

## **General Terms and Conditions of Purchase** **STÖBER Antriebstechnik GmbH + Co. KG**

### **1. Scope**

1.1 These General Terms and Conditions of Purchase (hereinafter referred to as "GTCP") shall apply to all and any business relationships with our business partners and suppliers (hereinafter referred to as the "Supplier"). These GTCP shall apply only with respect to entrepreneurs within the meaning of Section 14 BGB [*German Civil Code*].

1.2 The GTCP shall apply in particular to contracts for the sale and/or delivery of movable property (hereinafter referred to as "Items", "Products" or "Goods"), irrespective of whether the Supplier manufactures the Goods itself or purchases them from sub-suppliers (Sections 433, 650 BGB). Unless otherwise agreed, the GTCP shall apply as a framework agreement also for similar future contracts in the version applicable at the time the order was placed with the Supplier and/or in the text form [*"text form" as defined under § 126b BGB*] last communicated to the Supplier, without any requirement on our part to refer to them in each individual case.

Supplementary to these GTCP the „Guidelines for Contractors“ shall apply and supplement these GTC. The details of the performance of the service are agreed between the supplier and us in the purchase order. These „Guidelines for Contractors“ shall prevail over the GTCP in the event of inconsistencies or deviations from the GTCP (can be viewed under [www.stoeber.de/en/general-terms-and-conditions/](http://www.stoeber.de/en/general-terms-and-conditions/)).

1.3 These GTCP shall apply exclusively. Any deviating, conflicting or supplementary general terms and conditions used by the Supplier shall only become an integral part of the contract if and to the extent that we have expressly agreed to their validity in writing. Our consent shall be required in each and every case, for example even if the Supplier makes reference to its general terms and conditions in its order confirmation and we do not expressly object to this. In particular, acceptance of deliveries or services or payment shall not constitute any consent.

1.4 Individual agreements (e.g. framework supply agreements, quality assurance agreements) and information in our order shall take precedence over these GTCP. In case of doubt, commercial clauses shall be interpreted in accordance with the Incoterms® issued by the International Chamber of Commerce in Paris (ICC), as amended at the time the contract is concluded.

1.5 Legally relevant declarations and notifications from the Supplier relating to the contract (e.g. setting of deadlines, dunning letters, withdrawal from contract) must be given in writing. Written form within the meaning of these GTCP shall include written and text form (e.g. letter, e-mail, fax). Any legal formal requirements and additional supporting evidence, in particular in cases of doubt relating to the lawful entitlement of the declaring party, shall remain unaffected.

1.6 Any reference to the application of statutory provisions shall be for the purpose of clarification only. The statutory provisions shall thus also apply without such clarification, unless they are directly modified or expressly excluded by these GTCP

## **2. Conclusion of Contract**

2.1. Our order shall be deemed binding at the earliest when placed or confirmed in writing.

Any obvious errors (e.g. typing and calculation errors) and incomplete data within the order, including the order documents, must be pointed out to us by the Supplier, so that we can correct and/or supplement the order before acceptance; otherwise, the contract shall be deemed as not concluded.

2.2 The Supplier shall be under the obligation to confirm our order in writing within a time period of 3 working days or to execute the order unconditionally, in particular by sending the Goods.

2.3. A delayed acceptance shall be deemed to be a new offer and shall require our acceptance.

2.4 The order numbers must be stated in full on delivery notes, dispatch notes and invoices.

## **3. Blanket Order / Call-offs**

In the case of blanket or standing orders, we shall specify the quantities to be delivered, delivery dates and types to be delivered in separate call-offs. These call-offs shall be binding on the Supplier. This shall not apply if the Supplier refuses to effect a call-off within three working days of receipt due to the unreasonableness of the quantities or dates of delivery, stating the earliest possible replacement delivery date.

## **4. Delivery Time and Delay in Delivery**

4.1 The delivery time stated by us in the order shall be binding and must be strictly adhered to. The receipt of the Goods at our site or at the receiving point agreed or specified by us shall be decisive for this. The Supplier undertakes to inform us immediately in writing if the Supplier anticipates that it will not be able to meet agreed delivery times – for whatever reason.

4.2 As soon as it becomes apparent to the Supplier that deliveries might be delayed, the Supplier must inform us thereof without delay. The binding effect of the agreed delivery date shall not be affected thereby.

