

## § 1 General, Scope of Agreement

- (1) These purchasing terms and conditions apply to all purchase, work, and other performance contracts between Wessel Hydraulik GmbH (hereinafter Wessel) as purchaser / customer and the Supplier (hereinafter "Supplier" or "he") as seller / contractor / performance provider.
- (2) Our purchasing conditions apply exclusively; We do not recognize any terms and conditions of the supplier that conflict with or deviate from our purchasing conditions, unless we have expressly agreed to their validity in writing. Our silence on such deviating conditions in particular does not count as recognition or approval, not even in the case of future contracts. Our terms and conditions of purchase shall apply in place of any general terms and conditions of the supplier even if we accept the supplier's delivery without reservation while being aware of the supplier's terms and conditions that conflict with or deviate from our terms and conditions of purchase or we order after the supplier has indicated the applicability of his general terms and conditions, unless we have expressly waived the application of our purchasing conditions. The exclusion of the general terms and conditions of the supplier also applies if these purchasing conditions do not contain any special provisions for individual regulation points. By accepting our order confirmation, the supplier expressly acknowledges that he waives his legal objection derived from the general terms and conditions.
- (3) All agreements made between us and the supplier for the purpose of executing this contract must be set down in writing.
- (4) Our purchasing conditions also apply to future business, even if we should not refer to them in individual cases.
- (5) Individual agreements made with the supplier on a case-by-case basis (including side agreements, additions and changes) always take precedence over these terms and conditions of purchase. A written contract or our written confirmation is decisive for the content of such agreements, subject to proof to the contrary.
- (6) Legally relevant declarations and notifications by the supplier in relation to the contract (e.g. setting a deadline, reminder, withdrawal) must be in writing, i.e. to be submitted in writing or text form (e.g. letter, E-Mail). Statutory formal requirements and other evidence, especially in the event of doubts about the legitimacy of the declaring party, remain unaffected.
- (7) Our employees are not entitled to add to the content of the contract or to deviate from it. This does not apply to our organs and authorized signatories as well as to the persons authorized by them.
- (8) References to the validity of legal regulations are only used for clarification purposes. Even without such a clarification, the statutory provisions apply unless they are directly changed or expressly excluded in these purchasing conditions.

## § 2 Order, conclusion of contract, and confirmation of order

- (1) Drafts, offers, cost proposals, the submitting of samples, etc., must be prepared for us at no charge and without any other obligation on our side. This applies even if we do not place an order.
- (2) In cases of doubt, our enquiries to the Supplier are merely requests for the submitting of offers, unless a legally binding nature of our enquiry as a contractual offer is clearly evident.
- (3) Offers by the Supplier are irrevocably binding unless they are expressly designated non-binding. In case of doubt, the Supplier is bound by his offer for three months, unless a different period is specified.
- (4) If we can expect acceptance of our order, particularly if our order is made in the context of an ongoing business relationship, after consensual preliminary negotiations, or on the basis of price lists or other documentation of the Supplier, the Supplier is obligated to expressly reject our offer in writing within three business days. Otherwise our order shall be deemed accepted by the Supplier.
- (5) The Supplier's offer shall comply with our enquiry / call for tenders. If a statement of acceptance or a letter of confirmation of the Supplier contains deviations from, or additions to, our enquiry / call for tenders / order, this must be clearly pointed out by the Supplier. Such deviations are only valid if confirmed by us in writing.
- (6) All letters, order confirmations, delivery documents and invoices shall list the order numbers, items, article and drawing numbers

## § 3 Prices, Terms of payment

- (1) The price shown in the order is binding. Unless otherwise agreed in writing, the price includes delivery "free domicile" including packaging. The return of the packaging, euro-pallets, boxes requires a special agreement.
- (2) All prices include the statutory sales tax, if this is not shown separately. The legal value added tax is not included in the price. Unless otherwise agreed in individual cases, the price includes all services and ancillary services of the supplier (e.g. assembly, installation) as well as all ancillary costs (e.g. proper packaging, transport costs including any transport and liability insurance).
- (3) We can only process invoices if they - in accordance with the specifications in our order - state the order number shown there; The supplier is responsible for all consequences resulting from non-compliance with this obligation, unless he can prove that he is not responsible for them.
- (4) Unless otherwise agreed in writing, we shall pay the purchase price within 14 days of complete delivery and service (including any agreed acceptance) and receipt of a proper invoice, with a 3% discount or within 60 days of receipt of the invoice net. In the case of bank transfers, the payment is made on time if our transfer order is received by our bank before the payment deadline has expired; We are not responsible for delays caused by the banks involved in the payment process.
- (5) We do not owe any maturity interest. In the event of default in payment, we owe default interest in the amount of five percentage points above the base rate in accordance with Section 247 of the German Civil Code.
- (6) We are entitled to rights of set-off and retention as well as the objection of a non-fulfilled contract to the extent permitted by law. In particular, we are entitled to withhold payments due as long as we are still entitled to claims against the supplier from incomplete or defective services.
- (7) The supplier has a right of set-off or retention only for counterclaims that have been legally established or are undisputed.

