Applikationen

Status September 2017

1. Art. 1 General scope of application

- 1.1 Our terms and conditions of purchase shall apply exclusively. We do not acknowledge any contrary or differing terms and conditions of the Supplier unless we have expressly approved their validity in writing. Our terms and conditions of purchase shall also apply exclusively if we accept the Supplier's delivery without reservation, in the knowledge of contrary or differing terms and conditions of the Supplier to our terms and conditions of purchase.
- 1.2 Upon making delivery or providing the service on the basis of these terms and conditions of purchase, the Supplier acknowledges that the terms and conditions are also agreed for all further deliveries.
- 1.3 Any framework agreements or individual agreements concluded between the parties shall have priority. Unless more specific provisions are made therein, such agreements shall be supplemented by these terms and conditions of purchase.
- 1.4 All agreements reached between us and the Supplier for the performance of a contract must be set down in textual form in the contract. This shall not affect Section 305 b BGB [German Civil Code] (legal preference of individual agreements) for individual agreements in any form.
- 1.5 Our terms and conditions of purchase shall apply exclusively to companies pursuant to Section 14 BGB [German Civil Code] i.e. to such natural persons or legal entities or partnerships having legal capacity which are performing their commercial or independent professional activities when concluding the contract.

2. Data, illustrations, formulas, drawings, calculations provided

We shall retain property rights and copyrights to illustrations, formulas, manufacturing instructions or instructions for use, drawings, calculations and other documents provided by us. They may not be disclosed to third parties without our express written consent. Furthermore, they may only be used for processing our purchase order and must be returned to us or destroyed, including all copies, after the order is processed and, in the case of continuing obligations when they end, without being asked to do so. They must be kept secret with respect to third parties unless there is an official or legal obligation of disclosure. If these illustrations, formulas, drawings, calculations and other documents are contained in data, these must be deleted completely at any time at our request, and their deletion confirmed in writing immediately.

3. Supplier's quotations

- 3.1 The Supplier's quotations shall be given in writing or textual form.
- 3.2 The Supplier's quotations shall describe the delivery item and/or the service to be provided in full, and shall also list in full all necessary additional products and/or services required to use the delivery item/services provided safely and efficiently, and include them in the quotation.
- 3.3 Goods or parts of goods and/or services or parts of services which are not listed in the Supplier's quotation but indispensable for safe and efficient operation or relevant use of the goods and/or service shall be deemed, unless otherwise agreed, an integral part of the delivery item and/or service provided and as due from the Supplier together with the item and/or service.
- 3.4 The Supplier shall expressly indicate in its quotation in writing or textual form any dangers and environmental hazards connected with the delivered goods and any need for special handling of the goods.

4. Declaration of acceptance, conclusion of contracts, order processing

- 4.1 In order to allow our orderly controlling of the contract, only written purchase orders (in the form of a telefax shall suffice), duly signed by us on our purchase order form shall be valid. Alternatively, we can also submit our declaration of purchase in textual form (email) with our sender identification. Amendments and modifications of the purchase order shall only be valid when given in writing or textual form. This shall also apply to the cancellation of the written form requirement itself, whereby this shall not affect the precedence of an individual agreement according to Section 305 b BGB [German Civil Code] for individual agreements of any form. Our silence regarding the Supplier's quotations, requests or other declarations shall only be deemed to be our consent if this was expressly agreed in writing. The order shall be based exclusively on the content of the purchase order.
- 4.2 The Supplier shall be obliged to specify our purchase order number and/or the orderer exactly on all shipping documents and delivery notes. If the Supplier fails to do so, we shall not be responsible for delays in processing and payment. The Supplier must confirm the purchase order in writing or in textual form within 5 working days of its receipt (at its seat), whereby our receipt of the confirmation shall be decisive. After expiry of this period, we shall have the right, unless otherwise agreed, to revoke our

purchase order. Claims by the Supplier based on the valid revocation of an order for this reason shall be excluded.

