

Standard Terms and Conditions of Purchase and Supply (MAY 2024)

Jena-Optronik GmbH

1. Definitions

The titles of the articles ("Articles") are inserted for convenience of reference only and shall not affect the interpretation of these Conditions.

Unless otherwise defined, capitalized terms, singular or plural, used in these Conditions shall have the meaning set out below:

"Acknowledgement Form" means the form of acknowledgement document issued with the order.

"Jena-Optronik Information" or "Purchaser Information" means Jena-Optronik intellectual property rights, methods, know-how, proprietary and/or privileged technology and processes, internal facts and figures, and any related material and document.

"Classified Information" means any information (namely, knowledge that can be communicated in any form) or material determined to require protection against unauthorized disclosure which has been so designated by security classification.

"Conditions" means the terms and conditions set out in this document for delivery of the Item(s) to the place of delivery as specified in the Order.

"Due Delivery Date" means the due date

"Final Product" means the Purchaser's products and all variants and derivatives thereof, in which the Items are or could be incorporated.

"End-User" means the entity designated in the End User Statement as being the end user of the Item(s).

"End-User Statement" means the statement provided by Purchaser identifying the End-User and the program on which the Item will be used.

"Excusable Delay" shall mean any event that is unanticipated, unavoidable, and beyond the reasonable control of either Party and not occasioned by its fault or negligence, including without limitation, an act of God, epidemic, pandemic, fire, flood, explosion, earthquake, any act of government, war, insurrection or riot.

"Export Regulations" means any national and international laws and regulations including, without limitation, laws and regulations applicable to import, re-export or otherwise transferred technical data or technology to which the Item(s) or any part of the Item(s) may be subject.

"Final Customer" means any company, individual, government or entity having lawful ownership or lawful usage of the Final Product or Item.

"Item" means any good(s), material, work or service identified in the Order and as specified in the Specification forming part of the Order.

"Order" means the Purchase Order issued by Purchaser to the Supplier and containing any Specific Conditions, these General Conditions and any document, which is incorporated by reference, as well as amendments to the foregoing documents.

"Parties" means the Purchaser and the Supplier and "Party" shall be construed accordingly.

"Personal Data" means any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

"Public Official" means an elected or appointed official, employee or agent of any national, regional or local government/state or department, agency or instrumentality of any such government/state or any enterprise in which such a government/state owns, directly or indirectly, a majority or controlling interest; an official of a political party; a candidate for public office; any official, employee or agent of any public international organization; and any spouse or close family member related thereto.

"Purchaser" means Jena-Optronik GmbH, a company duly incorporated and existing under the laws of Germany, registered in the commercial register of the local court of Jena under HRB 201869, having its business address at Otto-Eppenstein-Strasse 3, 07745 Jena, Germany,

"Specification" means the requirements defining the Item, if any, issued by the Purchaser and incorporated in the Order.

"Specific Conditions" means the conditions negotiated and agreed between the Purchaser and the Supplier incorporated into and appearing on the front of the Order including any Specification.

"Supplier" means the company, person or entity upon whom the Order is placed and which is identified on the front of the Order.

"Work" shall mean any good(s), tooling, material, data, documentation, information, work or service (including tests to be performed) identified in the Order and as specified in the Specification forming part of the Order.

The Purchaser will provide -upon request of Seller- any document related to the Order and referred to herein.

2. Purpose and Scope

These Conditions together with all Specific Conditions are the only terms and conditions upon which the Purchaser will accept Items from the Supplier and the Purchaser shall not be bound by any different or additional terms and conditions proposed by or purported to apply by the Supplier, whether stated on the Acknowledgment Form or any other acknowledgement of the Order, whether communicated by the Supplier at the time of accepting the Order, starting work, delivering the Item or included in any other document. Sales conditions of the Supplier which deviate from these Conditions shall not become part of the Order even in case the Purchaser does not expressly disagree to such conditions.

3. Order and Order Acceptance

3.1 Within fourteen (14) calendar days of receipt of a submitted Order, the Supplier undertakes to notify the Purchaser of acceptance or refusal of the said Order by mail or e-mail.

3.2 The Order shall be deemed accepted by the Supplier after fourteen (14) calendar days, unless the Supplier informs the Purchaser in writing of its refusal to accept the Order. If the Supplier starts Work based on the Order without returning any comments, the Supplier shall be deemed to have accepted the Order without reservation. If the Supplier expressly refuses the Order in writing, it shall be deemed withdrawn and the Parties may negotiate new terms. The Purchaser may withdraw from any negotiations at any time prior to acceptance of an Order by the Supplier and shall incur no liability whatsoever.

3.3 Orders, Special Conditions, Specifications and delivery schedules as well as their amendments and supplements must be in writing. Oral agreements of any kind - including subsequent amendments and supplements to these Conditions must be confirmed by the Purchaser in writing to be effective.

3.4 The written form is also fulfilled by remote data transmission or email.

3.5 Cost estimates shall be binding and shall not be remunerated unless expressly agreed otherwise.

4. Precedence

In the event of any conflict between the following documents forming part of the Order, the following order of precedence shall apply: (i) the Specific Conditions without the Specification; (ii) the Conditions; (iii) the Specification; and (iv) any other documents.