## § 4 Subsequent order changes

- (1) Subsequent changes that we desire regarding specifications or volumes of orders must be accepted by the Supplier provided they are reasonable for the Supplier and can be performed. If they lead to additional costs or deadline overruns compared to the original order, the Supplier must inform Wessel of these implications without undue delay and before commencing the pertinent work. If the Supplier fails to do so, the changes desired by us are deemed accepted by the Supplier at no change to price and timeline. If the Supplier informs us that the changes desired by us lead to additional costs or deadline overruns, he must present a binding offer of contract change under reasonable conditions within five business days after receipt of the change desire.
- (2) The Supplier's change offer requires explicit acceptance by us. If the Supplier executes the desired changes in the absence of such acceptance, no increased payment shall be owed by us for the execution of the desired changes. If we accept the Supplier's change offer, the changes shall become part of the contract, provided, however, that such acceptance by Wessel is always subject to subsequent examination of the Supplier's offer for appropriateness of terms. The acceptance of the Supplier's change offer does not yet constitute an

approval of the appropriateness of the terms, nor does it yet constitute a waiver of any claims for inappropriateness of terms. All claims and rights arising out of violation of the Supplier's obligation pursuant to paragraph 1 to provide a change offer on reasonable terms and conditions, shall continue to be held by Wessel, notwithstanding unrestricted acceptance by Wessel.

- (3) If we do not accept the Supplier's change offer, performance of the contract is to be continued without change.
- (4) During an ongoing change of contract procedure according to the foregoing provisions, the Supplier shall continue to carry out the contract as it is, unless we demand the Supplier in writing to halt or limit performance until a decision on the change will have been made. However, where such temporary continuation means that works or services will be rendered which would become useless as a result of agreement on the change, the Supplier shall point this out in writing to us without undue delay.

