

**GENERAL TERMS AND CONDITIONS OF  
PURCHASE**  
of the  
**DAS Environmental Expert GmbH**  
as of 02/2013

**1**  
**Scope of application**

1. Our general terms and conditions of purchase apply exclusively; we shall not accept the supplier's conflicting or deviating terms and conditions unless we have expressly agreed to them in writing. Our general terms and conditions of purchase also apply exclusively should we accept a delivery from a supplier without reservation even though we are aware that the supplier's own terms and conditions contradict or deviate from our own terms and conditions of purchase.
2. With the first delivery or service based on these terms and conditions of purchase, the supplier shall also regard the conditions as agreed for all other deliveries as valid at that time. Upon first request, we shall provide the supplier with our currently valid version of our general terms and conditions of purchase free of charge.
3. Where any framework agreements or individual contracts are concluded between the parties, these shall take precedence. Unless more specific stipulations are concluded in them, they will be supplemented by the present terms and conditions of purchase.
4. All agreements concluded between us and the supplier for the purpose of performing the contract must be stipulated in writing in the contract.
5. Our general terms and conditions of purchase apply exclusively to companies in accordance with Section 14 of the German Civil Code (BGB), i.e. to natural persons or legal entities or partnerships of legal capacity which, at the time the contract is concluded, are acting in the exercise of their commercial or independent professional activity.

**2**  
**Transmitted data, diagrams, formulas,  
formulations, drawings, calculations**

1. We reserve ownership and copyright of our diagrams, formulas, manufacturer or user instructions, drawings, calculations and other documents; they may not be made accessible to third parties without our express written consent. They are also to be used exclusively for processing our order, and after the order has been processed, they must be returned to us unsolicited including all copies. They must be kept confidential from any third parties, provided that no official or statutory disclosure obligation exists. Should these diagrams, formulas, formulations, drawings, calculations and other documents be embodied in data items, they must be completely deleted upon our first demand at any time, and the deletion must be immediately confirmed in writing.
2. In the event of data transfer in accordance with Clause 1, we shall also be entitled to make a reasonable declaration of discontinuance, subject to penalty, for the continued use of the data by the supplier. In this case, we may specify the amount of the penalty at reasonable discretion (Section 315 BGB).

**3**  
**Offers submitted by the supplier**

1. Offers must be submitted in writing by the supplier.

2. Offers submitted by the supplier must describe the delivery item and/or the service to be provided in full and include a complete list with a price structure of any additional products and/or services required for the safe and efficient use of the delivery item/contractual service.
3. Unless otherwise agreed in writing, any goods or components of goods and/or services or service elements which are not listed in the supplier's offer, but which are essential for ensuring safe and efficient operation or appropriate use of the goods and/or service, shall be considered a component of the goods and/or services and shall be owed by the supplier together with the goods or services without additional payment.
4. In its offer, the supplier must expressly point out in writing or text format any dangers or environmental hazards related to the supplied goods, and the need for any special handling of the goods.

**4**  
**Declaration of  
acceptance, conclusion  
of the contact,  
processing of orders,  
acceptance**

1. To ensure that the contract is executed in an orderly fashion, only written (fax is sufficient) and signed orders duly made out by us using our order form shall be considered valid. Alternatively, the declaration of acceptance may also be submitted in text form (email) with our sender identification.

Changes and additions to the order must be made in writing. This also applies to the waiver of the written form agreement itself, whereby the preference of individual agreements in accordance with Section 305 b BGB for individual agreements of any form shall remain unaffected. Our silence with regard to offers, requests or other declarations of the supplier shall only imply approval insofar as this has been expressly agreed in writing. The order shall be exclusively based on the contents of the order.

2. The supplier shall be obliged to quote our exact order number and/or the purchaser's reference on all dispatch documents and delivery notes. Should the supplier fail to do this, we cannot be held responsible for any processing delays.

The supplier must confirm the order in writing within five working days after receipt of the order, whereby our receipt of the confirmation shall be decisive. After expiry of this period, we shall be entitled, in the absence of another agreement, to cancel our order. Claims by the supplier based on a valid cancellation made for the above reason shall be excluded.

3. We request that a single copy of the order confirmation be issued. The supplier's offers shall be submitted free of charge and shall not be binding for us.
4. The supplier must quote our exact order number and/or the purchaser's reference on all dispatch documents and delivery notes. Should the supplier fail to do this, we cannot be held responsible for any delays in processing or payment.
5. In the absence of a deviating agreement and unless proven otherwise, officially obtained values, or failing that, values obtained by our incoming goods inspection, shall be decisive for quantities, weights, measurements and delivery quantities. For all shipments and particularly shipments on trucks, the weights must be specified on the accompanying documents.
6. Should any obvious mistakes, typographical or calculation errors be found on our order or any documents or data forming the basis of the order, these shall not be binding for us. On the contrary, in such cases, the supplier shall be obliged to inform us in writing or text form about the respective errors, so that we are in a position to correct or renew our order. Should any documents which are discerned necessary not have been sent with the order, this same obligation shall apply.