5. Audit and Inspection

The Purchaser and the Final Customer shall have the right after prior announcement and coordination through internal or external auditors or assessors, to perform audits, assessments, surveillance, reviews and/or inspections to audit, on-site or remotely, during normal business hours in order to ensure compliance with quality and manufacturing processes, anti-corruption, export control, data protection and sustainability laws and regulations.

The Supplier and/or its suppliers and its subcontractors shall cooperate and provide full and immediate access to the Purchaser, the Final Customer and designated representatives to facilitate such audit.

6. Delivery and Acceptance

6.1 Import free of Customs Duties. If the Supplier is based within the European Union, it shall confirm in writing to the Purchaser that material/components purchased from outside the European Union have been imported free of duty and Value Added Tax under inward processing relief (or other customs regimes with the same effect) and that it is supplying the Item free of duty and indemnifies the Purchaser from and against any consequences of its non-compliance with this Article 6 "Delivery and Acceptance".

6.2 Packaging

6.2.1 Unless otherwise specified in the Order, the Item shall be packed in accordance with the latest Purchaser requirements, as provided to the Supplier upon request and in any case compliant with the applicable packaging regulations of the country of delivery. As a minimum, the packaging shall be convenient, safe, robust, eco-efficient and cost-optimized, so as to ensure the transport and storage of the delivered Item in an undamaged and serviceable status.

6.2.2 The Supplier shall ensure that appropriate marking and labelling for packaging, storage, transportation and shipping of the Item are performed. Item and/or its transport containers shall be labelled in a manner to ensure explicit identification (e.g., materials from different batches) and prevent accidental switching or mixing up.

6.2.3 The Item shall be delivered with all applicable documentation, including the requirements, means, tools and conditions (e.g. temperature, humidity, ...) to ensure the Item protection and prevent damage/contamination all along the Item life, and with a delivery note in duplicate bearing the Order reference, the name of the Supplier, the Item name, the Item part number, the Item batch number and serial number (if applicable), the program name, the address of delivery and the delivered quantities, the country of origin and country of dispatch, the gross and net weight per unit (kg), the export control classification number or a statement

“not subject to export control regulations”, a copy of the export license (if applicable) and the name of the Purchaser representative. Such applicable documentation shall be attached outside and, in the case of intercontinental shipments or shipments from outside the EU, inside the packaging.

6.3 Delivery of the Item, Shipment and Transportation

6.3.1 Delivery shall be made in accordance with the requirements set out in the Order, in particular with the requirements of the Specific Conditions and the Specification, and time shall be of the essence in relation to the delivery dates set out in the Order. No delivery of an Item shall take place without prior qualification of the Supplier and the Item by the Purchaser, unless specifically authorized in writing in advance by the Purchaser.

6.3.2 Unless otherwise instructed by the Purchaser in the Order, deliveries shall be made DAP (Delivered at Place), Incoterms 2020, to the address specified in the Order.

6.4 Title and Risk

Risk of loss and damage in the Item shall transfer to the Purchaser upon delivery to the delivery address specified on the Order. In the case of a notification of rejection of the Item being given to the Supplier by the Purchaser due to the non-compliance by the Supplier with the terms of the Order, title and risk to such Item shall automatically revert to the Supplier.

Transfer of title shall occur after full acceptance of the Item(s) in accordance with Article 6.5.

6.5 Acceptance of the Item

6.5.1 The transfer of risk does not constitute acceptance of the Item by the Purchaser. Where acceptance tests are defined in the Order, acceptance of any Item delivered shall be subject to completion of the acceptance tests as per the Order. Where no acceptance tests are defined in the Order, the Purchaser shall have the right to inspect the Item after delivery and acceptance shall take place if the Item is satisfactory to the Purchaser on inspection or, if no inspection is made, the Item shall be accepted thirty (30) calendar days after delivery or when it is taken into use by the Purchaser, whichever occurs first. Acceptance of any Item shall not be conclusive of the absence of latent defect and shall be without prejudice to the rights of the Purchaser under the Order or at law.

6.5.2 If the Item is not delivered in accordance with the Order, the Purchaser shall inform the Supplier in writing. Then the Purchaser may at its sole discretion, exercise the following rights:

- a) reject the delivered Item in whole or in part and require the Supplier to refund any payment(s) made by the Purchaser to the Supplier;
- b) set off the amount of any such payment(s) from any other amounts due to the Supplier from the Purchaser; or
- c) give notice to the Supplier to promptly replace or repair the delivered Item at the Supplier's expense and risk; or
- d) perform or have a third party perform operations to render the Item in conformity with the Order at the Supplier's costs if the Supplier fails to perform in due time the operations requested.

Within ten (10) calendar days of the notification of the rejection, the Supplier must remove the rejected Item at its expense and risk, otherwise it may be returned by Purchaser at the Supplier's expense and risk.