- 4.3 We ask the Supplier to submit the order confirmation as a single copy. The Supplier's quotations and cost estimates shall be submitted free of charge unless otherwise agreed in writing, and they shall be without binding force for us.
- 4.4 As regards the number of items, weights and measures and supply quantities, unless otherwise agreed, the values determined by the authorities, and in the absence of this, values determined during our incoming goods inspection shall prevail unless other proof is provided. For all shipments, weights must be stated in the shipping documents of the goods.
- 4.5 If our purchase order or the documents on which this is based or data contain obvious errors, typing or calculation errors, we shall not be bound in this respect. On the contrary, in such cases, the Supplier shall be obliged to notify us in writing or textual form of the relevant errors to allow us to correct and replace our purchase order. If documents which are obviously required are not forwarded with the purchase order, this obligation shall apply accordingly.
- 4.6 The Supplier declares that it is willing at our request to allow authorities and employers' liability insurance associations, which are responsible for quality and environmental management, product safety and social security matters, access to the Supplier's production facilities, and to provide us with every reasonable technical, economical or logistical support in this connection if authorities approach us because they are inspecting one of our products or because of supposed statutory violations by such products, on which the Supplier has cooperated by making a delivery or providing sub-contractor services or has thereby enabled production. We likewise undertake vice versa to act accordingly for the benefit of the Supplier.
- 4.7 The Supplier shall expressly indicate in its order confirmation any dangers and environmental hazards connected with the delivered goods and any special handling of the goods required. If the Supplier accepts our purchase order only with deviations, the Supplier must identify these deviations by highlighting them in its order confirmation.
- 4.8 The Supplier shall furthermore indicate to us in writing or textual form any changes to contract terms or ordering information and/or purchase conditions.
The Supplier shall notify us of any amendments/extensions of the scope of the contract, the necessity of which only becomes evident when the contract is performed, immediately in writing or textual form. The amendments/extensions shall only have legal effect when we have given our written consent. This shall not affect the precedence of an individual agreement according to 305 b BGB in verbal, text or written form.
- 4.9 Unless otherwise agreed, the Supplier warrants that, when the purchase order is accepted in the case of assembly, repair or construction services, the Supplier has informed itself about the manner of execution and scope of the service by inspecting the plans available at our company.
- 4.10 In the case of safety-related parts in delivery items, which are specially marked e.g. with an "X" in the technical documents or specified by separate agreement with the Supplier, the Supplier must in addition state in specific records how, when and by whom the delivery items were tested for characteristics which have to be documented and the results provided by the required quality tests. These test documents must be kept for us for 10 years and submitted to us if required free of charge. The remuneration for this is included in the remuneration for the contractual main service of the Supplier. If permitted by law, the Supplier must oblige any sub-suppliers to the same extent.
- 4.11 The Supplier must specify and request documents to be provided by us in due time and in writing or textual form.
- 4.12 If the Supplier has to provide samples of materials, test reports, quality documents or other documents according to the terms of the contract or as accessory obligation, the completeness of the delivery and/or service shall also require that such documents are provided in full.

5. Prices, payment, invoice, assignment, set-off, retention, packaging, waste disposal

- 5.1 Unless otherwise agreed in writing, prices agreed are fixed prices and, unless otherwise agreed, include all costs for packaging, transport to the agreed receiving or shipment centre (delivery DDP - Incoterms 2010) for customs formalities and customs. Unless otherwise agreed, the place of delivery shall be deemed our registered office. Prices shall include the applicable value-added tax unless the price is expressly designated a net price.
- 5.2 Please understand that we can only process invoices if they state the purchase order number and/or orderer given on the purchase order, according to the specifications on our purchase order, and can be verified. If such information is not stated, we shall



not be responsible for any delays in processing and payment.

5.3 Unless otherwise agreed in writing, we shall pay incoming invoices as follows:

- with a 3 % cash discount within 14 days of the invoice date;
- net within 30 days of the invoice date.

Deductions of cash discount shall also be admissible if we avail ourselves of a right of set-off.

5.4 Payments shall not constitute acceptance or waiver of any notice of defects and shall not represent any acknowledgement of performance in accordance with the contract.

5.5 If early delivery is taken, the due date, unless otherwise agreed, shall correspond to the delivery date originally agreed.

5.6 In the event of incomplete or incorrect delivery, we shall have the right to withhold payment in whole or in proportion to the value until proper performance.

5.7 The invoices shall be issued in a single copy and sent by post to the invoice address stated on the purchase order after fulfilment of the contract, separated according to the respective purchase order. All accounting records must be attached in full. Invoices for partial services must be marked "invoice for advance payment", "invoice for partial service", "final invoices".

5.8 If down payments are agreed, they shall only be due when the Supplier has provided us with an absolute guarantee, issued by a German financial institution or savings bank which participates in the Deposit Protection Fund, to secure the advance payment.

5.9 The Supplier shall only have a right of retention and set-off against our claims which have been acknowledged by us or recognised by declaratory judgment.

5.10 The Supplier may only assign claims against us with our prior consent unless these are pecuniary claims.

5.11 The Supplier shall pack the items to be delivered only in environment-friendly packaging material or environment-friendly containers so as to ensure that transport damages are prevented. Packaging of the respective shipment shall be included in the price unless otherwise agreed by us with the Supplier. Where delivery or assembly is performed by the Supplier, the Supplier shall dispose of any waste generated free of charge.