4.3 If the Supplier fails to provide its service or does not provide it within the agreed delivery time or if the Supplier is in default, our rights – in particular relating to withdrawal from the contract and damages – shall be determined in accordance with the provisions laid down by law. The provisions of the following item 4.4 shall remain unaffected thereby.

If delivery is effected prior to the stipulated delivery date, we shall have the right to reject such delivery. Partial deliveries can likewise be rejected by us.

4.4 If the Supplier is in default, we may - in addition to any further claims laid down by law - demand a flat-rate compensation for our damage incurred by the delay amounting to 0.5% of the net price for each commencing calendar week, however in total not exceeding 5% of the net price of the Goods delivered late. We shall have the right to prove that higher damage has occurred. The Supplier shall have the right to prove that we have suffered no damage at all or that the damage was significantly below the flat rate.

## **5. Delivery and Service, Passing of Risk, Default in Acceptance**

5.1. Without our prior written consent, the Supplier shall not be entitled to have the delivery or service owed by the Supplier provided by any third party (e.g. subcontractors). The Supplier shall bear the procurement risk for its deliveries or services, unless otherwise agreed in individual cases (e.g. limitation to stock).

5.2 Delivery shall be effected "DAP" to the place specified in the order. If the place of destination is not indicated and unless otherwise agreed, delivery shall be made to our registered place of business in Pforzheim. The respective place of destination shall also be the place of performance for the delivery, also for supplementary performance, should such apply (German "Bringschuld" [*obligation to be performed by the debtor at the creditor's address*]).

5.3 The delivery shall be accompanied by a delivery note indicating date (date of issuance and shipment), contents of the delivery (item number and quantity) as well as our order identification (date and number). If the delivery note is missing or is incomplete, we shall not be liable for any delays in processing and payment resulting therefrom. The dispatch of each shipment must be communicated by us without delay by way of a dispatch note; such dispatch note shall be sent to us separately from the delivery note with the same content.

5.4 The risk of accidental loss and accidental deterioration of the Item shall pass to us upon delivery at the place of performance. If acceptance has been agreed, such acceptance shall be authoritative for the passing of risk. In other respects, the statutory provisions of the law on contracts for work and services [*German "Werkvertragsrecht"*] shall apply mutatis mutandis if acceptance has been agreed. Default in acceptance by us shall be equivalent to delivery or acceptance.

5.5 The onset of our being in default of acceptance shall be determined on the basis of the statutory provisions. However, the Supplier must also expressly offer us its delivery or service if a specific or determinable calendar time has been agreed for an action or cooperation on our part (e.g. provision of material). If we are in default of acceptance, the Supplier may demand compensation of its additional expenditure in accordance with the statutory provisions (Section 304 BGB). In the case of contracts on the production of non-fungible goods (custom-made items) by the Supplier, the Supplier shall only be entitled to further rights if we undertook to cooperate and are responsible for the lack of cooperation.

## **6. Prices and Terms of Payment**

6.1 The prices stated in the order shall be binding. All prices shall include the statutory sales tax unless such tax is declared separately.

The risk of cost increases of all kinds occurring after conclusion of the contract shall be borne by the Supplier. Price increases shall also be excluded if the delivery is to take place or takes place later than 4 months after conclusion of the contract.

6.2 Unless otherwise agreed in an individual case, the price shall include all services and ancillary services provided by the Supplier (e.g. assembly, installation) as well as all incidental costs (e.g. proper packaging, transportation costs including transport insurance and third-party liability insurance, if applicable).

6.3 Invoices shall be sent to us without delay after dispatch of the Goods, separately for each order and specifying the order number and the tax number. VAT shall be stated separately in the invoice. Any invoices that are not issued in due form shall be deemed as not issued.

6.4 The agreed price shall be due for payment within 60 calendar days calculated from complete delivery and service (including acceptance, if such has been agreed) and receipt of a proper invoice. If we effect payment within 14 days, the Supplier shall grant us a discount of 3% on the net amount of the invoice or, if we effect payment within 30 days, a discount of 2%. In the case of bank transfers, payment shall be deemed made on time if our remittance order is received by our bank before expiration of the payment term; we shall not be responsible for any delays caused by the banks involved in the payment process.