7. The supplier shall be willing, upon our request, to grant authorities and professional associations responsible for product safety access to its production process and to provide us with any reasonable support in this context should the authorities be contacted to carry out checks because of one of our products or because of alleged violations of such products in or for which the supplier's delivery or the subcontractor's services played a part or enabled the production. We shall also undertake to do the same with regards to the supplier in the reverse scenario.
8. In its offer, the supplier must expressly point out in its order confirmation any dangers or environmental hazards related to the supplied goods, and the need for any special handling of the goods. Should the supplier only accept our order with deviations, it must indicate these deviations by highlighting them on its order confirmation.
9. The supplier shall also inform us in writing or text form of any changes in the contractual conditions or order information and/or order conditions.  
  
The supplier must immediately inform us in writing or text form of any changes/extensions to the scope of the contract, the necessity of which would only become noticeable during contract performance. The changes/extensions shall only become legally valid for us with our written consent. The legal preference of individual agreements in accordance with Section 305 b BGB in oral form, text form or written form shall remain unaffected.
10. As regards safety-related parts in the delivery items which may be specifically marked in the technical documentation with an "X", for example, or defined by a special agreement with the supplier, the supplier shall also be required to make special recordings of how, when and by whom the delivery items have been tested with regard to the characteristics to be documented, and which results were achieved by the quality tests required. This test documentation must be archived for us for 10 years free of charge, and made available to us if needed. To the extent legally possible, the supplier shall impose similar obligations on its upstream suppliers.
11. *Prior* to sending the goods, the supplier must inform us in writing or text form (email) of the value, weight and date of shipment.
12. The supplier must duly specify in writing any documents to be provided by us and request that we forward them.
13. Where the supplier makes samples, test reports, quality documents or other documentation available as provided in the contract or as an ancillary contractual obligation, the completeness of the delivery and/or service also requires complete handover of these documents.
14. Should waste be generated by the supplier during fulfilment of the contract, the supplier shall remove and dispose of this waste – unless otherwise agreed – at its own expense in accordance with the relevant provisions of waste regulations. Ownership, risk and waste management responsibility shall pass to the supplier at the time the waste accrues.
15. We shall be entitled, for good cause, to demand the withdrawal of staff employed by the supplier. A good cause would be, for example, the existence of objectively justified doubt concerning the necessary experience and/or qualifications of this staff to bring about the contractually stipulated service result, and/or failure to observe the occupational safety/environmental protection requirements.

16. In this case, the supplier undertakes to immediately find qualified replacement staff. All costs related to a change in staff shall be borne by the supplier. The agreed lead times shall remain unaffected by this.
17. Entry to our factory premises must be announced in a timely manner. The instructions of our technical staff concerning adherence to the company's safety regulations must be followed.

## 5

### **Prices, payment, invoices, assignment, set-off, retention, packaging, waste disposal**

1. In the absence of any different written agreement, the agreed prices shall be fixed prices and shall include – unless otherwise agreed in writing – all costs for packaging and transport to the agreed place of receipt or shipment (Delivery DDP – Incoterms 2010), for customs formalities and customs duties. In the absence of a different agreement, the place of delivery shall be our headquarters. The applicable value-added tax shall be included in the price insofar as a net price has not been expressly indicated.
2. Please understand that we can only process invoices if – according to the guidelines in our order – the order number is shown and/or the purchaser's reference is specified and verifiable. In the absence of these details, we cannot be held responsible for any delays in processing or payment.
3. Unless otherwise agreed, we shall settle incoming invoices
  - with a 3% discount within 14 days from the date of receipt of the delivery or acceptance of the service and receipt of invoice,
  - net within 30 days from the date of receipt of the delivery or acceptance of the service and receipt of invoice.