5.12 If, by way of exception, we and the Supplier have reached other agreements, the Supplier must charge for packaging at cost price. In such case, the Supplier must select the packaging specified by us. If this packaging selected by us is not suitable to package the delivery item safely and appropriately, the Supplier must notify us immediately at our option in writing.

5.13 If the packaging used to ship the goods is invoiced separately on the basis of an agreement, we shall be free to make the packaging available to the Supplier again in a serviceable condition, carriage paid, in exchange for a credit of at least 2/3 of the calculated value, unless otherwise agreed by us with the Supplier. The Supplier shall be free to prove that the value of the returned packaging is considerably lower. In this case, the refund shall be adjusted accordingly.

5.14 In the case of para. 13 above, we shall have the right to forward the packaging to the Supplier at its expense.

6. Sub-contracts

The Supplier is on principle entitled to award sub-contracts unless the Supplier has agreed to perform itself. However, we shall have the right to object to the placement of sub-contracts by the Supplier for good cause if the sub-contract placed by the Supplier materially affects our interests. In such case, the Supplier must perform the order itself. Good cause is deemed to exist in particular if the sub-contractor does not, when considered objectively, offer a guarantee for fulfilling the contract as agreed.

7. Delivery, delivery period

7.1 The delivery dates and periods agreed must be complied with. The date of arrival of the goods at our premises or at the agreed place of delivery shall be decisive for compliance with such dates and periods.

7.2 The Supplier shall be obliged to notify us immediately in writing if circumstances arise or become known to the Supplier indicating that agreed dates for the delivery or service cannot be met. This shall also apply if the Supplier is not responsible for delays in delivery. We shall be entitled to compensation from the Supplier for resulting damage if this duty is violated.

7.3 Where the delivery or service is provided earlier than agreed, we reserve the right to return the delivery at the Supplier's expense or to refuse performance of the service. If goods delivered prematurely are not returned, the goods shall be stored at the Supplier's expense and risk until the delivery date.

7.4 We shall only accept partial deliveries or partial services when expressly agreed in writing. If partial deliveries are agreed, the residual quantity to be delivered must be clearly specified.

8. Passing of risk, documents

8.1 Delivery shall be made in principle free domicile and at the risk of the Supplier until the date on which delivery is completed, and, in the case of services provided under con-

tracts for work and services, until the date of acceptance at the contractually agreed receiving office or place of use.

8.2 The Supplier shall be obliged within the context of the business relationship to handle each individual order separately in all business correspondence. The Supplier shall be required to specify at least the full purchase order number, purchase order date and orderer's reference and our transaction number in all correspondence e.g. emails, letters, dispatch notes, delivery and packing notes, invoices, consignment notes, dispatch addresses etc.

8.3 The above-mentioned documents such as invoices, delivery and packing notes must be attached to each consignment as a single copy. In the case of deliveries of goods, these documents must at least include:

8.4 Quantity and unit of quantity, gross, net and, if applicable, calculated weight, purchase order number, article description, residual quantity in the case of partial deliveries and our purchase order number.

8.5 We shall have the right to request the Supplier to submit certificates of origin and inspection with respect to the delivery items in German or English free of charge.

8.6 In the case of contracts for work and services and such sales contracts where acceptance of the delivery item is agreed, the risk shall pass only when we accept the service and/or delivery. Otherwise the risk shall pass when the delivery item is delivered to us resp. to the agreed place of delivery and performance.

9. Default

9.1 In the event of the Supplier's default in delivery, we shall have full recourse to statutory claims. In particular, we shall have the right to request damages after a reasonable period has elapsed without success.

9.2 In the event of default in delivery or in the performance of a service, we shall have the right to request a contractual penalty of 0.5 % of the net remuneration for the delayed delivery resp. service for each full week of default but not more than a total of 5 % of the net remuneration for the delayed delivery resp. service. We reserve the right to further statutory claims, in particular damage claims, but subject to the contractual penalty being set off in full.

9.3 In the event of delay in delivery and/or service that is imminent or has already occurred, the Supplier shall allow us on request to inspect all relevant documents in connection with the contractual relationship and specify all relevant sub-suppliers and suppliers. The Supplier shall not, however, be obliged in this respect to disclose company or business secrets within the meaning of Section 17 of the German Gesetz gegen den unlauteren Wettbewerb (UWG) [Unfair Competition Act], that means such information and/or data which is only known to a limited circle of persons, relate to us/our company, have an economical value and are identifiable.