## § 5 Order execution, Quality assurance and Compliance with statutory provisions

- (1) The Supplier must strictly comply with the agreed characteristics of the goods / services to be manufactured / delivered / provided by the Supplier. The Supplier is responsible for the unobjectionable quality of the goods / services which are manufactured / delivered / provided by the Supplier. In particular, the Supplier warrants that its performance shall accord with the current state of the art and shall have neither physical nor legal defects. The Supplier warrants that its goods / services accord with all legal and technical requirements (e.g. product safety laws). The Supplier is obligated to comply with all pertinent quality standards, particularly DIN standards, and with all generally recognized technical, safety and occupational health care rules and with all industrial protection rules, labor protection rules, accident insurance and emission protection provisions, and with all other pertinent laws, rules, guidelines and pamphlets that are issued by the legislator, competent supervisory bodies, professional associations, or technical surveillance associations. Any safeguards required by accident prevention regulations are to be included in the Supplier's deliveries. Electrical installations must accord with the VDE regulations. Separately agreed- upon quality control agreements, if any, are to be complied with as well.
- (2) The supplier is obliged to comply with the requirements and obligations in connection with substance bans in accordance with statutory provisions and ordinances for each individual delivery item. This applies in particular to the requirements and obligations of the REACH regulation EC No. 1907/2006, the RoHS directive RL 2011/65 EU in its currently applicable version, including the respective changes and additions, and their implementation in national law by the member states of the EU. At our request, the supplier will provide us with written product-specific declarations of conformity, which also apply to our customers and which we can pass on to our customers.
- (3) The supplier is obliged to adhere to the relevant export restrictions and to notify us in writing of any authorization requirements for (re-) exports of his goods in accordance with German, European and US export and customs regulations as well as the export and customs regulations of the country of origin of his goods immediately upon ordering to inform. The supplier will reimburse us for all additional costs and other damage that we incur due to incomplete or incorrect information, insofar as it is responsible for these.
- (4) The supplier has been informed that Wessel produces hydraulic components and safety valves. Therefore, the supplier will subject all the delivery items to a quality control (incoming goods test) according to the respective requirements, particularly in respect of safety in vehicle and machine construction. The contractual partners will inform each other of possibilities for quality improvement
- (5) The Supplier is obligated to perform reasonable quality testing of its supplies and services and to maintain an up-to-date state of the art documented quality management system. The Supplier is also obligated to perform materials tests, test runs, and the preparation of null series to a reasonable extent. The results of the quality tests are to be documented in writing. We are entitled at any time to demand access to the quality testing records and to check the compliance of the Supplier's performance with the respective orders, in particular by way of (i) inspection of the operations at the Supplier's premises which the Supplier must allow us at any requested time during business hours, and (ii) inspection of the performance documents. We are also entitled to demand from the Supplier, to a reasonable extent, to deliver random production samples, including samples of interim products. The Supplier is neither entitled to claim reimbursement of expenses, nor to raise any other claims against us, on the grounds of our exercising rights pursuant to this paragraph. Our costs for routine checks which are carried out without a concrete indication that the Supplier may have violated its duties will be borne by ourselves. By contrast, the Supplier has to bear our costs for any checks which are carried out based on concrete indications that the Supplier may have violated its duties or which are carried out due to the fact that previous checks lead to the discovery of such violations.
- (6) The Supplier must name a qualified employee (contact person) and ensure the latter's availability in terms of time. The contact person must be able to answer questions relating to the execution of the contract and he must be authorized to either make necessary decisions himself or to prompt such to be made by others.
- (7) We are entitled to perform quality audits (product, process and systems audits) to evaluate the effectiveness of the quality control system or to cause such quality audits to be performed by third parties retained by us. The Supplier warrants us the right to audit, insofar as the audits concern the quality management system and the goods / services to be supplied.
- (8) We are entitled at all times to demand reports on the state of the operation and to check whether our orders are being carried out in compliance with the contractual provisions. In particular, we are authorized at any time in the production period to monitor the Supplier's performance, to object to inappropriate execution and to reject even prior to delivery defective parts and production respectively. Within business hours, we can demand access to the workplaces, workshops, factories and storage facilities in which the contractual items or parts thereof are being manufactured or in which materials designated for the production of the contractual items are being stored. Upon request, design and construction documents must be presented to us. We are also entitled to grant our customer, if any, the same right to monitor the Supplier's performance without losing our right to do the same. We are, however, not under any duty to monitor the execution of the contract. Monitoring measures taken by us do not affect the Supplier's obligations. All information which we may gain regarding the Supplier's production methods and trade secrets will be kept in confidence by us.
- (9) Where chemical agents and similarly dangerous goods are delivered, the applicable safety data sheets must be provided as well, even in the absence of any specific prior request by us.
- (10) The Supplier remains fully responsible for his drawings, plans, calculations, etc. that he uses in connection with his services, even if we have approved their use.
- (11) The Supplier is obligated to check the goods delivered to him by third parties with adequate due care for possible defects. The Supplier shall not employ any sub-suppliers known to him as not altogether reliable.
- (12) The Supplier warrants the availability of replacement parts and replacement products for his deliveries and services for a period of ten years after delivery.
- (13) If for reasons not within our control a project cannot be carried out, or if we terminate it for such reason, the Supplier shall not have any claim for compensation. However, we are entitled to demand the work results from him. Insofar as we exercise this right, the Supplier shall be entitled to an amount corresponding to the contractually agreed compensation for such work results.
- (14) The Supplier undertakes to maintain complete documentation concerning his supplies and services, including the results of the quality control tests, for a period of ten years after delivery, unless a longer period is required by separate agreement or by the provisions of law.

## § 6 Time of delivery, Delay in delivery

- (1) The delivery dates or deadlines indicated in the order/confirmation of order are binding. The Supplier bears the procurement risk for its services.
- (2) The determining factor for compliance with delivery deadlines or delivery periods is proper receipt of the goods or perfect performance of the service including delivery of complete documentation
- (3) The supplier is obliged to inform us immediately in writing of any imminent or actual noncompliance with a delivery date, its causes and the expected duration of the delay. The occurrence of the delay in delivery remains unaffected.  
(4) If the Supplier falls in debtor's delay with his duty to deliver / perform otherwise, we are entitled to a lump sum compensation in the amount of 0.5 per cent of the performance's value of which the Supplier is in delay for each (fully or partially) elapsed week of delay, but only up to 5 per cent of the total performance's value of which the Supplier is in delay. The Supplier may prove that substantially less or no damage at all has been caused by the delay. We reserve all our further legal rights in particular the right to establish that the actual damage caused by the delay was higher than the lump sum compensation and the right to set an adequate grace period and to claim damages in lieu of performance after fruitless expiry of this grace period. In case of a higher loss the lump sum compensation will be credited.