Discount deductions are also granted should we exercise our right to offset.
4. Payments shall not be regarded as an acceptance or waiver of any notice of defects and do not represent any acknowledgement whatsoever of proper fulfilment of the contract.
5. Where early deliveries are accepted, unless otherwise agreed, the due date shall be based on the originally agreed delivery date.
6. In the event of incomplete or faulty delivery, we shall be entitled to withhold payment in full or in part until proper delivery has been fulfilled.
7. After contractual fulfilment, the invoices, which are to be made out in duplicate, must be sent separately for the respective order to the invoice address indicated in the order. All invoicing documents must be attached in full. Invoices for partial services must be endorsed with the comment "Invoice for partial services", and final invoices with the comment "Invoice for remaining services".
8. Should advance payments be agreed, they shall only be due if the supplier has provided us with a directly enforceable guarantee securing the payment from a German credit institute or savings account which is affiliated with the deposit guarantee fund.
9. The supplier shall only be entitled to the right of retention or set-off against our claims if we have acknowledged its claims or they have been established by declaratory judgement.

10. The supplier's assignment of claims against us requires our consent provided these are not monetary claims.
11. The supplier shall exclusively use environmentally compatible packaging materials or pack the goods in an environmentally-friendly manner to avoid transportation damage. The packaging of the respective consignment is included in the price unless we have agreed otherwise in writing with the supplier. The supplier must dispose of any waste incurred during delivery or installation, free of charge.
12. Should, by way of exception, any other agreements be concluded between the supplier and ourselves, the supplier must calculate the packaging at cost price. In this case, the supplier must choose from the packaging we have stipulated. Should the packaging that we stipulate not be suitable for the safe and appropriate packaging of the delivery item, the supplier must inform us of this in writing immediately following our selection.
13. Should, based on an agreement, the packaging materials used to ship the goods be invoiced separately, we shall be free to return this material to the supplier in a condition suitable for reuse free of freight charges in return for a credit note equal to at least 2/3 of the value invoiced, unless we have agreed something different with the supplier. The supplier shall be free to prove that the returned packaging is of a significantly lower value. In this case, the reimbursement must be adapted accordingly.
14. In the case of Clause 14 above, we shall be entitled to send the packaging to the supplier at the supplier's expense.

## 6

### Subcontracts

In principle, the supplier shall have the right to subcontract the delivery of goods or services provided that it does not agree to any highly personal services. However, we shall be entitled to object to the supplier subcontracting the delivery of goods or services for good cause, should our interests be severely compromised by the sub-contracted delivery or services. In this case, the supplier must execute the order itself. A good cause would be, for example, if, when considered objectively, the subcontractor does not offer a guarantee for proper fulfilment of the contract, or if it has violated our company safety regulations in the past, insofar as the services are to be carried out on our premises.

## 7

### Delivery, delivery period

1. The agreed delivery dates and periods must be observed. Compliance with these dates and periods shall be determined by receipt of the goods at our premises or at the agreed place of delivery.
2. In the absence of a different agreement, we shall be entitled to request that the supplier delays the delivery and/or service by up to four weeks, free of charge. The supplier shall not be entitled to claims arising from the delay in delivery. The goods to be delivered shall be stored during the aforementioned period at the supplier's risk. We shall also be entitled to request a further delay in delivery of up to six months during which time, the goods shall also be stored at the supplier's risk. In this case, we shall be obliged to reimburse the supplier for the proven, reasonable and usual storage and goods insurance costs and to make such payment four weeks at the latest after the payment date arising from the original delivery date.
3. The supplier shall be obliged to inform us immediately in writing of any circumstances arising or of which it becomes aware which would result in it not being able to meet the agreed date of delivery or service.

This shall also apply should the supplier not be responsible for the delays in delivery. Should this obligation be violated, we shall be entitled to compensation from the supplier for the resulting damage.

4. If a delivery or service is made earlier than on the agreed delivery date, we reserve the right to return the goods at the supplier's expense or to refuse to accept the performance of the service, or to refuse the delivery. Should no return be undertaken upon early delivery, the goods shall be stored until the scheduled delivery date at the supplier's expense and risk.
5. We shall only accept partial deliveries or services if expressly agreed in writing. With regard to partial deliveries, the remaining amounts must be clearly stated.

## 8

### Transfer or risk, documents

1. Delivery shall generally be made franco domicile and the supplier shall bear the risk of transportation until the goods are handed over in full or the contractual services are accepted at the contractually agreed place of receipt or use.
2. The supplier is obliged, within the framework of the business relationship, to handle each individual order separately in all the correspondence exchanged. It shall be responsible for specifying at least the full order number, order date, the purchaser's reference and our procedure number on all written documents such as emails, letters, dispatch notes, delivery notes, packing slips, invoices, consignment notes, dispatch notes, etc.
3. The documents referred to such as invoices, delivery notes and packing slips must be attached to each shipment in duplicate. Upon delivery of the goods, these documents must include at least the following content:  
*Quantity and unit of quantity, gross, net and, if possible, the estimated weight, order number, item description, remaining quantity for partial deliveries and our item number.*
4. For freight deliveries, an advice note must be sent to us separately on the day of dispatch. Should the supplier fail to do this, we cannot be held responsible for any delays in processing or any related payment delays.
5. We shall be entitled to request that the supplier present certificates of inspection for the delivery items free of charge, in German or English.
6. For service contracts and purchase agreements for which acceptance of the delivery item is agreed, the transfer of risk shall not come into effect until we have accepted the service and/or delivery. Apart from that, the transfer of risk shall come into effect upon delivery of the delivery item at our premises or at the agreed place of delivery.