9.4 If an objective reason exists in the event of the Supplier's delay in delivery or in providing a service, the Supplier shall grant us the rights to contact all sub-suppliers and suppliers in question directly in order to avert any resulting delay in delivery and/or in providing a service resp. to reduce the delay as far as possible.

9.5 If the circumstances in para. 3. and 4. above exist, full responsibility for the order shall remain with the Supplier.

9.6 Acceptance of a late delivery shall not constitute any waiver of damage claims and the contractual penalty.

10. Change management

10.1 The need for changes to the order content cannot always be avoided, also due to change requests from final customers. We shall have the right, therefore, to request changes to the delivery item and/or service, also after the contract is concluded, according to the regulations set forth below, if, when considered objectively, the deviations, taking into account the Supplier's business and its production knowledge and order book, can be reasonably expected of the Supplier technically and/or logistically. The Supplier shall review the change request without delay and notify us immediately in writing of its effect on the contract framework. This notification duty shall include a declaration as to whether the desired changes are at all feasible technically and logistically and expedient and a declaration concerning the effects of the change requests on the contract framework agreed to date, such as the concept, periods, deadlines, acceptance modalities and remuneration, in the form of a quotation. We shall then give the Supplier a decision immediately on the implementation of the changes.

10.2 In the case of a positive decision and agreement on the changes to the contract terms, the change to the purchase order shall become an integral part of the contract.

10.3 Where changes are technically insignificant and economically insignificant for the Supplier, the Supplier cannot request a change to the contract terms.

11. Acceptance

11.1 All services provided by the Supplier, for which acceptance is possible, are subject to acceptance. If the inspection of the Supplier's services requires the start-up of an entire plant, acceptance shall take place only after the successful conclusion of the agreed functional testing. Otherwise the test period shall be 4 weeks after notification of completion unless otherwise agreed. The Supplier shall waive any objection to a delayed notice of defects in this respect.

11.2 If the Supplier has to provide a service that requires our acceptance, the Supplier shall



be obliged to notify us in writing or textual form of its request for acceptance at least 14 days prior to the acceptance date to be agreed.

- 11.3 If defects are established at the acceptance test, partial acceptance of services which are free of defects shall be possible after agreement with us. This partial acceptance shall, however, not be deemed final acceptance within the meaning of Section 640 BGB.
- 11.4 Acceptance shall require a written acceptance report signed by the parties. Fictitious acceptance shall be expressly excluded if we do not use the work result as intended commercially on a permanent basis for purposes other than for test purposes for more than 14 calendar days continuously.

12. Inspection for defects, warranty, liability for defects, limitation of claims due to material defects and defects of title

- 12.1 The Supplier warrants and guarantees within the scope of application of the UN Sales Convention (CISG) that all deliveries/services conform to the current state of the art at the time the contract was concluded, the relevant legal provisions and the regulations and guidelines of authorities, employers' liability insurance associations and trade associations of the Federal Republic of Germany and the European Union, in particular where applicable the Machinery Directive of the European Union, and the country of use notified prior to conclusion of the contract and the agreed specifications. The Supplier also warrants and guarantees within the scope of application of the UN Sales Convention (CISG) that the products delivered and packaging materials are environment-friendly.

The Supplier undertakes to comply with all relevant statutory provisions and guidelines relating to the delivery item and/or the services that are the subject of the contract. If compliance with technical regulations and standards such as CE, CSA or UL specifications has been agreed for the products or their components, the Supplier shall provide proof of this and make it available to us on request.