## § 7 Delivery, Transfer of Title, Passing of Risk

- (1) Without our prior written consent, the supplier is not entitled to have the services owed by him performed by third parties (e.g. subcontractors). The supplier bears the procurement risk for his services, unless otherwise agreed in individual cases (e.g. limitation to stock).
- (2) The delivery must be accompanied by a delivery note stating the date (issue and dispatch), content of the delivery (article number and quantity) and our order identifier (date and number). If the delivery note is missing or incomplete, we are not responsible for any resulting delays in processing and payment. A corresponding dispatch note with the same content must be sent to us separately from the delivery note.
- (3) All deliveries have to be made to the place of delivery stated in our order or, in the absence of a specific agreement, to our registered office.
- (4) For their protection of the goods the supplier must be packaged and labeled according the Wessel packaging and transport requirement. The Supplier is obligated to transport the goods at his own expense to the place of delivery and to take out – at his expense – a transport insurance where commercially obtainable for the goods at issue.
- (5) In case of delivery from a foreign customs territory the Supplier must contact us in due time concerning the customs and import procedures. All original documents must be submitted to us not later than seven business days before the arrival of the goods. All additional costs and damages resulting from delayed customs and import procedures shall be borne by the Supplier.
- (6) Deliveries of larger or smaller than agreed quantities as well as deliveries in parts are only admissible upon our express written approval.
- (7) At our request the Supplier has to take back / pick up the packaging material free of charge.
- (8) The passing of risk shall take place only upon unloading at the place of delivery, irrespective of whether the Supplier carries out the shipping himself or by a third party. This applies also in cases where we – as an exception – have undertaken to bear the shipping costs.
- (9) Loading or unloading support provided to the delivery persons / the Supplier on a voluntary basis by members of our staff is not part of our obligations and shall be considered performance assistance of these individual members of staff to the transport company / the Supplier. We are not liable for loading / unloading damages.
- (10) Title passes to us upon delivery of the goods at the latest. The Supplier does not have a right to retention of title unless expressly agreed otherwise. If our payment is made before delivery, the title passes to us upon payment and a no-cost administration and custody relationship is deemed to exist between us and the Supplier until the delivery.

## § 8 Incoming goods inspection / written Acceptance

- (1) The goods supplied shall be inspected by us, within a reasonable period, for transport damages and quality and quantity discrepancies. Our inspection obligation is, however, limited to defects which either come to light even in merely from-outside inspections of incoming goods and delivery papers, or that become visible in random-sample quality control inspections. In the case of work contracts and in other cases where it has been agreed upon to carry out an acceptance, we are under no inspection obligation. Our complaint to the Supplier shall in any case be deemed to be in due time, if obvious defects are complained about within seven business days from receipt of the goods, respectively if other defects that are however identifiable by appropriate inspection of the goods are complained about within four weeks after receipt of the goods. For compliance with the complaint period, dispatch of the complaint shall be sufficient.
- (2) Even if we do not make a reservation when receiving goods or other services and even if we sign receipt confirmations or delivery notes, this shall not constitute a waiver of any rights from belated or defective performance. It is understood by the Supplier that we always reserve our right to carry out subsequent quantity and quality testing in line with the foregoing paragraph.
- (3) Payments do not constitute any acknowledgement that the delivery or other performance would have been correct and free from defect.
- (4) In case of contracts for work or for work and materials, a formal acceptance of the Supplier's performance must be carried out.