## 9

### Default

1. In the event of default in delivery we shall be entitled to legal claims without exception. In particular, we shall be entitled, upon expiry of a reasonable period, to demand compensation instead of demanding the service and/or to state that we withdraw from the contract. Should we demand compensation, the supplier shall have the right to prove that it is not responsible for the breach of obligation.

2. In the event of default in delivery or service, we shall be entitled to charge a contractual penalty of 0.5% of the net remuneration of the delayed delivery or service per completed week of delay, but not more than 5% of the net delivery value of the delayed delivery or service; we reserve the right to additional legal claims, particularly claims for damages, however under complete crediting of the contractual penalty.
3. In the event of an impending default in delivery and/or service or a default in delivery and/or service that has already occurred, upon request, the supplier shall grant us access to all the relevant documents related to the contractual relationship and make all subcontractors and suppliers concerning this matter known to us. However, the supplier shall not be obliged to disclose any business or trade secrets within the meaning of Section 17 of the German Act against Unfair Competition (UWG).
4. Should, in the event of a default in delivery or service by the supplier, we consider it necessary, the supplier shall grant us the right to directly enter into contact with all subcontractors and contractors in question, in order to prevent a resulting default in delivery or service or to reduce this as far as possible.
5. Overall responsibility for the order shall remain, with respect to the facts, with the supplier in accordance with Clauses 2 and 3 above.
6. By accepting delivery of the delayed consignment, we do not renounce our right to claim for damages or enforcement of the contractual penalty.

#### **10 Change management**

1. The necessity to change the content of the order cannot always be avoided due to requests for changes by the end customer. Therefore, we are entitled, also after conclusion of the contract, to request changes to the goods and/or services in accordance with the rules set out below, as long as the differences are technically and logistically reasonable for the supplier, taking its business purpose and production knowledge into account and considering the order situation objectively. The supplier must check the request for changes without delay and immediately notify us of the effect of it on the agreement framework. This obligation to notify includes a declaration as to whether the desired changes are technically and/or logistically at all possible and relevant, and a declaration about the effects of the desired changes on the contractual structure agreed up to that point, such as, for example, the concept, deadlines, dates, acceptance modalities and remuneration in the form of an offer. We shall then be in a position to make an immediate decision about implementing the changes with regards to the supplier.
2. In the case of a positive decision and agreement on the changes to the contractual conditions, the change to the order shall become an integral part of the contract.
3. In the event of technical changes which are economically irrelevant for the supplier, the supplier may not request a change to the contractual conditions.

#### **11 Acceptance**

1. All of the supplier's services, for which acceptance is possible, are subject to acceptance. Should verification of the supplier's services require the commissioning of a complete system, acceptance shall only take place after successful completion of the agreed functional test. Otherwise, the inspection period shall amount to four weeks following notice of completion, unless otherwise agreed. The supplier waives its right to object to late notification of defects.

2. Should the supplier be required to provide a service which requires acceptance by us, the supplier shall be obliged to show us its requests for acceptance at least 14 days before the acceptance date to be agreed in writing or text form.
3. Should defects be found during the acceptance test, partial acceptance of defect-free services is possible after consultation with us. However, this partial acceptance shall not be considered to be the final acceptance within the meaning of Section 640 BGB.
4. Acceptances require a written acceptance protocol to be signed by the parties. Fictitious acceptances shall be expressly excluded insofar as we do not use the result of the work as intended for permanent commercial use outside of test purposes.

