

GENERAL TERMS AND CONDITIONS OF PURCHASE

of
Bogner GmbH & Co. KG
Felix-Wankel-Str. 2
75210 Keltern

As of January 2018

1. Scope of Applicability

- 1.1. Our **General Terms and Conditions of Purchase** shall apply exclusively. As far as these do not contain any provisions, statutory regulations shall apply. We reject any of Supplier's terms or conditions that are contrary to or deviating from our **General Terms and Conditions of Purchase** or that are deviating from applicable statutory regulations to our detriment, unless acceptance is expressly confirmed by us in writing. These **General Terms and Conditions of Purchase** shall also apply if we accept without reservation delivery of Supplier's goods or performance despite being aware of any supplier's terms to the contrary to or deviating from these **General Terms and Conditions of Purchase**.
- 1.2. These **General Terms and Conditions of Purchase** shall only apply with respect to entrepreneurs, legal entities under public law and public utility funds as defined by section 310 subsection 1 of the German Civil Code (§ 310 Abs.1 BGB).
- 1.3. These **General Terms and Conditions of Purchase** shall also apply to any future business transactions with the Supplier.

2. Conclusion and Subject Matter of Contract, Matter of Contract

- 2.1. If Supplier does not accept our order within one week after its receipt, we shall be entitled to withdraw this order without incurring any costs or liability.
- 2.2. Apart from these **General Terms and Conditions of Purchase**, all order information accepted by Supplier, i.e. all product specifications contained or referred to in our orders as well as any product specifications contained in any documents attached to such orders, including without limitation tender specifications as well as any technical documentation such as drawings, construction regulations and regulations as to material, shall become integral part of the contract concluded with us.
- 2.3. Product specifications agreed upon have to be strictly complied with; any deviations therefrom require our prior written consent.
- 2.4. Supplier shall be obliged to examine correctness and completeness of any of our order information (product specifications) agreed upon as well as any manufacturing means or documents supplied by us in the light of their use by Supplier for his **Delivery** or **Performance**. Any objections shall be notified to us immediately in writing.
- 2.5. Any assignment or transfer of the contract (partly or in total) to, or the manufacture of **Contract Objects** (partly or in total) by a sub-contracted third party supplier or contractor shall only be admissible with our prior written consent. Any violation of this provision entitles us to rescind the contract – without prejudice to any further statutory rights we may have thereupon.
- 2.6. Any obligation for compensation of damage within the terms of section 122 of the German Civil Code (§122 BGB) requires faulty acting on our part.

3. Rights to our Contractual Documents and Manufacturing Material, Insurance, Confidentiality

- 3.1. With regard to any manufacturing documents, manufacturing data and manufacturing material of any kind that we transmit or make available to Supplier in connection with our orders and/or contracts, such as
 - pictures, calculations, drawings, drafts and manufacturing requirements etc.,
 - models, patterns and prototypes,
 - material or parts supplied by us,

- tools,
- software,
- hereinafter also referred to as Customer Material -

we reserve any and all rights, especially property rights, that are attributable to us.