- 12.2 We shall be entitled to full statutory claims for defects and, within the scope of application of the UN Sales Convention (CISG), the full rights arising therefrom in the event of a defective delivery and/or service.
- 12.3 We shall be entitled in any case at our option to request the Supplier to remedy defects or deliver a new article.
- 12.4 If the delivered products do not correspond to the warranty resp. guarantee assumed by the Supplier, the Supplier shall be liable for all damages resulting therefrom including consequential damages.
- 12.5 In the event of a warranty claim, the Supplier shall be obliged to bear all costs required to remedy defects or to make a substitute delivery. These costs shall also include the costs of disassembly and reassembly. The Supplier shall also bear those costs that are incurred or increased due to the item having been taken to a place other than our branch office.
- 12.6 We shall have the right to examine any deviation of the goods in terms of quality or quantity by taking representative random samples e.g. according to AQL random checks (DIN 2859) if this conforms to the circumstances of the ordinary course of business and the nature and scope of the delivery.
- 12.7 If the Supplier defaults in remedying a defect, we shall have the right to request lump-sum damages for default in remedying the defect of 0.5 % of the net remuneration agreed for the defective delivery and/or service for each complete period of default of 7 calendar days but at most 5 % of the agreed net remuneration for the defective delivery without further proof of damage. The Supplier shall, however, have the opportunity to prove to us that we incurred no damage or materially more minor damage. This shall not affect further statutory and contractual claims and our rights resulting herefrom within the scope of application of the UN Sales Convention (CISG). The above lump sum damages shall be set off in full against any further damage claim.
- 12.8 In the event of defects of title, the Supplier shall indemnify us and our customers from third-party claims in this respect including the costs of legal defence and our administrative costs. If the Supplier has produced its delivery or service according to documents provided by us, such as models or drawings or at our express instruction, and could not have known that this would infringe third-party property rights, the foregoing indemnity obligation shall not apply.
- 12.9 If we take back products finished and/or sold by us as a result of the defectiveness of the contractual item delivered by the Supplier or claims have otherwise been asserted against us as a result, we shall have the right to full recourse against the Supplier, whereby we shall no longer be required to set a period otherwise required to exercise our rights in respect of defects.
- 12.10 Claims for defects against the Supplier for material defects shall become statute-barred in the case of purchase contracts 36 months after the risk passes, in the case of service contracts 36 months after acceptance.
- 12.11 The limitation period for defects of title is 5 years, calculated as of acceptance; in the absence of acceptance as intended as of delivery of the result of performance due according to the contract.
- 12.12 If the Supplier undertakes with our consent to verify whether a defect exists or to remedy a defect, the limitation period shall be interrupted until the Supplier has notified us of the result of the verification in writing or textual form or states that the defect is remedied or refuses to continue to remedy the defect.

13. Force majeure

Regardless of our other rights, force majeure, industrial disputes, operational disruptions for which we are not responsible, unrest and other unavoidable events shall entitle us to rescind the contract in whole or in part provided such events are not of insignificant duration (i.e. persist for longer than 4 weeks) and result in a substantial reduction of our requirements and we notify the Supplier of the obstacle immediately, unless we assumed a guarantee liability.

14. Product liability, indemnity, third-party liability insurance coverage

- 14.1 Unless otherwise agreed, if the Supplier is responsible for product damage, it shall be obliged to indemnify us and our customers against all third-party claims for damages and the refund of expenses provided such damage was caused in its area of control and organisation. Apart from payment of compensation for damage to third parties, the Supplier's duty to compensate shall also include customary costs of legal defence, recall, inspection, assembly and disassembly, and our administrative and other expenses for the settlement of the damage.
- 14.2 Within the scope of its liability for damage in terms of paragraph 1., the Supplier shall also be obliged to reimburse any expenses resulting from or in connection with a recall campaign performed by us. We shall inform the Supplier in advance of the content and scope of the recall measures to be performed, if this is possible and can be reasonably expected, and shall give the Supplier the opportunity to comment. This shall not affect any other statutory or contractual claims.
- 14.3 The Supplier undertakes, as of the date when the first contract is concluded with us for a period of up to 36 months after the last delivery and/or service to us, to maintain a product liability insurance with a lump-sum amount insured of € 2,500,000.00 per event of personal injury/damage to property and EUR 1,000,000.00 for pecuniary loss. This shall not affect any further damage claims to which we are entitled. The Supplier must provide us with proof of the above-mentioned insurance and premium payment on first request. If proof of the insurance and premium payment is not provided to us at our request within 7 calendar days, we shall have the right to rescind contracts not yet fulfilled in whole or in part (with respect to the part not yet fulfilled).

15. Rights of use, inventions

- 15.1 If drawings, individual EDP programs, photographic material, film footage and layouts for print media or other such documents are created from the deliveries or services to be performed by the Supplier on our behalf, we shall receive an exclusive, transferable right of use, unlimited in time, location and content, for all types of use, such right being discharged in full by the agreed price.
- 15.2 If the deliveries or services are protected by the Supplier's copyrights, the Supplier shall grant us the irrevocable, transferable right, unlimited in time, location and content, to use the delivery or service for all types of use at our discretion and without charge, in particular to reproduce, disseminate, display, modify and process the delivery or service.
- 15.3 If copyrighted rights of use, industrial property rights and legal positions similar to property rights and other written, machine-readable and other work results arise for the deliveries or services to be performed by the Supplier on our behalf, we shall be entitled to them exclusively and without restriction as part of performance, and they shall be discharged in full by the agreed price. The Supplier shall be obliged to notify us immediately of any such invention and agree on further action with us.
- 15.4 The Supplier shall be further obliged to use inventions of its employees and, if applicable, sub-suppliers at its expense and indemnify us so that the Supplier can transfer the rights to these inventions to us.
- 15.5 If we register an invention as a property right, we shall assume the costs incurred for registration and maintenance of the property right.
- 15.6 If we decide not to register inventions or are no longer interested in an existing property right, the Supplier may pursue the registration or maintenance of the property right at its own expense. We shall, however, in such case retain a non-exclusive and transferable right of use free of charge.
- 15.7 If, in the context of our using the deliveries or services, use of the Supplier's property rights, which existed for the Supplier before the delivery or service was provided, is necessary, we shall receive a non-exclusive and transferable right to use these property rights, such right being discharged in full by the agreed price.