6.5 We shall not owe interest on maturity. The statutory provisions shall apply to default in payment.

6.6 We shall be entitled to set-off and retention rights as well as to the plea of non-performance within the scope laid down by law. We shall in particular be entitled to withhold payments due for as long as we are still entitled to assert claims against the Supplier arising from incomplete or defective performance.

6.7 Claims the Supplier may have against us may only be assigned with our prior consent. In case of pecuniary claims, such shall not apply.

6.8 The Supplier may only offset claims for payment or exercise retention rights with counterclaims that are recognized by non-appealable judgment or are undisputed.

## **7. Obligation to Inspect and Give Notice of Defects**

The statutory provisions shall apply as regards the duties of the entrepreneur to inspect and report defects (Sections 377, 381 HGB [*German Commercial Code*]) with the following proviso:

Our inspection duty shall be limited to defects that become clearly manifest during external examination, including delivery documents, in our incoming goods inspection (e.g. transport damage, incorrect or short delivery) or become apparent in random checks during our quality controls. If acceptance has been agreed there is no obligation to inspect the delivery items. In all other respects it depends on to what extent an inspection in the ordinary course of business is feasible when the circumstances of the particular case are taken into account. Our obligation to report defects if such defects are detected at a later date shall remain unaffected. Without prejudice to our inspection duty, however, our complaint (notification of defect) shall be deemed made without delay and in good time if it is sent within 10 working days starting from the date of detection or – in case of apparent defects – from the date of delivery.

## **8. Material Defects and Defects of Title**

8.1 The provisions laid down by law shall apply to our rights relating to material defects and defects of title of the Goods (including incorrect delivery and short delivery as well as incorrect assembly/installation, inadequate assembly or operating instructions or instructions for use) as well as to other breaches of duty by the Supplier – and, exclusively to our benefit – the following supplements and clarifications shall also apply.

8.2 The Supplier shall be responsible for ensuring that the goods delivered and services provided comply with the provisions laid down by law and public authorities as to their distribution or use and do not infringe any industrial property rights or any other third-party rights.

The deliveries and services must comply with the respective state of the art applicable at the time of delivery or foreseeable for the future, as well as with other statutory provisions, technical test rules and accident prevention regulations. In particular, DIN and ISO standards and VDE *[German Electrical Engineering Association]* regulations as well as the provisions of the internationally recognized standardization bodies (e.g. CE, IEC, EN, UL) must be complied with as expressly required.

8.3 Pursuant to the provisions laid down by law, the Supplier shall be liable in particular for ensuring that the Goods have the agreed quality at the time the risk passes to us. An agreement on the quality shall be deemed such product descriptions that are the subject matter of the respective contract - in particular by way of product designation or by way of reference in our order - or have similarly been included in the contract as the present GTCP. In this respect, it makes no difference whether the product description originates from us, the Supplier or the manufacturer.

8.4 In the case of Goods with digital elements or other digital content, the Supplier shall owe the supply and updating of the digital content insofar as this ensues from a quality agreement as per item 8.3 above or other product descriptions of the manufacturer or on its behalf, in particular on the internet, in advertising or on the product label.

8.5 We shall be under no obligation to inspect the Goods or to make special inquiries about any defects at the time of the conclusion of the contract. By derogation in part from Section 442 [1], sentence 2, BGB, we shall therefore also be entitled to claims for defects without any restriction even if we were unaware of the defect at the time of the conclusion of the contract due to gross negligence.

8.6 Supplementary performance shall also include disassembly of the defective Goods and re-installation, insofar as the Goods have been installed in another item or attached to another item in accordance with their nature and purpose of use before the defect has become apparent; our statutory claim to reimbursement of the respective expenses (costs of disassembly and installation) shall remain unaffected thereby. The expenditure required for inspection and supplementary performance, including but not limited to transport, travel, labor and material costs as well as dismantling and installation costs, if applicable, shall be borne by the Supplier even if it turns out that there was actually no defect. Our liability for damages in the event of an unjustified request to remedy defects shall remain unaffected; in this respect, however, we shall only be liable if we have realized or failed to realize based on gross negligence that there was no defect.