- 3.2. Any processing or transformation of Customer Material shall always be deemed to be on our behalf only. If reserved property is processed with goods which are the property of any person other than us, the product thereof shall be deemed to be owned by us jointly with that other person, our share in the joint property being defined by the ratio of the value of the reserved property (purchase price plus VAT) to the value of the other goods which have been processed or transformed, such value being assessed at the time of their processing or transformation.
- If the reserved property is inseparably mixed or combined with other goods which are the property of any person other than us, the product thereof shall be deemed to be owned by us jointly with that other person, our share in the joint property being defined by the ratio of the value of the reserved property (purchase price plus VAT) to the value of the other goods which have been mixed or combined, such value being assessed at the time of their mixing or combining. If the mixing or combining has been done in such a way that Supplier's product is to be considered to be the main product, it is agreed that Supplier assigns to us co-ownership of such product on a pro rata basis.
- Before use, Customer Material shall be stored properly, adequately, apart from property of other persons and duly labeled as our property.
- 3.3. In particular, it shall herewith be agreed between Supplier and us that Supplier shall take our exclusive property or co-owned property in adequate storage and maintenance at his own expense.
- 3.4. We reserve all rights and title, in particular any copyrights, copyright exploitation rights or other industrial or intellectual property rights, to the reserved property within the terms of no. 3.1. above, unless such rights are licensed or transferred to Supplier for the purpose of the fulfilment of the contract concluded with us.
- Supplier warrants that we shall have any rights of use or exploitation to the products co-owned by us in accordance with no. 3.3. above required for the achievement of the purpose of the contract entered into.
- 3.5. Supplier shall at his own expense insure Customer Material at its purchase value against theft, robbery, burglary and damage by water and by reason of fire. Supplier herewith assigns to us with immediate effect all rights resulting from such insurance. We herewith accept such assignment.
- 3.6. Supplier shall perform any and all maintenance, inspection or repair measures that may be necessary with regard to our tools timely and at his own expense. He shall give notice to us of any malfunctioning immediately. If he fails to do so by his own fault, he shall be liable for any damage incurred by us.
- 3.7. Customer Material owned by us according to no. 3.1. above, shall not - except for any contractual purposes or other purposes agreed upon - be used, copied, transferred, sold or pledged to third parties nor shall it be made available to third parties. Supplier especially shall be forbidden to produce products for third parties by using Customer Material.
- 3.8. Customer Material owned by us according to no. 3.1. above, shall be kept confidential. It shall be disclosed to third parties only after our prior written consent. The provisions of no. 15 below (Confidentiality, Prohibition of Exploitation) shall apply accordingly.
- 3.9. If it becomes certain that a contract will not be concluded with us or if the contract has completely been fulfilled, Supplier shall immediately upon our request
- return to us any and all copies, pieces etc. of Customer Material in good condition or
 - destroy or otherwise alter the Customer Material so that it is of no use anymore for the manufacture of products.
- Destruction or alteration shall be proved to us upon our request. The same shall apply to any products or any half-finished parts thereof which were manufactured on the

basis of Customer Material or by using Customer Material manufactured for us and on our behalf only, and which is still left at the end of the contract. It shall in no event be made available to third parties, even if it is defective and we refused to take it back.

Supplier shall not be entitled to plead a right of retention towards the claim of our rights under this no. 3.10.

4. Prices, Conditions of Payment, Invoices, Documentation, Certificates of Origin

4.1. All prices the Parties agreed upon are fixed prices .

Supplier's reservation to increase prices requires our explicit prior written consent.

Unless otherwise agreed upon, prices or remunerations are quoted

- for **Deliveries**: "free place of destination" including packaging, customs and unloading at cost and risk of Supplier (DDP, Incoterms 2010, however subject to the agreement that unloading shall be made at cost and risk of Supplier)
- for **Deliveries** with additional contractual obligations such as installation, assembling etc.: including their fulfillment (especially but without limitation including all necessary ancillary costs like e.g. travel costs, costs for making tools available, release costs),
- for **Performances**: with the work being completed, ready for acceptance in accordance with the contractual specifications.

4.2. Invoices shall be sent to us in duplicate, one paper original and one paper copy both identified as such, and must not be included in the respective **Delivery**.

We can handle invoices in a timely manner only if they include the information stipulated in no. 4.2. above and if – as far as indicated in the respective order – show the the order number and project ID number. We shall not be liable for any delays in handling the affected contract, in particular delays in payment, which may occur due to the failure to observe this obligation.

Invoices shall comply with all turnover tax requirements.

Subject to terms of transportation and delivery, certificates of origin or a relevant declaration of origin of the Supplier, certificates on traffic of goods, express vouchers and customs clearance documents shall be submitted to us for any products manufactured outside the Federal Republic of Germany, together with the respective invoice at the latest.

4.3. Unless otherwise agreed upon in writing, we pay invoices within a period of 14 days with a 3 % cash discount, or within a period of 30 days, net upon receipt of invoice and **Delivery** in case of **Deliveries**, net upon receipt of invoice and acceptance in case of **Performance**.

If we receive invoices during our company holidays and if, as a consequence, observance of a cash discount date of payment is not possible, we shall remain entitled to the cash discount if payment is effected immediately after the end of our company holidays.