## § 9 Inspection of defects, Warranty

- (1) In case of defective performance on the Supplier's part (including incorrect and short deliveries as well as improper assembly, defective assembly, operating or operating instructions) we are unrestrictedly entitled to exercise all and any right provided by the law. If a return of goods to the Supplier becomes necessary, the risk and costs are to be borne by the Supplier.
- (2) Cure ("Nacherfüllung") includes the removal of the defective goods as well as the re-installation, if the goods had been mounted in another object according to their assigned purpose. The costs incurred by the Supplier for inspection and cure (including removal and installation costs) shall be borne by the Supplier, even if it turns out that there was actually no defect. We shall be liable to the Supplier for his damages from unjustified cure requests from our side, but only if we had actually realised that no defect existed or if we had failed to realise it due to gross negligence on our part.
- (3) In purchase agreements and in contracts for works and materials, section 637 of the German Civil Code shall apply analogously. That is, after fruitless expiration of a reasonable period we shall be entitled to cure the defect ourselves or to cause the same to be cured by third parties (substitute performance) and to demand reimbursement of our necessary expenditures from the Supplier, unless the Supplier was entitled to reject our demand for cure. Setting the Supplier a cure period is not required in the cases specified in section 637 paragraph 2 of the German Civil Code; for example if the Supplier seriously and definitively refused to cure, or if immediate cure by ourselves or third

parties is justified on the basis of special circumstances, or if a cure attempt by the Supplier failed; or if we cannot reasonably be expected to allow for a cure attempt by the Supplier. Further going statutory rights remain unaffected.

- (4) The warranty period is 36 months unless the law provides for a longer warranty period. The warranty period begins even in the case of acceptance of partial performances only with the delivery or acceptance of the entire agreed work or other performance. The warranty period is suspended if and as long as the performance is being checked for defects or if and as long as efforts to remedy such defects are under way. The period begins to run again once either the defect is removed or the Supplier refused to continue his attempts to remove the defect.
- (5) We do not waive warranty claims through acceptance or approval of submitted samples
- (6) If a customer of ours or a third party raises claims against us - on the grounds of product liability, liability for defects or liability for damages on other grounds - with respect to a performance which we had received from the Supplier, then the Supplier has to provide us without undue delay with all the information and documentation required or useful for our legal defense. The Supplier is obligated to indemnify us in full, unless the Supplier proves that he is not responsible for the defect or damage.

## § 10 Retention of Title regarding Wessel Contributions

- (1) If we provide the Supplier with Wessel Contributions (e.g. parts, materials or tools) we retain ownership therein. Any processing, rework or alteration by the Supplier is deemed to be made on our behalf as producer. If the Supplier combines, or processes, our property with other objects not owned by us so to form together new products, then we shall automatically acquire co-ownership shares in the new products in relation of the value – at the time of the processing – of on the one hand our property and on the other hand the other processed objects. In respect of cases where the legal rules provide for the Supplier to become the sole owner, the Supplier hereby transfers to us already now a co-ownership share – according to the ratio between on the one hand the value of our property and on the other hand the value of the other (main) object.
- (2) The Supplier is obligated to maintain our property carefully, and in particular to protect it from external influences and third-party access. The Supplier is obligated to insure, at his expense, the objects we own at their reinstatement values against fire, water and theft damage. The Supplier hereby assigns to us any and all claims for damage compensation against the insurer and third parties. We hereby accept the assignment.
- (3) The Supplier must report to us immediately any access to, or any breaches of, our property by third parties, particularly seizures, confiscations, damages, and the Supplier must furnish us with all information and documentation necessary for intervention. The Supplier shall be liable for the costs needed for the elimination of the breach, particularly for the costs of a third-party motion to vacate, if such costs cannot be obtained from the enforcing creditor.

## § 11 Call Off contracts

- (1) If we have entered into a contract with the Supplier for on-call deliveries, then we are, unless expressly provided otherwise, entitled to request deliveries if and when needed and in any (partial) quantities. There is no obligation on our side to call forward specific or unvaried quantities or to specific or periodic dates. Unless otherwise agreed, the on-call period is the whole term of the contract. The Supplier is not entitled to request that we call at earlier points of time. An obligation to call forward the complete volume does not exist unless a firm on-call quantity or minimum quantity is agreed upon. Foreseeable quantities are merely non-binding expectations of needs. Unless otherwise agreed, the Supplier is obligated to keep on-call goods immediately available and to make delivery within three business days or on the date specified by us.