8.7 Without prejudice to the rights laid down by law to which we are entitled and the provisions stipulated in item 7 above, the following shall apply: If the Supplier fails to fulfil its obligation to effect supplementary performance – at our option by either remedying the defect (repair) or by delivering a defect-free item (replacement delivery) – within a reasonable time period set by us, we may remedy the defect ourselves and demand compensation from the Supplier for the expenses required therefore and/or demand a corresponding advance payment. If supplementary performance by the Supplier has failed or cannot be expected of us (e.g. due to special urgency, risk to operational safety or the threat of disproportionate damage), the setting of a deadline shall not be required; we will inform the Supplier of such circumstances immediately, if possible in advance.

8.8 In all other respects, in the event of a material defect or a defect of title we shall be entitled to reduce the purchase price or to withdraw from the contract in accordance with the provisions laid down by law. In addition, we shall be entitled to damages and reimbursement of expenses in accordance with the provisions laid down by law.

## **9. Product Liability**

9.1 If the Supplier is liable for a product defect the Supplier shall hold us harmless from and against any third-party claims if and to the extent that the cause thereof is within its field of control and organization and the Supplier is liable itself vis-à-vis third parties.

In cases of liability based on fault, this shall only apply if the Supplier is at fault. If the cause of the damage is within the area of responsibility of the Supplier, the Supplier shall bear the burden of proof in this respect. In such cases, the Supplier must bear all costs and expenses, including the costs of any legal proceedings, if applicable.

9.2 Within the scope of its indemnity obligation, the Supplier must bear costs and expenses as per Sections 683, 670 BGB arising out of or in connection with claims asserted by any third party, including costs on account of recall actions conducted by us. To the extent possible and reasonable, we will inform the Supplier on the content and scope of recall measures and will give the Supplier the opportunity to comment on the same. Any further claims laid down by law shall remain unaffected.

9.3 The Supplier undertakes to take out and maintain product liability insurance with a flat-rate coverage of at least EUR 10 million per personal injury / material damage.

## **10. Recourse against the Supplier**

10.1 In addition to claims for defects we shall be entitled to assert in full, without any restrictions, claims for reimbursement of expenses and claims in recourse within the supply chain as laid down by law (recourse against the supplier as per Sections 478, 445a, 445b, and/or Sections 445c, 327 [5], 327u BGB). We shall in particular have the right to require the Supplier to provide the exact type of supplementary performance (repair or replacement) owed by us to our customer in each individual case; in the case of Goods with digital elements or other digital content, this shall also apply with regard to the supply of necessary updates. Our statutory right to select the respective cure (Section 439 [1] BGB) shall not be restricted by this.

10.2 Before we acknowledge or comply with a claim for defects asserted by one of our customers (including reimbursement of expenses as per Sections 445a [1], 439 [2], [3] and [6], sentence 2, 475 [4] BGB), we will inform the Supplier and will ask for its written comment after providing a brief account of the facts. As a rule, but without assuming any legal commitment hereby, we will give the Supplier the opportunity to provide its comments. If the Supplier fails to submit a substantiated statement within a reasonable period of time and if an amicable solution is not reached, the claim for defect in effect granted by us shall be deemed as owed to our customer. In such case, it shall be incumbent upon the Supplier to provide evidence to the contrary. In addition, our claims to recourse shall also apply if the defective Goods have been processed either by us or by any third party, in particular by way of incorporation into another product.

10.3 Our claims from recourse against the Supplier shall also apply if the defective Goods have been combined with another product or have been processed in any other way by us, our customer or any third party, e.g. by way of incorporation, attachment or installation.

## **11. Intellectual Property Rights**



11.1. In accordance with this item 11.1, the Supplier shall ensure that the Goods delivered by the Supplier do not infringe any intellectual property rights of any third party (property rights, name rights, patent rights, trademark rights, copyrights, design rights, etc.) in the country of destination specified by us, in countries of the European Union or other countries in which the Supplier manufactures the Products or has them manufactured.

11.2 The Supplier undertakes, upon our first written request, to hold us harmless from all and any claims asserted against us by any third party on account of an infringement of industrial property rights and to indemnify us against and reimburse all necessary expenses in connection with such claim. Such shall not apply if the Supplier proves that it is neither responsible for the infringement of property rights nor should have been aware of it at the time of delivery by using the care and diligence of a prudent businessman.

11.3 If risks of infringement become apparent or cases of infringement become known, the contracting parties shall inform each other thereof. Within the scope of what is reasonable, they will counteract infringement claims by mutual agreement after prior consultation.