16. Spare parts and readiness for delivery

- 16.1 The Supplier warrants that it shall supply spare parts for a period corresponding to the usual period of technical usability for the delivery item but for at least 10 years resp. customary in the industry after acceptance of the last delivery unless a different availability of spare parts was agreed with us in writing. During this period, the Supplier undertakes to supply these parts on market conditions.
- 16.2 If the Supplier intends to discontinue the supply of the spare parts for the contractual delivery item after expiry of the above-mentioned period, the Supplier shall give us the opportunity with a lead time of at least 90 days to place a final order. This shall also apply if the supply of spare parts is discontinued prior to expiry of the period, whereby our reordering shall not cause us to forfeit our damage claims.



17. Provision, co-ownership, retention of title

- 17.1 Tools, materials, substances, parts, containers and packaging we provide may only be used for their intended purpose for the order execution of our order placed by the Supplier.
- 17.2 We shall retain title to any tools we provide.
- 17.3 If we provide parts to the Supplier, we shall retain title to them (goods subject to retention of title). The Supplier shall undertake processing or transformation on our behalf. If our goods subject to retention of title are processed with other items that do not belong to us, we shall acquire co-ownership of the new article in the ratio of the gross value of our item (purchase price plus value-added tax) to the other processed items at the time of processing.
- 17.4 If the article we provide is inseparably mixed with other items that do not belong to us, we shall acquire co-ownership of the new article in the ratio of the gross value of the article subject to retention of title (purchase price plus value-added tax) to the other mixed items at the time of mixing. If the items are mixed in such a way that the Supplier's article is deemed to be the principal article, it is agreed that the Supplier shall transfer co-ownership to us on a pro rata basis. The Supplier shall safeguard sole ownership or co-ownership on our behalf.
- 17.5 The Supplier shall be obliged to insure the tools that belong to us at their replacement value at its own expense against damage caused by fire, water and theft. At the same time, the Supplier herewith assigns to us all claims for compensation under this insurance. We herewith accept the assignment.
- 17.6 The Supplier shall also be obliged to carry out any required maintenance and inspection work and all repair and servicing work on our tools in due time at its own expense and to prove to us that this has been carried out. The Supplier must notify us immediately in writing of any failure of the machines and/or tools provided. If the Supplier negligently fails to do so, we shall be entitled to damages in case of a claim.
- 17.7 The Supplier shall also be obliged not to disclose any illustrations, drawings, calculations and other documents and information received from us, on whatever form of media, unless there is a legal or official obligation of disclosure. They may only be disclosed to third parties with our express written consent if they are subject to an obligation of confidentiality. The obligation of confidentiality shall also apply after fulfilment of the contract. It shall lapse if and when the manufacturing know-how included in the illustrations, drawing, calculations and other documents provided is in the public domain without violation of the obligation of confidentiality.
- 17.8 If the security interests to which we are entitled according to paragraphs 1. to 6. exceed the purchase price of all our goods subject to retention of title which are not yet paid for by more than 10 %, we shall be obliged at the Supplier's request to release the security interests at our option.

18. Third-party property rights

- 18.1 The Supplier warrants that third-party rights within the Federal Republic of Germany and the European Union and the country of delivery or use notified to the Supplier by us together with the purchase order are not violated in connection with the Supplier's delivery and/or service. Liability shall be excluded if the Supplier proves that it neither knew nor could have known about the existence of such rights or their occurrence in the future when the delivery item was delivered.
- 18.2 If an action is brought against us by a third party for violation of such rights, the Supplier shall be obliged to indemnify us at first written request against these claims. We shall not be entitled to enter into any agreements, in particular to conclude a settlement with the third party, without the Supplier's consent.
- 18.3 The Supplier's duty to indemnify shall apply to all expenses we necessarily incur from or in connection with any action brought by a third party.
- 18.4 The limitation period for claims by us due to liability arising from the violation of property rights shall commence as soon as the claim arises and the circumstances on which the claim is based have come to our knowledge or should have come to our knowledge without gross negligence. The limitation period is 5 years.