## § 12 Code of conduct

- (1) The supplier undertakes to comply with the provisions of the Code of Conduct for Suppliers which is available on our website [www.wessel-hydraulik.de](http://www.wessel-hydraulik.de)

## § 13 Customer Protection

- (1) Regarding any customer of ours with whom we have an actual business relationship or with whom we had one in the preceding 12 months the Supplier agrees to refrain during the whole contract period and an additional twelve-month period from any kind of direct or indirect offering and/or rendering such services as are either part of our customer relation or of our general field of business and which we could perform by ourselves or third parties.
- (2) The Supplier undertakes to pay a reasonable penalty for every case of culpable breach of the customer protection agreement. The amount shall be determined at the discretion of Wessel, with due consideration for the scope and severity of the breach. In the event of a dispute, the Supplier is entitled to have the reasonableness of the amount verified by the competent national courts. Each breach counts separately, the plea of a continuation link ("Fortsetzungszusammenhang") between breaches is excluded. In the event of permanent breaches every commenced week of breach shall be deemed a separate breach.
- (3) Claims for damage compensation remain unaffected, but penalty payments count against claims for damage compensation.

## § 14 Intellectual property rights of third parties

- (1) The supplier guarantees that the products he supplies do not infringe any third-party property rights in countries of the European Union or other countries in which he manufactures the products or has them manufactured.
- (2) If half claims are made against us by a third party, the supplier is obliged to release us from these claims upon first written request; we are not entitled to make such agreements with the third party without the consent of the supplier, in particular to conclude a settlement.
- (3) The supplier's obligation to indemnify relates to all expenses that we incur from or in connection with claims by a third party.

## § 15 Product Liability, Insurance

- (1) If the Supplier is liable for product damage, the Supplier must hold us harmless from third-party claims to the extent that the cause stems from the Supplier's management and organizational sphere and the Supplier is itself liable externally. The Supplier must reimburse us for all expenses resulting from or in connection with third-party claims. The Supplier must also refund the costs incurred by us in any recall program. Concerning the objects and scope of recall programs we shall inform the Supplier, to the extent possible and reasonable, and give the Supplier the opportunity to express its opinion. Further going legal rights remain unaffected.

- (2) The Supplier further undertakes to maintain at its own expense product liability insurance with a minimum coverage amount of EUR 10 million per personal/material damage. The Supplier also undertakes to maintain a public liability insurance with a coverage of EUR 10 million, which also covers damages on further delivery by us. At our request, the Supplier must produce evidence of the pertinent insurance and must send us a copy of the liability policy. The existence of such insurance does not limit our direct claims against the Supplier.

## § 16 Statute of limitation

- (1) The mutual claims of the contracting parties expire in accordance with the statutory provisions, unless otherwise specified below.
- (2) Deviating from Section 438 (1) No. 3 BGB, the general limitation period for claims for defects is 3 years from the transfer of risk. If an acceptance has been agreed, the limitation period begins with the acceptance. The 3-year limitation period applies accordingly to claims arising from defects of title, whereby the statutory limitation period for real claims for surrender by third parties (Section 438 (1) No. 1 BGB) remains unaffected; In addition, claims based on defects of title do not become statute-barred as long as the third party can still assert the right against us - especially in the absence of a statute of limitations.
- (3) The statute of limitations of the sales law including the above extension apply - to the legal extent - for all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation (§§ 195, 199 BGB) applies, unless the application of the limitation periods of the sales law in individual cases leads to a longer limitation period.