11.4 Our additional statutory claims on account of defects of title of the Goods delivered to us shall remain unaffected.

## **12. Replacement Parts**

12.1 The Supplier undertakes to have replacement parts for the Products delivered to us available for a time period of at least 5 years from delivery.

12.2 If the Supplier intends to discontinue the production of replacement parts for the Products delivered to us upon or after expiry of the time period specified under item 12.1 above, the Supplier will inform us of its decision to discontinue production without delay. The decision must be made at least 12 months before production is discontinued.

## **13. Retention of Title, Provision of Material, Tools**

13.1 We reserve title to illustrations, plans, drawings, standard specification sheets, calculations, print templates, implementation instructions, product descriptions, gauges and other records.



13.2 If we provide the Supplier with parts, substances, raw materials and materials (e.g. software, finished and semi-finished products) as well as tools, molds, samples, models, profiles, test equipment or systems, templates, prototypes and other objects, we reserve title hereto.

The Supplier undertakes to use the tools only for the manufacture of the Goods ordered by us. The Supplier furthermore undertakes to adequately insure the tools owned by us at its own expense against fire and water damage and theft and, upon request, to prove to us that such insurance has been taken out or is maintained. At the same time, as early as with the present, the Supplier shall assign to us all and any claims for compensation arising out of this insurance; we hereby accept the assignment.

The Supplier undertakes to carry out the necessary maintenance and inspection work as well as all maintenance and repair work relating to our tools at its own expense and in a timely manner. Any incidents or malfunctions must be reported to us immediately; if the Supplier culpably fails to do so, claims for damages shall remain unaffected. We shall be entitled to enter the Supplier's premises at any time within ordinary business hours in order to inspect the tools and tool records.

13.3 Items within the meaning of item 13.2 above shall become our property if the Supplier manufactures them or has them manufactured specifically for the execution of our order and if the production costs are borne by us or are amortized by the prices paid by us. If we bear part of the production costs or in the event of partial amortization, we shall acquire co-ownership of the tools in proportion to the value of the tools and the production costs assumed or amortized.

13.4 After completion of the order, Items within the meaning of item 13.2 above as well as records in accordance with item 13.1 above must be returned to us by the Supplier without further request.

13.5 Records in accordance with item 13.1 above and Items provided in accordance with item 13.2 above must be stored separately by the Supplier and marked as our property. The Supplier shall be deemed as being in possession of them as borrower.

13.6 Any processing, mixing or combination (further processing) of Items provided by the Supplier shall be undertaken on behalf of us. The same shall apply if the Goods delivered are further processed by us, so that we shall be deemed to be the manufacturer and will acquire ownership of the Product at the latest with further processing in accordance with the provisions laid down by law.

13.7 The transfer of ownership of the Goods to us must take place unconditionally and without regard to the payment of the price. However, if, in an individual case, we accept an offer of the Supplier for transfer of ownership dependent on payment of the purchase price, the Supplier's retention of title shall expire at the latest with payment of the purchase price for the delivered Goods. In the ordinary course of business, we shall also remain authorized to sell the Goods before payment of the purchase price under advance assignment of the resulting claim (as an alternative simple retention of title [German: "einfacher Eigentumsvorbehalt"], and retention of title extended to resale shall apply). Thus, all other forms of retention of title shall be excluded, in particular extended [German: "verlängerter Eigentumsvorbehalt"] and forwarded retention of title [German: "weitergeleiteter Eigentumsvorbehalt"] and retention of title extended to further processing.

13.8 The Supplier shall bind its subcontractors in accordance with this Section 13.

#### **14. Limitation of Liability**

14.1 We shall be liable for intent and gross negligence.

14.2 We shall only be liable for slight negligence in the event of injury to life, limb or health or in case of a breach of essential contractual obligations arising from the nature of the contract or the breach of which endangers the fulfilment of the contractual purpose. In this case, damages shall be limited to the foreseeable damage.

14.3 If and to the extent that our liability is excluded or limited, this shall also apply to the personal liability of our staff members, employees, workers, representatives and vicarious agents.