19. Documents and confidentiality

- 19.1 All business, technical or product-related information, especially calculation data, manufacturing specifications, internal production information and data of whatever kind made accessible by us to the Supplier, including other development or manufacturing features to be taken from any objects, documents or data provided and other know-how or experience provided to the Supplier must not be disclosed to third parties unless and until they are proven to be in the public domain or a legal or official obligation of disclosure exists, and may only be made available to those persons in the Supplier's own company who must necessarily be involved in their use for the purpose of the delivery or service to us and who are likewise obliged, in writing to treat them as confidential. We shall retain the exclusive title to such items.
- 19.2 Such information may not be reproduced or used commercially, other than for deliveries to us, without our prior written consent. The above confidentiality agreement shall also survive the termination of the supply relationship until it is legally disclosed but at most for 5 years after the delivery and/or service. The above obligation of confidentiality shall not exist if the Supplier can prove that it has legally developed the information provided itself or already knew about it (in which case the Supplier shall notify us immediately in writing after transmission of the information) before it was disclosed, or it had entered the public domain as a result of our written declaration, or there is an official or statutory obligation of disclosure.

- 19.3 At our request, all information and data originating from us (including, if applicable, any copies or records made) and any objects loaned must be returned to us immediately and in full or destroyed, and their destruction confirmed in writing. If information provided to the Supplier is contained in data, it must be deleted in full any time at our first request, and deletion must be confirmed immediately in writing.
- 19.4 In the case of data transmitted by us, we shall also have the right to have the Supplier make a declaration to cease and desist with a penalty clause to us which shall include a contractual penalty for each case of negligent contravention of the obligation to cease and desist from further use of the data transmitted by us or copies thereof, which we have requested the Supplier to return and/or delete. We can determine the contractual penalty at our reasonable discretion (Section 315 BGB [German Civil Code]). According to the Supplier's request, it can be legally examined and reduced.
- 19.5 We reserve all rights to such information and data (including copyrights and the right to apply for industrial property rights such as patents, utility models, trademark protection, etc.). In the event such information and data were made accessible to us by third parties, this retention of rights shall also apply for the benefit of such third parties.
- 19.6 Licences or warranties shall not be linked to the information and/or data transmitted to the Supplier.
- 19.7 Any products manufactured in accordance with documents drafted by us e.g. drawings, samples or models and similar items or in accordance with our confidential specifications or with our formulas that are not in the public domain or with our tools or any reproduced tools may neither be used by the Supplier itself nor offered or delivered to third parties.

20. Safety provisions, other requirements of deliveries and services

- 20.1 For its deliveries, the Supplier must comply with safety provisions which are valid in the Federal Republic of Germany and the European Union and the country of delivery or use notified prior to conclusion of the contract and with the technical data or limits corresponding to the current state of the art when the risk passes or any other additional technical data or limits agreed.
- 20.2 The Supplier undertakes to use exclusively materials that comply with the respectively applicable statutory safety requirements and provisions within the European Union, in particular for poisonous and hazardous materials. This shall also apply to environmental protection regulations and regulations with regard to electricity and electromagnetic fields. The above obligation shall include all regulations applicable to the Federal Republic of Germany, the Europe Union and the country of use notified prior to conclusion of the contract in relation to the delivery and/or service that is the subject of the contract, and also the regulations of customer countries notified to the Supplier before or together with the purchase order, if such regulations differ from the above regulations. The Supplier shall provide us with proof of compliance with these regulations at our first request and cooperate in providing corresponding proof to the respectively competent authorities.
- 20.3 If the Supplier's products do not comply with the requirements of paragraphs 1. to 2. above, we shall be entitled to rescind the contract. This shall not affect any further damage claims.
- 20.4 We must be notified in writing or textual form of any intended changes to the delivery item and service. Such changes shall require our prior written consent.