In case the Purchaser is entitled to damages in this situation, damages shall include all the Purchaser's expenses, damages, losses incurred and any additional costs arising from the failure to deliver the Item(s) in accordance with the Order.

7. General Supplier Undertakings

7.1 Compliance

7.1.1 The Supplier shall ensure its compliance and the compliance of all Items with all applicable laws and/or regulations as amended from time to time, including, but not limited to those in connection with:

- a) environment, health, security, safety, packaging and labelling (including CE marking if applicable); and
- b) the control, restriction, prohibition, recovery and/or elimination of inter alia, chemicals and/or hazardous substances and in each case, provide such information as the Purchaser may require in connection therewith; and
- c) transport; and
- d) labor employment, data protection and prohibition of corrupt practices, vigilance obligation and posting for foreign companies not located in Germany related to their employees and the Supplier commits to provide the Purchaser and/or his agent with all the documents, certificates and permits legally required, and
- d) customs and export control; and
- (f) additional provisions on employee protection, environment and hazardous materials as set forth in the Order

The Supplier shall report immediately to the Purchaser any violation of applicable laws and regulations with respect to the execution and/or the performance of the Order by itself or its affiliates, subsidiaries, executives, employees, agents or any Jena-Optronik GmbH, Standard Conditions of Purchase and Supply, 05/2024

individuals or companies that may be involved in performing the Order.

Should the Supplier fail to comply with such laws and/or regulations, the Supplier shall indemnify and hold harmless the Purchaser from and against all consequences of such failure in addition to and without prejudice to the Purchaser's rights under article 13.1 “Termination for Supplier's Default”.

7.1.2 Anti-corruption

The Supplier, its executives, employees, agents and any individuals or companies that may be involved in the execution and/or the performance of the Order shall comply with all governmental statutes, laws, rules and regulations, including but not limited to all local and international anti-corruption laws applicable to the performance of its obligations and activities under this Order.

Accordingly, in the performance of the Order, the Supplier shall refrain from:

- a) offering, promising, arranging for or paying, either directly or indirectly, anything of value (including but not limited to monies, gifts and entertainment and special favors) to any individuals, including Public Officials, for the purpose of improperly inducing that individual to perform or fail to perform his/her official duties, or to assist the Supplier or Purchaser in obtaining business, retaining business or securing any improper advantage;
- b) offering or paying unofficial payments to Public Officials to speed up or obtain routine governmental actions (including but not limited to obtaining permits, licenses, or other official documents; processing governmental papers, such as visas and work orders; providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or transit of goods across country);
- c) seeking, accepting, or paying for any confidential, non-public information regarding competitors, tenders and technical specifications, bids and bid prices.

The Supplier shall ensure that the foregoing provisions are included in all contracts to be entered into with its subcontractors according to Article 7.5 “Subcontracting” of the Order.

The Supplier shall give notice immediately to the Purchaser of any investigation or legal proceeding initiated against the Supplier by any public authority relating to an alleged violation of applicable laws and regulations with respect to the execution and/or the performance of the Order by itself or its affiliates, subsidiaries, executives, employees, agents or any individuals or companies that may be involved in the performance of the Order.

The Purchaser shall have the right at any time, through its internal or external auditors, to audit the means implemented by the Supplier and/or its subcontractors in order to ensure its compliance with anti-corruption Laws and Regulations, during normal business hours. In this respect, the Supplier and/or its subcontractors shall cooperate and provide full and immediate access to the Purchaser and its designated representatives to facilitate such audit.

If the Supplier does not comply with its obligations under Article 7.1.2 “Anti - corruption”, the Purchaser then reserves the right to terminate the Order pursuant to Article 13.1 “Termination for Supplier's Default”

7.1.3 Data Protection

The Suppliers confirms and agrees that any Personal Data exchanged in connection with the Order and for the purpose of the performance of the Order has been collected and will be exchanged in compliance with the applicable Personal Data protection laws and regulations, as independent data Controllers (“Controller” meaning the organization determining the purposes and the means of the processing of Personal Data).

The Parties mutually agree to insert any additional contractual measures that may be required by the applicable Personal Data protection laws and regulations to ensure such compliance during the term of the Order.

7.1.4 Responsibility and Sustainability

As Jena-Optronik GmbH is a one hundred percent affiliated company of Airbus Defense and Space GmbH, Airbus's Supplier Code of Conduct is applicable to Jena-Optronik GmbH and any of its suppliers and is based on the approved International Forum on Business Ethical Conduct (IFBEC) Model Supplier Code of Conduct.

Without prejudice to any more detailed provisions contained herein, the Supplier undertakes to comply with the Airbus Supplier Code of Conduct.

This Code of Conduct is available on the Purchaser homepage in addition to this Conditions of Purchase [Contact & GT&C - GT&C - Jena Optronik \(jena-optronik.de\)](#).

The Supplier shall also observe the Act on Corporate Due Diligence Obligations in Supply Chains of July 16, 2021 (Gesetz über die unternehmerischen Sorgfaltspflichten zur Vermeidung von Menschenrechtsverletzungen in Lieferketten vom 16. Juli 2021 (BGBl. I S. 2959) (Lieferkettensorgfaltspflichtengesetz - LkSG)).