4.4. We shall have the right to refuse performance, the right to set off payments and the right of retention without limitation as statutorily provided for.

5. Delivery, Performance, Date of Delivery

5.1. Any **Deliveries** and **Performances** shall be made free place of destination as indicated by us.

5.2. Dates and terms of **Delivery** or **Performance**, of acceptance and of putting into operation etc., that are agreed upon, shall be binding.

5.3. **Deliveries** must arrive at the place of destination at the agreed date of delivery, **Performances** must be ready for acceptance or putting into operation at the place of destination at the agreed date of acceptance or putting into operation. Ancillary obligations shall be fulfilled at the agreed date of performance.

5.4. If circumstances occur which might impede a timely fulfillment of the contract in the quality agreed upon or if Supplier becomes aware of any such circumstances, he shall give immediate notice thereof to us in writing stating the reasons for such

circumstances. Any damages incurred due to delayed notice, incomplete notice or failure to give notice at all shall be compensated for by Supplier.

5.5. As for the legal conditions and legal consequences of Delay in Delivery, the statutory provisions shall apply.

6. Transportation, Passing of Risks, Bill of Delivery, Packaging

6.1. If, as an exception, we expressly agreed to bear transportation costs, we shall be entitled to choose category of transport and carrier; Supplier shall enquire about this information in time. Deliveries ready for dispatch shall be pre-announced to the carrier chosen by us via facsimile. Declaration of the goods in the Way Bill shall be made to the effect, that –while observing transportation safety - the less expensive charge applies. If no such declaration is made, Supplier shall chose the less expensive category of transport. We shall reimburse higher costs only if they are incurred due to our own instructions for packaging and transport.

We are entitled to specify packing and labelling requirements.

6.2. In case of **Deliveries**, the risk of accidental loss, destruction or deterioration shall pass when **Delivery** to the place of destination is effected; in case of **Deliveries** with additional contractual obligations such as installation, assembling, commissioning the risk shall pass upon their complete fulfillment; in case of **Performance** upon acceptance.

Supplier shall be obligated to insure **Deliveries** or **Performances** against damage in transit at his own cost if

- they include Customer Material or
- if down payments were effected by us or the risk (*Preisgefahr*) has passed to us due to explicit agreement.

Supplier hereby assigns to us with immediate effect any claims for damages resulting from this insurance to the extent of the purchase price for the Customer Material or to the extent of down payments or other payments effected for the **Deliveries** or **Performances**. We hereby accept this assignment.

6.3. All transportation and delivery documents shall show the following information, as is contained in our orders: recipient, order number, order position number, number of piece, and lot number. Partial or residual shipments shall be explicitly marked as such. In order to identify the contents of a shipment without opening the unit, the bill of delivery shall be inserted underneath either the label or the packaging paper bearing the marking: "Bill of delivery inside".

Supplier shall be responsible for all consequences of failure to observe the above instructions, unless Supplier proves that he is not accountable for such failure.

6.4. Without specific agreement to that respect, we shall not be obligated to store packaging material or return it to Supplier.

7. Taking Delivery, Acceptance

7.1. If we are not able to take **Delivery** or declare acceptance of **Performance** (hereinafter referred to as Acceptance) or to perform our duties to examine **Delivery** or **Performance** and give notice of any defects due to circumstances of Force Majeure or any other impediments that occur after conclusion of the contract or which we learn of without fault attributable to us only after conclusion of the contract, and that could demonstrably not have been foreseen by us or avoided even with the utmost diligence, we shall be released from such obligations for the term and to the extension of the effect of such circumstances and impediments.

The above-mentioned circumstances or impediments- i.e. occurrence or faultless learning of such circumstances only after conclusion of the contract, unforeseen and unavoidable occurrence as proven by us- shall include without limitation the following: Legitimate labour struggle (strikes and lock-outs), stoppages or breakdowns, lack of material or personnel.

We shall report to Supplier immediately about the nature and the causes of such impediments.