## § 17 Export control, Import regulations

- (1) The supplier acknowledges and undertakes, in the event of an intended provision of information, products, goods, materials, services or technology (hereinafter referred to as goods) to us, of which the supplier is aware or, after careful examination, gives reason for acceptance has that the restrictions in German, EU, US or other applicable regulations (e.g. licensing obligations, personal or country-related sanctions) are subject to us immediately and before the export, re-export, transfer, disclosure or provision of the controlled goods via them Inform about restrictions. As far as the supplier is aware, the supplier should inform us where these are listed (e.g. on the US Commerce Control List) and which restrictions apply to export, re-export, the transfer, disclosure or provision of the controlled goods under the applicable regulations.
- (2) The supplier shall, at its own expense, obtain and retain any stately authorizations, permits, approvals, registrations, permits or licenses that the supplier may need to export, re-export, pass on, disclose or provide goods under this agreement.
- (3) The supplier further acknowledges that he will cooperate with us by providing us with information and other support on request that are required for the export qualification, export documentation and issuing of export permits (if necessary) for the inspected goods.
- (4) In any case, the supplier guarantees that it will not export, re-export, pass on, disclose or make available controlled goods without our express prior written consent.
- (5) § 17 Documentation, Storage, Confidentiality Obligations
- (6) We reserve all our rights, particularly all and any rights of ownership and copyright, regarding all and any documents, illustrations, drawings, parts lists, models, plans, descriptions, calculations, and other embodied information provided by us to the Supplier, be it before or after the conclusion of the contract, (collectively: the "Documentation"). The same applies to verbal information provided by us to the Supplier.
- (7) The Supplier is obligated to protect at any time, including after the termination of the contract, the confidentiality of all the Documentation made available to the Supplier as well as the confidentiality of any not yet generally known information that has come to the Supplier's knowledge in the context of the negotiation, conclusion or implementation of the contract, be it information on operational methods, key figures, other business and working secrets or be it other information of technical, commercial or other nature whatsoever. The confidentiality obligation does not end until, and only to the extent that, the content of the Documentation or confidential information supplied has become generally known. The Supplier must properly store any Documentation, in particular the Supplier must ensure that third parties cannot gain access to it. The Supplier may use the Documentation and all other confidential information solely for the contractually specified purpose. No piece of Documentation may be reproduced, given to third parties, or disclosed in any other manner without our written approval. Upon request any piece of Documentation is to be returned to us immediately. The Supplier must impose corresponding confidentiality obligations on its sub-suppliers.
- (8) The Supplier undertakes to pay us a reasonable penalty for each culpable breach of confidentiality obligations pursuant to paragraph 2. The amount shall be determined by us in our reasonable discretion, taking into consideration the scope and severity of the breach. In the event of a dispute about the reasonableness, the Supplier is free to have it verified by the competent national courts. Each breach counts separately, the plea of a continuation link ("Fortsetzungszusammenhang") between breaches is excluded. In the event of permanent breaches every commenced week of breach shall be deemed a separate breach. Claims for damage compensation remain unaffected, but penalty payments count against claims for damage compensation

## § 18 Documentation, Storage, Confidentiality Obligations

- (1) We reserve all our rights, particularly all and any rights of ownership and copyright, regarding all and any documents, illustrations, drawings, parts lists, models, plans, descriptions, calculations, and other embodied information provided by us to the Supplier, be it before or after the conclusion of the contract, (collectively: the "Documentation"). The same applies to verbal information provided by us to the Supplier.
- (2) The Supplier is obligated to protect at any time, including after the termination of the contract, the confidentiality of all the Documentation made available to the Supplier as well as the confidentiality of any not yet generally known information that has come to the Supplier's knowledge in the context of the negotiation, conclusion or implementation of the contract, be it information on operational methods, key figures, other business and working secrets or be it other information of technical, commercial or other nature whatsoever. The confidentiality obligation does not end until, and only to the extent that, the content of the Documentation or confidential information supplied has become generally known. The Supplier must properly store any Documentation, in particular the Supplier must ensure that third parties cannot gain access to it. The Supplier may use the Documentation and all other confidential information solely for the contractually specified purpose. No piece of Documentation may be reproduced, given to third parties, or disclosed in any other manner without our written approval. Upon request any piece of Documentation is to be returned to us immediately. The Supplier must impose corresponding confidentiality obligations on its sub-suppliers.
- (3) The Supplier undertakes to pay us a reasonable penalty for each culpable breach of confidentiality obligations pursuant to paragraph 2. The amount shall be determined by us in our reasonable discretion, taking into consideration the scope and severity of the breach. In the event of a dispute about the reasonableness, the Supplier is free to have it verified by the competent national courts. Each breach counts



separately, the plea of a continuation link ("Fortsetzungszusammenhang") between breaches is excluded. In the event of permanent breaches every commenced week of breach shall be deemed a separate breach. Claims for damage compensation remain unaffected, but penalty payments count against claims for damage compensation

## § 19 Final Provisions

- (1) The law of the Federal Republic of Germany applies but to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- (2) The place of jurisdiction for all disputes arising out of this contractual relationship is Wilhelmshaven, but we are also entitled to file actions against the Supplier at its place of general jurisdiction.
- (3) Changes in and additions to the contract and ancillary agreements must be made in writing.
- (4) Should one or more provisions of the contract be or become invalid, the validity of the other provisions shall not be affected thereby. This rule applies analogously if the contract contains a gap. In such cases the invalid provision(s) shall be replaced with the provision that comes commercially as close as legally possible to the purpose of the invalid provision, respectively the gap shall be filled with the provision that fits best the parties' common intent.

Status: January 2023