7.1.5 Information Security

7.1.5.1 The Supplier shall protect Purchaser Information, data and/or assets made available to the Supplier in the context of this Order from loss, destruction, falsification, corruption, unauthorized access and unauthorized release. The Supplier shall ensure that no possible damage causing software (e.g., viruses, worms or trojans) is introduced in connection with the Order. The Supplier

undertakes to secure the Purchaser's and its own data with state-of-the-art measures against unauthorized access, modification, destruction, loss and other types of misuse.

7.1.5.2 For this purpose and in accordance with relevant security laws and regulations, the Supplier at least undertakes to:

1. establish clear responsibilities for information security matters and provisioning of a focal point of contact; and
2. introduce procedures to guarantee access control to information on a strict "Need-to-Know" principle; and
3. provide state of the art protection measures against (cyber) threats to protect the IT infrastructure (e.g. firewalls, virus scanners); and
4. establish patch management to update IT devices, operating systems and programs; and
5. facilitate regular backup of IT systems and data; and
6. provide capability to detect security incidents; and
7. perform incident response and recovery capabilities; and
8. promote security training and awareness within the Supplier's organization.

7.1.5.3 On request, the Supplier shall nominate to the Purchaser a point of contact in its organization (including back-up), that is responsible for routine collaboration and incident reporting.

7.1.5.4 Classified Information provided or generated pursuant to this Order shall be protected as set out in this Article 7.1.5 "Information Security".

7.1.5.5 In case the Supplier becomes aware of an incident which endangers the security of the Purchaser's data and/or assets including but not limited to security gaps, data loss or misuse or cyber-attacks then the Supplier shall a) immediately inform the Purchaser of such event and b) take all necessary steps to clarify the matter and limit the damage. Upon request the Supplier shall provide respective information for the specific period.

7.1.6 If the Supplier does not comply with its obligations under Article 7.1 "Compliance", Purchaser then reserves the right to terminate the Order pursuant to Article 13.1 "Termination for Supplier's Default".

7.2 Quality

7.2.1. Quality Management System Unless otherwise agreed between both Parties the Supplier shall ensure that its Quality Management System (QMS) complies with the general requirements for Supplier Quality Assurance Guideline as available on the Purchaser homepage [Contact & GT&C - GT&C - Jena Optronik \(jena-optronik.de\)](#) and can be provided to the Supplier on request. The Supplier shall comply with the requirements of ISO 9001 as a minimum. The Supplier shall ensure that the Order is carried out in compliance with the quality requirements of its QMS approval, as specified above.

The Purchaser reserves the right to review and approve any Quality relevant use of statistical methods.

7.2.2 Approved Sources: The Supplier shall ensure that all standard parts, specified items, special processes and test methods used for the manufacturing of Item(s) are purchased from Purchaser-approved sources and qualified by Purchaser.

7.2.3 Conformity Documentation

7.2.3.1 The Supplier shall deliver its Item(s) with the following minimum documentation:

- A Certificate of Conformity (CoC) of the manufacturer, indicating that the requirements of the applicable specifications have been met. The CoC shall include at least the following information:

- Order number; and
- part number; and
- quantity and unit of measure; and
- date of manufacture and date of expiration (where applicable); and
- lot number, serializations or other batch identifications (where applicable); and
- Signature, title and date by an authorized representative.

7.2.3.2 Suppliers who are stockists or distributors shall attach to each delivery:

- a CoC from its company covering the Item(s); and
- a copy of the CoC and a statement of undertaking established by the original manufacturer, attesting the conformity of the delivery with the Order; and
- the inspection, test and raw material reports of the qualified Supplier, if requested by the Purchaser.

7.2.3. Non-conforming Items

7.2.3.1 The Supplier is responsible for the quality of its supplies and shall ensure the conformity of the delivered Item(s) with the Specification, in particular by means of pre-delivery inspections and final tests. The Supplier shall perform a root-cause analysis and take any necessary corrective action to remedy the causes of non-conforming Item(s), in order to prevent any recurrence and implement a suitable preventative action plan. The Supplier shall confirm

implementation of the action plan to the Purchaser's satisfaction. The Supplier shall use an 8D/9S process or an equivalent methodology, substantiated by the Supplier and approved by the Purchaser.

7.2.3.2 Where a non-conformity is identified after an Item is delivered by the Supplier, the Supplier shall immediately submit to the Purchaser a "Notification of Product Quality Escape" in accordance to standard ISO 9001 Chapter 8.7.1, supplemented by ISO/TS9002 and shall undertake all necessary corrective measures in support of the Purchaser, until resolution of the non-conformity to the Purchaser's satisfaction and completion of all corrective and preventative actions and such actions shall be undertaken without limiting the Supplier's liability to the Purchaser for any losses incurred under Article 12 "Liability and Insurance" below.