- 7.2. We shall be entitled to refuse taking **Delivery** or Acceptance offered before the date of delivery or acceptance agreed upon. **Deliveries** or **Performances** made ahead of time may be returned to Supplier or stored at third parties at Supplier's cost and risk.
- 7.3. If there are any **Performances** by Supplier under a contract for work and services (Werkvertrag) and a date for Acceptance was not yet bindingly agreed upon, Supplier shall give us the date of Acceptance at least 14 days in advance of the Acceptance inspection. Upon our request, Supplier shall prepare an inspection protocol including any necessary material certificates, according to which the Acceptance inspection shall be carried out and which shall include any defects detectable during inspection. After signature by both parties this protocol shall serve as Acceptance certificate.
With respect to software, Supplier shall, upon our request, grant a reasonable period of time before Acceptance of the software for the testing of its requirements and functions agreed upon (test period).
- 7.4. If our requests for packaging and transport are not observed by Supplier, we shall be entitled to refuse taking delivery, without incurring delay in taking delivery.

8. Requirements for Products, Defect Detection, Warranty, Prescription

- 8.1. All **Contract Objects** shall be compliant with the quality requirements agreed upon and shall conform with all acknowledged technical standards, as well as with all statutory provisions for their manufacturing, distribution and use applicable at the time of Delivery or **Performance**, including public authority regulations and guidelines of public administration, industry organisations or of professional associations for industrial safety and insurance (Berufsgenossenschaften). Supplier shall inspect the **Contract Objects** before shipment and, upon our request, shall issue an inspection certificate. Moreover, Supplier shall at our request submit to us declarations of conformity for each product batch/series delivered according to the applicable European directives together with the respective shipment. The declarations of conformity confirm the execution of the relevant audits and the observance of requirements or safety criteria with regard to the products as contractually agreed upon. Furthermore, all safety equipment necessary for the observance of the applicable accident prevention requirements shall be delivered together with the actual shipment without our explicit request to do so.
- 8.2. Supplier shall deliver **Contract Objects** and documents and certificates agreed upon, that Supplier has checked for the compliance with the requirements set out in no. 8.1. above in the frame of Supplier's pre-delivery inspection.
If Supplier detects any deviations during pre-delivery inspection, Delivery may only be made if Supplier has previously notified our quality assurance department in writing and has obtained from us a written special delivery release insofar.
In the frame of the written information, Supplier shall also transmit the amount of **Contract Objects** already produced, our order number, description of deviation and extension of deviation. **Contract Objects** affected shall be clearly labelled as such until further notice from us. It is our mutual interest to proceed any requests for special delivery releases and to give notice to our Supplier in writing without undue delay. Any special delivery release will always be limited to a specific number of **Contract Objects**, or to the maximum of the deviating amount already produced.
- 8.3. If Supplier realizes an increase of deviations between actual quality and contractually owed quality of the **Contract Objects** (problems with quality, failure of quality), Supplier shall notify us and inform us on planned remedial measures immediately. If we send back to Supplier defective Contract Objects, Supplier shall be obligated to inspect it and inform us upon our request on reasons for the defect and on corrective actions planned.
- 8.4. Supplier will ensure by labelling of the **Contract Objects** (series number and/or revision number) and by other adequate measures that Supplier is able to immediately realize a deviation and to identify the total number of the **Contract Objects** actually or potentially affected. Through the labelling system and other measures, Supplier shall

notify us in a way that we are able to make an own assessment of the situation as far as necessary.

- 8.5. Supplier shall notify us in writing in time, but in no event later than six months before implementation, of any change envisaged
- of the manufacturing or production process,
 - of the equipment (esp. production equipment) and of the quality assurance system, if and as far as such change may have an impact on the quality contractually agreed upon.

In case of any such change, **Contract Objects** may only be delivered upon our explicit written consent.