#### **12 Defect inspection, guarantee, liability for defects, limitation for claims due to material or legal defects**

1. The supplier guarantees that all deliveries/services correspond to the current state of technology at the time of conclusion of the contract and meet the relevant legal provisions, regulations and guidelines of authorities, professional associations and trade associations in the Federal Republic of Germany and the European Union, and in particular, where applicable, the European Union Directive on machinery and the country of intended use stated prior to the conclusion of the contract and the agreed specifications. The supplier also guarantees the environmental compatibility of the delivered products and packaging materials.
2. Unless otherwise agreed, we undertake to check the goods within a reasonable period for any quantity and quality deviations; our complaint in the case of a recognisable defect shall be deemed timely if it is received by the supplier within a period of five working days from the complete delivery of goods, or in the case of hidden defects, from the time of their discovery. In this respect, the supplier waives its right to object to late notification of defects.
3. Should the products supplied not be in conformity with the guarantee provided, the supplier shall be liable for any damage resulting from this, including consequential damage.
4. Should the supplier default in remedying a defect, we shall be entitled to demand lump-sum compensation for damages caused by the delay in remedial action amounting to 0.5% of the agreed net remuneration for the defective delivery and/or service for each commenced period of seven calendar days of the delay, but not more than 5% of the agreed net remuneration, for the defective delivery without demanding any further proof of loss. However, the supplier shall be at liberty to prove to us that the damages incurred by us do not exist or are significantly lower. Other statutory and contractual claims on our part shall remain unaffected by this. The aforementioned lump-sum compensation shall be fully taken into account for any further claims for damages.
5. In the case of defects of title, the supplier shall indemnify us from any claims by third parties including the usual costs for legal defence and our administration expenses. Insofar as the supplier has based its delivery or service on documents provided by us, such as models or drawings or on our express instructions, and could not know that property rights were being violated thereby, the aforementioned release obligation shall not apply.

6. Should we take back products produced and/or sold by us as a consequence of the deficiency of the contractual item delivered by the supplier or should a claim be made on us in any other way for this reason, we reserve the right to exercise recourse against the supplier, whereby no other deadline needs to be set to exercise our warranty rights.
7. Warranty claims against the supplier due to material defects shall become statute-barred after 34 months from acceptance, but, at the latest, after 36 months from the transfer of risk.
8. The limitation period for legal defects shall be 5 years from the date of acceptance, and in the absence of an acceptance, from the date of delivery of the contractually owed service result.
9. Should, with our agreement, the supplier undergo a test to establish the existence of a defect, or to eliminate the defect, the limitation period shall be suspended until the supplier has notified us of the results of the test in writing or text form, or informs us that the defect has been eliminated, or refuses to continue to eliminate the defect.

**13  
Force majeure**

Force majeure, industrial disputes, operational interruptions, riots, and other unavoidable events shall entitle us – notwithstanding our other rights – to withdraw partly or completely from the contract insofar as these events are of considerable duration (i.e. do not last less than four weeks) and result in a substantial reduction of our requirements and we notify the supplier of the hindrance without delay.

**14  
Product liability, release,  
liability insurance**

1. Should the supplier be responsible for product damage, unless otherwise agreed, it shall be obliged to exempt us from all third-party claims for damages and claims for reimbursement of expenses, where the cause lies within its range of control and organisation. In addition to damages to third parties, the supplier's duty to indemnify shall also include the usual costs of legal defence, recall costs, costs for testing and inspection, fitting and removal costs and our administrative costs and other expenses incurred for processing the damage.
2. As part of its liability for cases of damage within the meaning of Clause 1 above, the supplier shall also be obliged to reimburse any reasonable expenses in accordance with Sections 683, 670 BGB as well as Sections 830, 840 and Section 426 BGB resulting from or in connection with any recall action that we carry out. With respect to the content and extent of the implemented recall measures, we shall inform the supplier, as far as is practicable and reasonable, in advance and give it the opportunity to comment. Other statutory or contractual claims shall remain unaffected.
3. The supplier undertakes from the point of time at which the first contract with us is concluded, for a period of up to 36 months after the last delivery and/or service, to maintain product liability insurance with a flat rate sum insured of at least 2,500,000 EUR per personal injury claim/property claim and 1,000,000 EUR for financial losses; should we be entitled to further claims for damages, these shall remain unaffected. At our request, the supplier must furnish proof of the aforementioned insurance and the premium payment for this. Should we not be provided with proof of the insurance and premium payment upon our request within seven calendar days, we shall be entitled to withdraw in full or part (with regard to the unfulfilled part) from any contracts which have not yet been fulfilled.