7.2.4. Quality Records. The Supplier shall inspect all incoming materials to ensure conformance with all applicable specification requirements and drawings of Items pertaining to the Order and shall document all inspection requirements and acceptance criteria to ensure they are in line with the specific requirements communicated to it by the Purchaser for the Items. The Supplier shall ensure complete identification and traceability of all related products to the raw material used and applicable documentation. All records must be stored in a controlled environment/suitable manner and according to applicable legal rules, so that they remain identifiable, legible, reproducible and available to the Purchaser.

7.2.5 Changes. The Supplier shall give sufficient advance notice to the Purchaser of any changes related to the Item, including to its manufacturing processes, methods, materials and parts included in the Item, design of the Item and any other changes to may impact the conformance of the Item with the Order. Any changes are subject to the formal approval of the Purchaser prior to any delivery of the Item. This also apply to changes in comparison to previous orders and deliveries for the same Item.

7.3 Personnel. The Supplier shall be responsible for ensuring that its personnel are fully trained, skilled, qualified and capable of fulfilling all of the requirements contained in the Order and for giving any instructions or applying sanctions towards its personnel. Nothing in the Order shall be construed as giving rise to an employment relationship between the Purchaser and the employees of the Supplier.

7.4 Advice/Delivery Notes and Conformity Documentation. The Supplier shall, on the day of dispatch of each consignment of Items, send advice notes and such conformity documentation required under Article 7.2.3.

7.5 Subcontracting. No substantial part of the work on the Order may be subcontracted by the Supplier without the prior written consent of the Purchaser. If the Purchaser consents to the proposed subcontracting, the Supplier undertakes to inform the Purchaser in writing and in a timely manner of the name and address of the subcontractors. The Purchaser shall be entitled to require the modification and/or the continuation of such subcontracting for quality or program reasons. The Supplier shall remain fully responsible for the Item and shall ensure that its suppliers comply with all provisions of the Order relevant to any subcontracted work.

7.6 Property furnished by the Purchaser: The Supplier shall not acquire any legal or beneficial interest in any property supplied to it by the Purchaser for performance of Work on the Order. Any such property possessed or controlled by the Purchaser shall be under Supplier's custody and risk, stored and booked separately from other property belonging to the Supplier, maintained at the Supplier's expense, clearly marked as the Purchaser's property and only used by the Supplier for the performance of the Order. At the request of the Purchaser or on completion of the Order, such Purchaser's property shall, unless incorporated into the Item(s), be returned promptly to the Purchaser at Supplier's costs and expenses. On reasonable written notice being given to the Supplier, the Purchaser shall have the right to enter the Supplier's premises to audit and/or recover any such Purchaser's property.

8. Export Control

8.1 The Item(s) or part thereof may be subject to Export Regulations. The Parties shall be responsible for complying with all Export Regulations. The Parties acknowledge that diversion contrary to Export Regulations is prohibited.

The Supplier shall identify any part of the Item(s) which may be subject to Export Regulations at the time of the acceptance of the Order and shall provide the Purchaser and/or the Final Customer with all information concerning such applicable Export Regulations as well as with any assistance they may request in implementing such applicable Export Regulations. Amendments to such information shall be provided by the Supplier in the event of a change of the classification of the Item(s) or in Export Regulations or an envisaged change of the classification by any government.

The Supplier shall provide a completed Export Control Classification Declaration ("ECCD") at the time of the acknowledgement of the order. The Purchaser will provide an End-User Statement and the program description, if necessary, prior to the Order signature.

8.2 Whenever all or part of the Item(s) is subject to Export Regulations, and without prejudice to its obligations under this Article 8, the Supplier shall:

- a) obtain in due time, at no cost to the Purchaser, all relevant official approvals, licenses and authorizations (including any necessary Technical Assistance

Agreement ("TAA")) required for the worldwide export, delivery and use of the Item(s) by the Purchaser and/or the Final Customer in accordance with the Order and/or the End-User Statement; and

b) to the extent authorized by law, submit to the Purchaser for review the exact wording of all applications before such applications are submitted to the relevant authority; and

c) advise the Purchaser in writing on a quarterly basis of its progress in obtaining such approvals, licenses and authorizations (including TAA), in the course of the performance of the Order; and

d) clearly indicate on all controlled technical documents and all delivery documentation the export control classification number and the numbers of all applicable export licenses; and

e) provide the Purchaser, except if prohibited by the applicable Export Regulations, with a copy of all relevant official approvals, licenses and authorizations, including a copy of all provisions that relate to the compliance obligations of the Purchaser, Final Customer and/or the End-User, including, but not limited to, any restrictions on sublicensing, any restrictions on retransfer, any requirements for non-disclosure agreements, any limitations on employees, and any other restrictions or conditions that result in authorization being more restrictive or not as broad as contemplated in the authorization or license request and/or the Order documentation. Provisos that are classified or that do not relate to the compliance obligations of the Purchaser, Final Customer and/or the End-User may be blanked out from the copy supplied to the Purchaser, if so required by the issuing authority.