21. Quality and documentation

- 21.1 Unless otherwise agreed, the Supplier shall bear the costs for declarations of conformity, certificates of origin, other certification (e.g. ISO 9001, ISO 13485, CE, CSA or UL specifications). Declarations of conformity must be submitted to us immediately in German and English with each delivery.
- 21.2 Notwithstanding the foregoing, the Supplier must comply with and continuously until delivery verify the quality of the delivery item. The Supplier must notify us of any possible improvements immediately. The Supplier must notify us immediately in writing of any evident defects in specifications and foreseeable complications.
- This must be assured and documented by suitable test and measurement procedures. We shall have the right to request disclosure of the results of such verification in writing at any time and without additional costs.
- 21.3 The scope of delivery shall include product-specific and/or technical documentation, certificates of conformity and other documents and certificates, operating instructions, product labels, warning notices and other use information necessary for the ordered item or its use, at our option in German and/or English, and the designation of the parts and product and/or its packaging required by law shall be included in the scope of delivery.
- 21.4 The Supplier shall ensure that the delivery items can be traced exactly through batches and series numbers.

22. Software

- 22.1 If the delivery item contains software produced for us, we shall, without any special remuneration, have the right to use the software throughout our group, reproduce it at our discretion, and provide it together with the delivery item to third parties throughout the world free of charge.
- 22.2 We shall be entitled to decompile the software for maintenance and further development purposes.



- 22.3 Remuneration for software shall be due only after formal acceptance procedure has been completed with our written declaration of acceptance.
- 22.4 When supplying software, supplementary performance with new versions of the program shall only be permitted with our prior written consent. If our consent is given, the Supplier shall be obliged to instruct our employees in the new version of the program at its expense.
- 23. Auditing**
- 23.1 We, and as third-party beneficiary contract within the meaning of Section 328 BGB also our customers, shall have the right but shall not be obliged, also with respect to any own certification, to audit the Supplier ourselves or have an expert and/or advisor of our choice perform the audit. This shall include an inspection of the Supplier's business and quality assurance system and a subsequent assessment. The Supplier shall ensure, within the framework of its legal means, that its sub-suppliers shall grant the same right to audit to ourselves and our customers. Findings acquired here shall form the basis of our awarding further orders and our internal rating of the company.
- 23.2 We shall have the right to make announced inspections of the Supplier's regular business operations and to monitor its quality assurance measures during usual business hours and with prior notification.
- 23.3 We shall have the right, if we prove an appropriate justified interest, to inspect the Supplier's relevant documents. Such justified interest shall exist in particular where such an inspection might yield information which could enable us to assess the necessity and scope of a recall.
- 23.4 The Supplier shall not be obliged to disclose company secrets within the framework of our exercising rights pursuant to paragraphs 1. - 3. above.
- 24. General provisions, severability clause, jurisdiction, choice of law, data storage**
- 24.1 The business connection with ourselves may only be disclosed to third parties for advertising purposes or as reference with our written consent.
- 24.2 If any provision of the contract is or shall become invalid/void or unenforceable in whole or in part for reasons relating to the Law of General Terms and Conditions according to Sections 305 to 310 BGB, statutory provisions shall apply. If any current or future provision of the contract is or shall become invalid/void or unenforceable in whole or in part for reasons other than the provisions relating to the Law of General Terms and Conditions according to Sections 305 to 310 BGB, this shall not affect the validity of the remaining provisions of the contract unless the performance of the contract, also in consideration of the following provisions, would present an unreasonable hardship for either party. This shall also apply if, after the contract is concluded, it is found to have a gap that requires filling. Contrary to the principle of the judicial decisions of the Federal High Court of Justice, according to which a severability clause in principle only reverses the burden of proof, the validity of the remaining provisions of the contract shall be maintained in all circumstances and therefore Section 139 BGB waived as a whole. The parties shall replace any invalid/void/unenforceable provision or gap that requires filling for reasons other than the provisions relating to the Law of General Terms and Conditions according to Sections 305 to 310 BGB by a valid provision that corresponds in its legal and economic content to the invalid/void/unenforceable provision and the purpose of the contract as a whole. Section 139 BGB (partial nullity) is expressly excluded. If the invalidity of any provision is due to a measure of performance or time (time limit or date) stated therein, a measure which most closely corresponds to the original measure in a legally admissible way must be agreed for this provision.
- 24.3 These terms and conditions are governed exclusively by the law of the Federal Republic of Germany. If the requirements of Art. 1, 3 CISG are fulfilled, the provisions of the UN Sales Convention (CISG) shall apply.
- 24.4 The language of contract, proceedings and official language in court is German if legal proceedings are conducted in the Federal Republic of Germany.
- 24.5 Place of performance is the agreed place of delivery/service.
- 24.6 The place of jurisdiction is the location of our company's registered office. We shall, however, also have the right at our option to bring an action against the Supplier at its registered office or the place of performance.
- 24.7 We store data arising from the contractual relationship in accordance with Section 26 of the German Bundesdatenschutzgesetz [Federal Data Protection Act] for the purpose of data processing.

Lüneburg, September 2017

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