**15  
Rights of use, inventions**

1. Where, during the deliveries or services to be carried out for us by the supplier, drawings, individual computer programs, photographic or film material or print media layouts or other such documents are created, we and all companies of the DAS group of companies listed under [www.das-europe.de](http://www.das-europe.de) shall be granted a temporally, spatially and contents-wise unlimited exclusive and transferable right of use for all types of usage which shall be fully compensated by the agreed price.
2. Where the deliveries or services are protected by the supplier's copyrights, the supplier shall grant us the irrevocable, transferable, temporally, spatially and contents-wise, unlimited right to use the delivery or service in any manner free of charge, and in particular to reproduce, distribute, exhibit, modify and process them.
3. Where copyrighted rights, industrial property rights, similar legal rights and other written, machine-readable and other work results arise for the deliveries or services carried out for us by the supplier, these shall belong to us exclusively and without limitation and shall be fully compensated for by the agreed price. The supplier undertakes to notify us promptly of the existence of any such inventions and to consult us regarding the further course of action.
4. The supplier also undertakes to claim ownership of inventions by its employees and, if applicable, by subcontractors at its own expense and indemnify us in such a way that it is able to transfer the rights to these inventions to us.
5. Should we register the invention for property rights, we shall take on the responsibility for the costs incurred for the registration and maintenance of the property right.
6. Should we decide against registering the invention, or if we are no longer interested in an existing property right, the supplier may continue the registration or maintenance of the property right at its own expense. However, in this case, we shall continue to have a gratuitous, non-exclusive and transferable right of use.
7. Should, within the scope of the use of the deliveries or services, it be necessary for us to use the supplier's property rights, which already existed for the supplier prior to providing the delivery or service, the supplier shall grant us a non-exclusive and transferable right of use to these property rights which is fully compensated for by the agreed price.

**16  
Spare parts and readiness for delivery**

1. The supplier warrants that it will ensure the delivery of spare parts for a period corresponding to usual technical use, but at least for 10 years after acceptance of the final delivery of the delivery item unless another availability of spare parts has been agreed with us in writing. During this period, the supplier undertakes to deliver these parts under normal market terms and conditions.
2. Should the supplier intend to stop the delivery of spare parts after the aforementioned period has expired, we must be given the opportunity to place one last order with an advance notice of at least 30 calendar days. The same applies to a stoppage before the period expires whereby we shall not be deprived of our claims for damages by making a repeat order.

**17  
Provision, co-ownership,  
reservation of ownership**

1. Any tools, materials, substances, parts, containers and packaging provided by us may only be used for their intended purpose.
2. Any tools provided by us shall remain our property and may only be used by the supplier exclusively to carry out the contractual services for us.
3. As far as we provide the supplier with parts, we shall retain ownership of these (retained goods). Processing or alteration by the supplier shall be performed for us. Should our retained goods be processed with other objects not belonging to us, we shall acquire co-ownership of the new item in proportion to the ratio of the value of our item (purchase price plus value-added tax) to the other processed objects at the time of processing.
4. Should the items provided by us be inseparably mixed with other objects not belonging to us, we shall acquire co-ownership of the new item in proportion to the ratio of the value of our item (purchase price plus value-added tax) to the other mixed objects at the time of mixing. Should mixing be carried out in such a way that the item of the supplier can be regarded as the main object, it is agreed that the supplier shall assign us co-ownership on a pro rata basis; the supplier shall keep the sole ownership or co-ownership in safe custody for us.
5. The supplier shall be obliged to insure the tools belonging to us against fire, water and theft at replacement value at its own expense. At the same time, the supplier already now assigns all claims for compensation from this insurance to us; we hereby accept such an assignment.
6. The supplier is obliged to have any required maintenance and inspection work and all repair and service work carried out in due time at its own expense, and to provide us with evidence of this. The supplier must notify us without delay in writing of any accidents with the ceded machines and/or tools; if it culpably fails to do so, we shall be entitled to claim for damages in the event of damage.
7. The supplier shall also undertake to keep strictly confidential all diagrams, drawings, calculations and other documentation and information it has received – regardless of the type of media – unless a statutory or official disclosure obligation exists. These may only be disclosed to third parties with our explicit written consent where they are subject to the confidentiality obligation. This confidentiality obligation shall also remain valid after the execution of this contract; it shall become invalid if and when the manufacturing knowledge contained in the transferred diagrams, drawings, calculations and other documents has become common knowledge without violation of the confidentiality obligation.
8. Insofar as the security rights to which we are entitled in accordance with Clauses 1 to 6 exceed the purchase price of all of our retained goods not yet paid by more than 10%, we shall be obliged to release the security rights at our discretion at the request of the supplier.

**18**

**Property rights of third parties**

1. The supplier warrants that no rights of third parties within Germany, the European Union or the country of use notified to the supplier by us in the order, are violated in connection with its delivery and/or services. The supplier's liability shall be excluded should the supplier be able to prove that it did not know and could not have been aware of the existence or future emergence of such rights regarding the delivery of the delivery item.