8.3 In the event that, due to fault or negligence of the Supplier, any Export Regulations would prevent the Supplier from complying with this obligation, the Supplier shall, at its own cost, and within a timeframe compatible with the Purchaser's business needs either:

a) obtain from the relevant authority any authorization, with respect to the Item(s), necessary for the Purchaser and for the Final Customer, or

b) replace or modify the restricted technology, including redesign and consequential qualifications, so that the Item(s) cease(s) to infringe the Export Regulations, while fulfilling all requirements defined by the Order.

If, without any fault or negligence of the Supplier, the competent Governmental authority fails to grant a required authorization to the Supplier or if at any time during the term of the Order the competent governmental authority revokes or suspends such an authorization subsequent to its grant, or grants such an authorization subject to unacceptable conditions, the Purchaser shall be entitled, without incurring any liability whatsoever, to terminate the Order with immediate effect in whole or in part by giving a written notice to the Supplier in accordance with article 13.4.3 "Termination without Supplier's Default/Cancellation".

8.4 The Supplier shall flow down the requirements and responsibilities of this Article 8 as appropriate to its subcontractors at all levels, and obtain relevant information from its subcontractors for transmission to the Purchaser.

8.5 Notwithstanding any other provision of the Order or any other contract entered into with the Supplier, the Supplier shall be liable for all damages, losses and liabilities incurred by the Purchaser and/or the Final Customer as the result of the Supplier's non-compliance with its obligations under this Article.

9. Delivery and Due Date of Delivery

9.1 Delivery Times are of the essence and binding. Partial deliveries are permitted only subject to the prior written consent of the Purchaser.

9.2 Relevant for the timeliness of the deliveries is the receipt of the Item(s) at the delivery place specified by the Purchaser as per the Order. The Supplier shall immediately notify the Purchaser of any threatening or existing delay in delivery, the reasons for such delay and the anticipated duration of such delay. The unconditional acceptance of late deliveries by the Purchaser shall not constitute any waiver for compensation claim due to late delivery.

9.3 In case of default in delivery the Purchaser reserves all rights under this Order and the applicable law.

9.4 The Supplier shall notify the Purchaser orally, and promptly confirm in writing, immediately upon becoming aware of any known or anticipated delay in the performance of its obligations hereunder, stating the anticipated period of the delay, the reasons for the delay and the obligations affected.

9.5 Excusable Delay. Neither Party shall be responsible for nor be deemed to be in default of its obligations under the Order to the extent that such default is caused by an Excusable Delay. If an Excusable Delay occurs and causes or is likely to cause a delay in the performance by either Party of its obligations under the Order, such Party shall notify the other Party in writing immediately after becoming aware of such Excusable Delay and provide reasonable evidence of the Excusable Delay. Immediately after the Excusable Delay has ceased and subject to the provisions of Article 13.2 "Termination for Excusable Delay", the affected Party shall, unless otherwise agreed in writing, resume the performance of its obligations.

9.6 Non-Excusable Delay

A delay by the Supplier in the performance of its obligations under the Order, which does not qualify as an Excusable Delay, shall be a "Non-Excusable Delay". In

such event, the Purchaser shall be entitled to claim liquidated damages in the amount of 0,5% of the Order Price per calendar day of delay up to a maximum of five percent (5%) of the Order Price, unless otherwise stipulated in the Specific Conditions. The Supplier is free to prove that the Purchaser's actual amount of damage is less than the accrued amount of the liquidated damages.

In the event that the amount of damages exceeds the total amount of the above liquidated damages, the Purchaser shall be entitled to claim the full amount of such excess damages in respect of all losses, expenses and costs. The Purchaser's right to claim liquidated damages and other damages shall be in addition to the rights provided by law and the Purchaser's right to terminate for default in accordance with Article 13.1

10. Warranties

10.1 Without prejudice to any other warranties, the Supplier warrants to the Purchaser that the Item and/or any part thereof shall

(i) be free from any defects and be suitable for their intended use and;

(ii) comprise only materials and goods which are new, of recent manufacture, merchantable and of satisfactory quality and;

(iii) be compliant with the quality requirements and with the Specification, if any, of the Purchaser and;

(iv) in the case of a service, be performed with all reasonable skill and care and in accordance with best industry practice.

10.2 The Supplier shall promptly repair or replace at the Purchaser's request, any defective or non-compliant Item, at no cost to the Purchaser. The warranty will be for the period as specified in the Specific Conditions, but in any case, for a minimum period of twenty-four (24) months from the acceptance of the Item by the Purchaser, as provided for in Article 6.5 "Acceptance of the Item" or in the case of a service, from completion of such service. The outstanding warranty period, including the period under which the Item was under repair, shall apply to any repaired and/or replaced Item as from the date of its first use after such repair or replacement or in the case of a service, on resumption of such service. The Supplier shall be liable for all costs incurred by the Purchaser, as a consequence of the defect or non-compliance of the Item or service, including but not limited to, removal, reinstallation, transport, certification and tests.

10.3 This Article 10 "Warranties" shall apply in addition and without prejudice to any other rights and remedies under the Order and/or available to the Purchaser at law.