- 8.6. Unless otherwise provided for in any individual agreement, a special quality assurance agreement or in these Conditions of Purchase, our rights and claims in connection with defects of **Deliveries** or **Performances** and with malperformance in case of contracts of service shall be subject to the statutory provisions.
- 8.7. Unless otherwise agreed upon with us in special quality assurance agreements, we are entitled to give notice of any apparent defects within 5 working days upon receipt of the respective product and of any hidden defects within 5 working days upon their detection. In case of **Deliveries** with additional contractual obligations such as installation, assembly and commissioning, the period for a claim for defects starts to run upon performance of the aforementioned obligations by Supplier.
- 8.8. Any warranty rights and claims for substantive defects shall be prescribed within the statutory terms of prescription. However, the prescription period shall be at least **36** months. The period of prescription of warranty rights and claims for **Contract Objects** delivered or repaired in the frame of supplementary performance (*Nacherfüllung*) shall start with the end of that supplementary performance. Period of prescription for warranty rights and claims based on legal defects shall be 10 years. Prescription of claims for recourse shall be according to statutory provisions.
- 8.9. In case of defective **Deliveries** we may, at our sole option, require supplementary performance (*Nacherfüllung*) either in the form of defect-free **Delivery** or of remedy of defects; in case of defective **Performances**, we may require supplementary performance (*Nacherfüllung*) either in the form of manufacture of a new work or of remedy of defects. The return of defective **Deliveries** or **Performances** shall be carried out at the Supplier's risk and expense. If supplementary performance (*Nacherfüllung*) is not effected within a reasonable period of time which is stipulated by us we shall be entitled to the statutory claims (including without limitation price reduction (*Minderung*), rescission of the contract (*Rücktritt*), claims for damages, including without limitation claims for damages in lieu of performance, if the respective statutory conditions are met) without restriction of any kind.
- 8.10. In case of Deliveries, we shall be entitled to notify apparent defects within 5 working days, starting with receipt of the Delivery, and to notify hidden defects within 5 working days after their becoming apparent. In case of Deliveries with additional obligations like installation or mounting the delay for notifications starts upon fulfillment of such obligations by the Supplier.
- 8.11. In case of imminent danger or urgency we shall be entitled to effect supplementary performance (*Nacherfüllung*) of a **Delivery** ourselves at Supplier's cost (*Selbstvornahme*). Furthermore, we expressly reserve the right to effect supplementary performance (*Nacherfüllung*) ourselves according to sec. 637 German Civil Code (§ 637 BGB) for work performances (*Selbstvornahme*).
- 8.12. If **Deliveries** or **Performances** are partially defective, we shall be entitled to assert our warranty rights and claims at our choice with regard to the entire **Delivery** or **Performance** or only with regard to its defective part.
- 8.13. Supplier shall inform us about all considerable defects or potential or actual risks of defects resulting from his **Deliveries** or **Performances**, that occurred at his other customers or their customers.

9. Product Liability, Product Recall Liability, Product Insurance

- 9.1. If we are held liable under statutory product liability in accordance with national or foreign law, Supplier shall hold us free and harmless on first demand from any and all claims for damages, costs and expenses, as far as such claims are justified due to reasons within the Supplier's sphere of responsibility and as far as Supplier is himself liable in relation to the claimant.
- 9.2. In case of liability in accordance with 9.1. above, Supplier shall also be obligated to compensate for any and all costs incurred by us in accordance with sections 683, 670 of the German Civil Code (§§ 683, 670 BGB) as well as sections 830, 840 and 426 of the German Civil Code (§§ 830, 840 and 426 BGB) which may result out of or in connection with any product recall measures performed by us. We shall inform Supplier about the contents and extent of such product recall measures as far as this is possible and may be reasonably expected from us and we shall give him the opportunity to comment on them. Further statutory rights and claims remain unaffected.
- 9.3. During the term hereof, i.e. until the end of the warranty period applicable, Supplier shall maintain an adequate comprehensive general liability and product liability insurance with a respective coverage sum of 1 million Euro per each case of damage of person or things; further rights and claims we may have remain unaffected.