2. Should claims be asserted against us by third parties because of a violation of such a right, the supplier shall be obliged to indemnify us against such claims upon the first written request; we shall not be entitled to enter into any agreements with the third party - without the supplier's consent - and we shall not be entitled, in particular, to enter into any settlement.
3. The release obligation of the supplier refers to all expenses we necessarily incur from or in connection with the claim by a third party.
4. The period of limitation for liability for the violation of property rights commences as soon as the claim is established and we are informed of the circumstances substantiating the claim or would have been informed should gross negligence not have occurred. The period of limitation shall be 5 years.

**19**

**Documents and confidentiality**

1. All commercial or technical or product-related information made available by us to the supplier, in particular calculation data, manufacturer's instructions, production internals and data, in any form whatsoever, including other development or manufacturing specifications that are to be gathered from any transferred objects, documents or data and other knowledge or experience shared with the supplier, as long as and as far as they are not demonstrably public knowledge, or a statutory or official disclosure obligation exists, must be treated as confidential with respect to third parties and may only be made available at the supplier's own business to people who have to become involved with us to use it for the purposes of the delivery or service and who are also bound in writing – for employees, where permissible under employment law – to confidentiality; the information remains our exclusive property.
2. Without our prior written consent, such information – except for deliveries to us – may not be duplicated or used for commercial purposes. The above confidentiality agreement shall also apply after the supply relationship until the information enters the public domain, however for a period of five years at the most after the delivery and/or service. The aforementioned confidentiality obligation shall not apply should the supplier be able to demonstrate that it lawfully developed the transferred information itself prior to the disclosure, or was already aware of it (in which case the supplier shall inform us immediately in writing after transmission of the information), or it has been made publicly known by us through a written declaration, or a statutory or official disclosure obligation exists.
3. At our request, all information and data obtained from us (if applicable including copies or any drawings made) and items provided on loan must be returned to us completely and without delay or destroyed, and their destruction confirmed to us in writing. Should the information transferred to the supplier be embodied in data items, it must be completely deleted upon our first demand at any time, and the deletion must immediately be confirmed in writing.
4. In the case of data transferred by us, we shall also be entitled to a declaration of discontinuance by the supplier, subject to penalty, against us which contains a contractual penalty for each case of wilful violation of the discontinuance obligation for further use of the data transferred by us or copies of it, the return and/or deletion of which we have requested from the supplier, amounting to 10,000 EUR per culpable violation but not more than 250,000 EUR in total for all cases of a violation, taking further claims for damages into account.

5. We reserve all rights to such information and data (including copyrights and the right to use industrial property rights such as patents, registered designs, protection of trademarks, etc.). To the extent that this information was made available to us by third parties, this reservation of rights shall also apply in favour of said third parties.
6. Licences or guarantees are not associated with information and/or data transferred to the supplier.
7. Products produced according to documents drafted by us, e.g. drawings, prototypes or models and similar, or according to our confidential information or using formulas unknown to the public or produced using our tools or tools modelled on our tools, may not be used by the supplier itself nor offered or delivered to third parties.

## 20

### Safety regulations Other delivery and service requirements

1. For its deliveries in the Federal Republic of Germany and the European Union and the country of use of which it is informed prior to conclusion of contract, the supplier must comply with the applicable safety regulations and agreed technical data or threshold values corresponding to the current state-of-the-art at the time of transfer of risk.
2. The supplier undertakes to exclusively use materials in conformity with the applicable statutory safety requirements and regulations, especially those relating to toxic and hazardous substances. The same applies to protection provisions applicable to the environment and regulations about electricity and electromagnetic fields. The aforementioned obligation includes all regulations applicable to the Federal Republic of Germany, the European Union and the country of use notified prior to conclusion of contract and – where these diverge from the former – regulations of the buying countries of which the supplier is informed prior to conclusion of contract.
3. Should the products of the supplier not meet the requirements imposed in Clauses 1 to 2, we shall be entitled to withdraw from the contract. Further claims for damages shall remain unaffected.
4. We must be informed in writing or by text format of any intended changes to the delivery item or service provided. These require our prior written approval.

## 21

### Quality and documentation

1. Costs for declarations of conformity shall be borne by the supplier unless otherwise agreed. Declarations of conformity, in both German and English, must be immediately submitted to us with each delivery.
2. Notwithstanding the above, the supplier must constantly review the quality of the delivery item. We must be informed of any possible improvements. The supplier must immediately inform us in writing of any noticeable faults in the specifications and foreseeable complications.
3. Where minimum and/or maximum parameter values are specified in an order, unless otherwise agreed in writing, the specified maximum values must not be exceeded in any part of the delivery item or the product, and the specified minimum values may under no circumstances be undercut at any point.

This must be secured and documented by suitable test and measurement procedures. We shall be entitled to request the announcement of the results of these tests in writing at any time and without additional costs.