11. Price and Payment

11.1 Price. Unless otherwise specified in the Specific Conditions, prices are fixed and firm and shall be based on the delivery of the Item, as per Article 6.3, to the place specified in the Specific Conditions of the Order. No additional charge shall be made by the Supplier for packing, insurance or delivery unless otherwise agreed by the Parties and set out in the Specific Conditions and any such charge shall be separately identified in the Supplier's invoices.

11.2 Taxes. Prices are exclusive of Value Added Tax but inclusive of all other taxes, duties or similar charges of any nature whatsoever levied, assessed, charges or collected in connection with the item(s). The Supplier shall be liable for and pay, all other relevant taxes, levies and duties in connection with the Item(s), if any. The Value Added Tax, if any, must be separately itemized. In the event that any taxes or duties or similar charges are to be paid by Purchaser, Supplier shall reimburse Purchaser for such taxes and duties

11.3 Invoices. For payment purposes, the Supplier shall issue an invoice concurrently with the delivery of the Item and send it for the attention of the Purchaser's accounting department as specified in the Specific Conditions of the Order as well as with the documents accompanying the Item when delivered to the Purchaser. Each invoice shall include the information entitling the deduction of input tax, in particular tax ID or VAT number, the designation, reference and quantity of Items, the Order and Item numbers, the price, the actual delivery date, names and addresses of the Parties, the Supplier's bank details, any specific terms or conditions and reference to a discount, if any. The Supplier shall if requested issue its invoices in an electronic format, as specified by the Purchaser.

11.4 Payment. Payments shall be made by electronic bank transfer to the Supplier's nominated bank account, provided that the invoice received from the Supplier is valid, accurate and due. The Purchaser will make payments only for those Items which have been delivered in accordance with the terms of the Order. In the event of a dispute between the Parties, the Purchaser shall be entitled to withhold the payment of any disputed element of the invoice until resolution of such dispute. Unless otherwise specified in the Specific Conditions, payments with respect to Items shall be made on the tenth (10th) day of the calendar month following the month in which the invoice is issued (30EOM10). Should the payment day be a Saturday, Sunday or a bank holiday then the payment shall be made the following business day.

11.5 Without prejudice to any other right or remedy of the Purchaser, the Purchaser reserves the right to set off any amount owing at any time from the Supplier to the Purchaser against any amount payable by the Purchaser to the Supplier in respect of an Order or otherwise due from the Purchaser to the Supplier.

12. Liability and Insurance

12.1 The Supplier is liable to the Purchaser for all costs, losses, damages and liabilities, including without limitation, costs and expenses incidental thereto, which may be incurred by the Purchaser as a consequence of the failure by the Supplier to comply with any of its obligations under the Order. The Purchaser agrees to provide the Supplier with a breakdown of the said damages.

12.2 Each Party shall be liable for, indemnify and hold harmless the other Party, its officers, directors, employees or insurers from and against any and all claims, losses, liabilities, suits, judgements, expenses and costs (including legal fees) or the like in any way connected with the death of or injury to any person whomsoever, or loss of or damage to any property of any person, entity or company (including the other Party) when arising out of, or having its origin in, the intentionally or negligently committed acts or omissions of the indemnifying Party in connection with the performance of the Order.

The Supplier shall indemnify and hold harmless the Purchaser from and against any and all claims by third parties because of the defectiveness of an Item(s) ("Product Liability"). The Supplier shall immediately refund the Purchaser any payments made to satisfy such claims.

12.3 Insurance

12.3.1 The Supplier shall conclude and maintain with insurers of recognized reputation and security adequate insurance policies to cover its liabilities under the Orders. At a minimum, Supplier shall maintain a General Third Party liability insurance for an amount of no less than five million (5.000.000) EUR per occurrence and in the yearly aggregate. To the extent that the performance of this Order requires the presence of the Supplier's employees, agents or sub-contractors on the site(s) of the Purchaser or other designated sites, the Supplier shall effect and maintain employers' liability insurance and public liability insurance commensurate with the exposure potential for loss of or damage to property of the Purchaser or death of or injury to persons resulting from performance of the Order and such insurance cover shall not be less than the minimum figure advised by the Purchaser to the Supplier from time to time.

12.3.2 The Supplier shall take out and maintain extended product liability insurance in respect of any of the Item(s) that are to be incorporated into the Final Product. Such product liability insurance must be commensurate with the exposure potential of the Item(s) when incorporated into the Final Product and shall not be less than ten million (10.000.000) EUR in the yearly aggregate.

12.3.3 If the Supplier is required to carry out Work, which requires professional indemnity insurance, the Supplier shall provide the Purchaser with a certificate of insurance or such other evidence reasonably satisfactory to the Purchaser that such insurance is in full force and effect.

12.3.4 The Supplier shall provide the Purchaser with a certificate of insurance or such other evidence reasonably satisfactory to the Purchaser that the above insurances are in full force and effect in respect of the Supplier's obligations under the Order.