10. Third Parties' Rights

- 10.1. Supplier shall guarantee that in connection with the **Contract Objects** no third party's rights are being infringed within the Federal Republic of Germany; this shall not apply to infringements caused by Customer Material or caused by product specifications prescribed by us. This guarantee (with said exemption) shall also apply with regard to any of our export countries known to Supplier at the time of conclusion of the contract. Supplier in particular shall ensure by way of corresponding agreements with his employees, agents or representatives, as may be necessary, that the purpose of our contract, in particular the agreed scope of use of any software licenses, will not be impeded by potential co-copyrights or other intellectual property rights. Upon our request Supplier shall prove to us the conclusion of such agreements with all persons taking part in the engineering of software programmes.
- 10.2. If we are held liable by a third party for infringement of rights, Supplier shall be obligated to hold us free and harmless from such liability on first written demand; however, we shall not be entitled to enter into any kind of agreement with such third party, in particular any settlement of claims, without Supplier's consent.
- 10.3. The above obligation to hold free and harmless from liability shall cover any and all costs and expenses, that we may necessarily incur out of or in connection with any third parties' claims. As the case may be, Supplier shall provide judicial support to us or shall, upon our request, enter into any judicial proceedings at his own expense.
- 10.4. We reserve the right to claim damages from Supplier.
- 10.5. The term of prescription for any claims under no. 10.1. to 10.4. above shall be ten years commencing with the conclusion of the respective contract.

11. Guarantee of Procurement

- 11.1. Supplier shall be liable in any event and without limitation– even without fault attributable to him – for the procurement of the sub-supplies necessary for his **Deliveries** or **Performances** procured by him as if they were his own deliveries or performances (full risk of procurement).
- 11.2. Supplier shall be liable in any event – even without fault attributable to him – for any ancillary **Deliveries** or **Performances** procured by him as if they were his own deliveries or performances. This shall apply especially with regard to any defects.

12. Our Liability

- 12.1. If according to statutory provisions we may be liable because of intent or negligence, the following shall apply without prejudice to no. 12.4 below:
 - In case of negligence our liability shall be limited to the foreseeable damage specific to the type of contract.
 - In case of ordinary negligence we shall only be liable if we breached a fundamental contractual obligation.

- 12.2. The limitation and exclusion of liability according to no. 12.1. above shall apply to any claims for damages regardless on what legal grounds; it shall apply in particular to claims for damages due to faulty acting/omission on or before completion of contract, to claims due to breach of other obligations as well as to claims of tort for compensation of damage to property within the meaning of section 823 of the German Civil Code (§ 823 BGB).
- 12.3. As far as our liability is excluded or limited according to no. 12.1. and 12.2. above, such limitation or exclusion shall also apply to the personal liability of our employees, agents or representatives.
- 12.4. Our liability for faulty damage to life, body or health of a person shall remain unaffected, as well as our mandatory liability under the Product Liability Code (Produkthaftungsgesetz).

13. Right to Set Off, Right of Retention, Assignment

- 13.1. Supplier shall be entitled to set off his claims against ours only if his claims are connected with our business relationship and are undisputed, legally established or expressly acknowledged by us.

The same shall apply to his pleading of any rights of retention.

- 13.2. Any assignment of claims requires our written consent.

14. Ownership of Products, Ownership of Documents and Material Produced or Procured upon our Request and at our Expense

- 14.1. **Contract Objects**, manufacture documents or manufacture material of any kind shall become our property at the time of us effecting payment at the latest. No. 3.2 above and no. 3.3 above shall apply accordingly.
- 14.2. Any documentation, data and means of production of any kind, that Supplier makes, manufactures or procures upon our request and at our cost shall become our property upon payment at the latest.
- 14.3. Any expanded or prolonged reservation of ownership by Supplier shall explicitly be excluded.

15. Copyrights, Rights to Use Copyrights, IP Rights and rights to us IP Rights

- 15.1. The following provisions refer to the manufacture of material and Products made on the basis of our manufacturing documentation, our prototypes, samples and models; they also refer to the manufacturing documentation (designs, drawings, construction), manufacture material and Products, including software, that the Supplier **developes and manufactures for us and at our cost.**
- 15.2. Any IP-Rights, copyrights and rights to use IP-Rights and copyrights with regard to the items identified in number 15.1 above shall remain ours at all times. With regard to said items we shall be exclusively entitled, to the largest possible extent, to use them, whether changed or unchanged, in whatever form, whether inhouse or by transfer to third parties and Supplier's rights to use shall be excluded. Our rights shall include the exclusive right to use any inventions or developments made for us and on our costs without additional remuneration.
- 15.3. With regard to software, we especially, but without limitation, reserve the exclusive and unlimited right to use any programs and documentation in any way possible, including the right to run programs in our own or third party premises in whatever form, to duplicate and publish such programs, display or transfer such programs in whatever form. This shall also include our right to work on programs and documentation at our own discretion without the need of prior consent of Supplier, or in other way modify such programs or documentation and use the created result in the same way as the unchanged programs and documentation. We are free to grant non-exclusive and exclusive licenses to third parties without consent of the Supplier and to transfer the rights so granted in total or in partial to third parties. Suppliers shall ensure, that potential rights in accordance with § 12.14 phrase 2 and 25 of the German copyright law shall not be claimed.