4. The scope of delivery includes, without specific charge, the product-specific and/or technical documentation, the declarations of conformity and other documents, certificates and operating instructions required for the goods ordered or for their use, at our own discretion in German or English, and the legally required labelling of parts and products and/their packaging.
5. The supplier must ensure that the exact batch traceability of the items delivered is guaranteed.

## 22

### Software

1. Should the delivery item contain software, we shall be entitled to introduce the software across the group without this giving rise to special payment.
2. Payment for the software shall not be due until a formal acceptance procedure with written declaration of acceptance has been carried out.
3. When delivering software, supplementary performance through a new program version shall only be permitted following our prior written consent. If our consent is granted, the supplier shall undertake to train our employees in using the new program version at its own expense.

## 23

### Auditing

1. We shall be entitled – including with regard to any of our own certification – however, not obliged, to perform our own audit of the supplier or to have an audit performed by an expert and/or consultant of our choice. This includes auditing the supplier's company and the quality assurance system and a subsequent evaluation. The findings obtained in the audit shall be used by us as the basis for placing subsequent orders and for an internal rating of the company.
2. We shall be entitled to undertake inspections of the supplier's ongoing business and to monitor its quality assurance measures during ordinary business hours. Where any quality-related problems with the supplier's deliveries have occurred in the past, we shall also be entitled to carry out unannounced inspections in order to monitor its quality assurance measures. We shall not be entitled to exercise this right if more than one year has passed since the last complaint concerning the supplier's quality assurance or if two consecutive, unannounced inspections did not reveal any defects.
3. Provided we can prove that we have an appropriate legitimate interest to do so, we shall have the right to inspect the supplier's relevant documents. Such a legitimate interest exists in particular if knowledge could be gained that would allow the necessity and handling of a recall to be assessed.
4. Within the scope of the exercise of our rights in accordance with aforementioned Causes 1 to 3, the supplier shall not be obliged to disclose any trade secrets.

## 24

### Operational safety/accident prevention

We would like to point out that all external personnel who enter our company site or premises are subject to the same rules of conduct of our work regulations as our own staff. In the event of violation of these rules, we reserve the right to expel such personnel from the site. When working at our company premises, in order to prevent occupational accidents, the supplier must take all measures, use all equipment and issue all instructions which comply with the provisions of the relevant accident prevention regulations and any other generally recognised safety engineering and occupational medicine regulations. The work guidelines of our trade association must be observed.

**25**  
**General provisions**  
**Severability clause**  
**Place of jurisdiction**  
**Choice of law**  
**Data storage**

1. Reference may only be made to the existing business relationship with us for advertising purposes or as a reference for third parties with our written consent.
2. Should any provision of this contract, for a reason specified in the General Terms of Business pursuant to

Sections 305 to 310 BGB, be or become completely or partially ineffective/invalid or impracticable, the statutory provisions shall apply.

Should any current or future provision of the contract be or become completely or partially ineffective/invalid or impracticable for reasons other than those specified in the provisions relating to the General Terms of Business pursuant to Sections 305 to 310 BGB, the validity of the remaining provisions in this contract shall remain unaffected provided that the execution of the contract – including taking the following rules into account – would not constitute an unreasonable hardship for one of the parties. The same shall apply should any loopholes that require filling become apparent after signing the agreement.

Contrary to the jurisdiction of the Federal Court of Justice, according to which a severability clause solely reverses the burden of proof, the validity of the remaining contractual provisions should be upheld in all circumstances and thus Section 139 of the BGB be eliminated altogether.

The parties shall replace the ineffective/invalid or impracticable provision or loophole that requires filling for reasons other than those specified in the provisions relating to the General Terms of Business in accordance with Sections 305 to 310 of the BGB with an effective provision which reflects the legal and economic content of the ineffective/invalid or impracticable provision and corresponds with the overall intent of the contract. Section 139 BGB (partial invalidity) shall be expressly excluded. Should the invalidity of a provision be based on a fixed criteria of the service or the time (deadline or appointment), an agreement shall be reached to find a provision with the next legally permissible time period.

3. The laws of the Federal Republic of Germany shall apply exclusively.
4. The language of the contract, proceedings and court is German.
5. Application of the United Nations Convention on Contracts or the International Sale of Goods (CSIG) is excluded.
6. The place of fulfilment is the agreed place of delivery/service.
7. The place of jurisdiction is our registered office. We are however also entitled, at our discretion, to bring an action against the supplier at its registered office or at the place where the services are to be provided.
8. We retain data from the contract agreement in accordance with Section 26 of the Federal Data Protection Act for the purpose of data processing.

Dresden, February 2013