14.4 The above limitations of liability shall not apply to claims under the German Product Liability Act.

#### **15. Indemnification**

The Supplier undertakes to hold us harmless and indemnify us (as well as any company affiliated with us) from and against all and any liability towards any third party or any liability claims of third parties arising from the manufacture, delivery or storage of the Products (product liability). The Supplier undertakes to reimburse us for payments made to settle justified claims. The indemnification and reimbursement obligation shall not apply if the underlying event is demonstrably based on a misconduct due to gross negligence or intent on our part or on the part of one of our employees, representatives, vicarious agents or affiliated companies. The Supplier undertakes to inform us immediately of any lawsuits brought against it or the assertion of claims and to provide us with all relevant documents at our request

#### **16. Force Majeure**

Serious events, including but not limited to Force Majeure, epidemics, pandemics, diseases or quarantine, labor disputes, riots, armed or terrorist conflicts, which entail unforeseeable consequences for the performance of the delivery or service shall release us from our performance obligations for the duration of the disruption and to the extent of the effect thereof, even if we are in default. An automatic termination of the contract shall not be associated herewith. We undertake to notify the Supplier of such an

impediment and the parties shall be under the obligation to adapt their obligations to the changed circumstances in good faith.

## **17. Production Rights in Exceptional Situations**

17.1 In the event of foreseeable or existent long-lasting delays in delivery, the Supplier shall, with our prior consent, be under the obligation to find an alternative supplier accepted by us at its own expense.

17.2 Insofar as it can be foreseen that the Supplier will be unable to meet the deadlines in the long term, or should we make use of our right to terminate the contract for good cause, the Supplier shall be under the obligation - at our request and after a reasonable deadline has been set - to return to us immediately and without charge all tools/equipment required for production owned by us, including, by derived right, also tools/equipment owned by third parties, and to provide us with the specific know-how, including a license to any property rights, should such exist, so that we can manufacture the delivery items ourselves or have them manufactured by a third party for the duration of the Supplier's inability to deliver to contract. Relocation costs shall be borne by the Supplier insofar as the Supplier is responsible for the delay. Claims asserted by the Supplier on account of relocation shall be excluded. Any additional claims for damages by us shall remain unaffected.

17.3 After prior consultation with us and with our written consent, the Supplier shall be permitted to meet its delivery obligations from a site other than the usual production site.

## **18. Statute of Limitation**

18.1 Unless otherwise stipulated in the following, the mutual claims of the contracting parties shall become statute-barred in accordance with the provisions laid down by law.

18.2 In derogation from Section 438 [1], number 3, BGB, the general limitation period for claims for material defects shall be 2 years from the passing of risk. If acceptance has been agreed, the limitation period shall commence with acceptance. The 2-year limitation period shall also apply mutatis mutandis to claims arising from defects of title, whereby the statutory limitation period for claims for return in rem of a third party (Section 438 [1], number 1, BGB) shall remain unaffected; furthermore, claims arising from defects of title shall not become statute-barred under any circumstances for as long as the third party can still assert the right against us – in particular as it has not yet become statute-barred.

18.3 The limitation periods stipulated in the sales law, including the above extension, shall apply – within the scope laid down by law – to all contractual claims for defects. If we are also entitled to non-contractual claims for damages due to a defect, the statutory standard limitation period (Sections 195, 199 BGB) shall apply unless the application of the limitation periods stipulated in the sales law results in a longer limitation period in individual cases.

## **19. Compliance with Statutory Provisions**

19.1. In connection with each delivery item, the Supplier must ensure compliance with all statutory provisions, ordinances and other regulations, in particular all safety and environmental regulations. In particular, all deliveries must comply with the provisions of the European directives.

19.2. The Supplier undertakes to comply in every respect with the requirements and obligations in connection with substance bans in accordance with statutory provisions and ordinances for each individual delivery item. This shall apply in particular to requirements and obligations of the REACH Regulation EC No. 1907/2006, the RoHS Directive 2011/65 EU, as amended, including the respective amendments and supplements, and their implementation into national law by the EU member states. At our request, the Supplier will provide us with written product-specific declarations of conformity, which shall also apply to our suppliers and which we can pass on to our suppliers.

19.3 The Supplier must indemnify us and hold us harmless from and against all and any damage and expenses (including costs of any legal action) and all claims asserted by any third party based on or in connection with a breach by the Supplier, for which the Supplier is responsible, of the RoHS Directive, REACH Regulation or other applicable environmental regulations, or must compensate us for damages.