After acceptance we may request from Supplier at any time, that he hands out to us any originals or copies of programs including source codes, documentation and other information created during the creation of the program and that the Supplier grants a written guaranty with regard to the fulfillment of this obligation. As far as any copies are saved on electronic data devices of Supplier our right to claim transfer shall be substituted by the right to claim deletion of the data. We may also request this with the limitation that the Supplier shall remain entitled to keep the data on a secure place, but only for purposes of documentation and for the purpose of fulfillment of his warrantee obligations. In any event, the Supplier shall be not be entitled to transfer any program or documentation wholly or in part, whether in unchanged or in any changed form. In addition, he shall be obligated to keep confidential any information in connection with our way of use of the programs.

- 15.4. Products and manufacture material within the meaning of number 15 1 shall be kept confidential upon our request. The previsions No. 3.8 and 16 (confident challenge obligation) hereof shall apply accordingly.
- 15.5. The Supplier remains free to use any of its knowhow acquired during the fulfillment of the agreements with us or any knowledge pre-existing a prior to the fulfillment of the agreements with us. In case of a reasonable interest on our side, we may be entitled to reques from Supplier to keep confidential any knowhow and findings, that he may gain during the fulfillment of the agreements with us with regard to the products and manufactural materials within the meaning of number 15.1 above and he must in addition not transfer same to third parties in any event. The provisions of no. 16 (obligation of confidentiality) hereof shall apply accordly.
- 15.6. If, during the course of the development, any inventions should be made, the Supplier shall be obligated to perform any of his rights and claims for transfer of the invention, that he may have under the existing laws on inventions by employees.

16. Confidentiality, Prohibition of Exploitation

- 16.1. Supplier agrees to keep confidential for an unlimited period of time, and – except for the purposes of the contract - not to document nor to transfer to third parties or use in any other way, any and all information and documents, that he gains access to in connection with the contracts concluded with us, and that are expressly marked as confidential or otherwise can be identified as our business secret.
- 16.2. This obligation shall not apply to information, that the public had access to at the time of the conclusion of the contract, or that became accessible to public without Supplier's fault, as well as to information, that already was in Supplier's possession at the time of conclusion of the contract.
- 16.3. Supplier shall inform all his employees, agents or representatives who have access to the information and documents to be kept confidential about the obligations under this contract and shall bind them by way of adequate contractual agreements to confidentiality for an unlimited period of time; he further shall thereby ensure, that for an unlimited period of time they refrain from using, transferring or copying such information or documents without authorization to do so.

17. Place of Performance

Place of performance for deliveries shall be the place of destination stated by us, which shall be our place of business unless otherwise determined; place of performance for payments shall also be our place of business.

18. Textform

If these present Conditions of Purchase provide for the written form, the textform of § 126 b. BGB (German Civil Code) shall be decisive, i.e. the declaration may be made via mail or fax; also email will be sufficient.

19. Place of Jurisdiction, Applicable Law, Miscellaneous

- 19.1. **If Supplier is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a public utility fund, place of jurisdiction for all disputes arising out of or in connection with the contractual relationship -**

herein included liabilities from cheques and bills of exchange - shall either be our principal place of business or, at our sole option, the location of Supplier. This agreement as to the place of jurisdiction shall also apply for Suppliers having their residence in a foreign country.

- 19.2. To all rights and obligations and all disputes arising out of or in connection with the contractual relationship between Supplier and us, German law, excluding the United Nations Sales Convention (CIS Convention on contracts for the international sale of goods of April 11, 1980) shall apply exclusively.
- 19.3. Should individual provisions of these **General Terms and Conditions of Purchase** or individual provisions of other agreements concluded between the parties be or become invalid, this shall not affect the validity of the other provisions or agreements.