## **20. Export Control, Customs**

20.1 The Supplier shall be responsible for ensuring that the Goods delivered by the Supplier are not subject to any export restrictions. Should such export restrictions apply or come into consideration, the Supplier must expressly advise us thereof in text form before delivery.

20.2 On request, the Supplier shall provide us with certificates of origin, supplier's declarations, statistical commodity codes and/or references as well as additional documents/data which may be necessary to comply with export requirements.

20.3 Imported items must be delivered duty paid. The Supplier undertakes to allow inspections by customs authorities, to submit all required declarations and information and to obtain all necessary official approvals at its expense.

20.4 In case of deliveries and services effected out of an EU country other than Germany the EU VAT identification number must be stated.

## **21. Confidentiality**

21.1 The contracting parties undertake to keep confidential the terms and conditions of the order execution as well as any other information made available to them for this purpose, including but not limited to information of a technical and commercial nature, intentions, experience, findings, designs and records, which become known to them as a result of the collaboration under this contract (collectively referred to as "Confidential Information"), with the exception of information which is in the public domain, for a time period of 3 years after conclusion of the contract and not to make such information accessible to any third party, to protect it from third-party access and not to make it the subject-matter of their own property-right application. Affiliated companies of the contracting party within the meaning of Sections 15 et seq. of the German Stock Corporation Act (AktG) shall not be deemed to be third parties.

21.2 Furthermore, the contracting parties undertake to keep confidential all and any business, operational or technical matters of the respective other contracting parties that have become known or will become known to them in connection with the delivery or service, even beyond the term of the contract.

21.3 The foregoing obligations shall not apply to such Confidential Information that was already known prior to its disclosure under this agreement, was independently developed or otherwise lawfully obtained by the other contracting party, or that is generally known or becomes part of the public domain without breach of these provisions.

21.4 The contracting parties shall ensure in an appropriate manner that the employees, freelancers and subcontractors engaged by them in the execution of the contract also maintain the above confidentiality.

21.5 After termination of this contract, the Confidential Information contained in records etc., including all and any copies thereof, that are in the possession or under the control of one of the contracting parties, must be returned by the latter to the other contracting party upon request in full and without delay, unless such is barred by agreed or statutory retention obligations. Excluded herefrom shall also be Confidential Information contained in records etc., including all and any copies thereof, and other Confidential Information the destruction or return of which is technically not possible (e.g. because such Confidential

Information has been saved in a backup file by an automated electronic backup system); this shall also include the technically necessary retention of master data (e.g. personnel or customer numbers) required to establish a link to the archived information.

21.6 In other respects, the provisions for the protection of trade secrets (implemented in Germany by the Trade Secrets Act and in the other EU member states by implementing Directive 2016/943) as well as the agreements made in non-disclosure agreements shall apply to the handling of trade secrets.

## **22. Place of Performance, Place of Jurisdiction, Applicable Law**

22.1 Place of performance for all and any obligations arising out of the contract, in particular for delivery and payment, shall for both parties be the principal place of business of our company or the place of performance specified by us.

22.2 Exclusive place of jurisdiction - also internationally - for all and any disputes arising out of the contractual relationship, either directly or indirectly, including its creation and effectiveness, shall for both parties be our principal place of business in Pforzheim provided that the Supplier is a merchant within the meaning of the German Commercial Code with seat in the European Union, Iceland, Norway or Switzerland when the proceedings are initiated. The same shall apply if the Supplier is an entrepreneur within the meaning of Section 14 BGB. In all cases, however, we shall also be entitled to take legal action at the place of performance of the delivery obligation in accordance with these GTCP or in the event of an individual agreement taking precedence, or at the general place of jurisdiction of the Supplier. Any statutory provisions taking priority, in particular with regard to exclusive jurisdiction, shall remain unaffected thereby.

22.3 If the above item 22.2 is not applicable, all and any legal disputes arising out of the contractual relationship, including its creation and effectiveness, shall be settled by final and binding decision in accordance with the Rules of Arbitration of the German Arbitration Institute (Deutsche Institution für Schiedsgerichtsbarkeit e.V. (DIS)), excluding the jurisdiction of the courts. Place of arbitration shall be Karlsruhe; Germany. The language of the arbitration proceedings shall be German.

22.4. The contractual relationship shall be governed by German law exclusively, excluding the provisions of international private law and the UN Convention on Contracts for the International Sale of Goods (CISG).

Effective as of August 2023