13. Termination

13.1 Termination for Supplier's Default. In the event the Supplier breaches or fails to comply with one or more of its obligations herein, the Purchaser may give the Supplier written notice of such breach or non-compliance at any time thereafter. The Supplier shall remedy such breach or non-compliance within thirty (30) calendar days from the date of such notice. If the Supplier does not remedy the breach or non-compliance within the said thirty (30) calendar days or if the breach is not capable of remedy then the Purchaser shall, without incurring any liability whatsoever, have the right to immediately terminate the Order in progress (in whole or in part) by giving written notice of termination to the Supplier to that effect, without prejudice to the Purchaser's rights to claim damages and/or any other remedies which the Purchaser may have at law and/or under the Order. The provisions of Article 13.4 "Termination Procedures" shall apply and the termination account shall proceed accordingly.

13.2 Termination for Excusable Delay. In the event that an Excusable Delay exceeds or is expected to exceed thirty (30) calendar days following the occurrence of the cause thereof, each Party shall be entitled to terminate forthwith the Order, or any part thereof, by giving written notice of termination to the other Party, without incurring any liability whatsoever.

13.3 Termination without Supplier's Default. The Order may be terminated by the Purchaser at any time in whole or part by delivery to the Supplier of a notice of termination thirty (30) calendar days prior to the termination being effective. In the event of such notice being given, the Supplier shall stop work forthwith and comply with any directions with regard to the supplies that may be given by the Purchaser. The provisions of Article 13.4.3 "Consequences of Termination without Supplier's Default" shall apply and the termination account shall proceed accordingly.

13.4 Termination Procedures

13.4.1 As of the effective date of termination, the Supplier undertakes to cease all further performance related to the cancelled Order (unless otherwise instructed by the Purchaser) and the Supplier shall comply with all directions or instructions regarding the Items which the Purchaser provides to the Supplier.

13.4.2 Consequences of Termination for Supplier's Default. The Supplier

shall be liable for all losses, expenses, costs, claims and damages incurred by the Purchaser as a result of a breach by the Supplier of this Order or of the Conditions. The Supplier shall indemnify the Purchaser in full against any losses, expenses, costs, claims or damages whatsoever (including without limitation legal costs) resulting from the negligence willful misconduct, breach of contract or breach of statutory duty caused by the acts or omissions of the Supplier, its employees, subcontractors or agents in performance of the Order or in connection with any defect in an Item.

13.4.3 Consequences of Termination without Supplier's Default. The Supplier shall submit an account to the Purchaser at the address given in the Order within one (1) month from the effective date of termination in the form prescribed by the Purchaser. The Purchaser undertakes to pay a fair and reasonable price for all authorized work done and unavoidable commitments up to the time of termination. Such payments made, taken together with any sums paid or due or becoming due to the Supplier under the Order shall not exceed the total price of the Supplies under the Order.

13.4.4 Consequences of Termination for Excusable Delay. The Supplier shall repay to the Purchaser any amount which it may have been paid in advance in respect of the Items not provided by the Supplier as at the effective date of termination.

13.4.5 Any termination of the Order by the Purchaser for whatever reason shall be without prejudice to any rights or remedies which may have accrued to the Purchaser prior to termination and the Purchaser shall use its reasonable endeavors to mitigate its loss on any termination.

13.5 Suspension. The Purchaser reserves the right to request at any moment that all or part of the work under the Order be stopped for a maximum period of six (6) months or rescheduled, without having to indemnify the Supplier for expenses that may result from this suspension or rescheduling.

13.6 Surviving Articles. All Articles in the Order and these Conditions which by their nature should survive expiry or termination of the Order shall remain in full force and effect after such expiry or termination.

14. Intellectual Property Rights

14.1 As far as legal permissible, all intellectual property created as a result of the Work undertaken by the Supplier or its sub-contractors for the purpose of the Order, or for the supply of the Item(s), shall automatically be transferred to the Purchaser and all such rights shall vest in and be the sole property of the Purchaser. If, however, by operation of law, the Supplier is deemed the owner to the rights for such newly created intellectual property, the Supplier hereby grants to the Purchaser, and will cause its employees, agents and contractors to grant to the Purchaser as soon as created and in consideration of the price set forth in the Order, an irrevocable, royalty free, transferrable, worldwide license for full exploitation rights of the created intellectual property including the right of reproduction in any form, language, format and medium, the right of distribution in part or in whole including the right to sell, loan, rent, distribute, download by any means and in any language, the right to modify, adapt, improve, correct and translate in any form and language, and interface with any other item(s), including the right to sub-license all the above-mentioned rights.

14.2 The Supplier undertakes to execute any assignment or other documentation necessary to give effect to the transfer of the intellectual property created as a result of the Work undertaken by the Supplier or its sub-contractors for the purpose of the Order to the Purchaser.

14.3 The Supplier hereby grants to the Purchaser, at no additional charge beyond the Order Price specified on the Order, an irrevocable, non-exclusive and worldwide license to hold, use and sub-license for the benefit of third parties all relevant Supplier's background intellectual property necessary for the performance of the Order or the use of the Item(s) for the duration of the rights, which the Supplier shall ensure lasts at a minimum for the duration of the Purchaser's reasonable intended use of the Item(s). The Supplier grants the Purchaser the right to sub-license all the above-mentioned rights.

14.4 In addition, and in the case of customized or altered off-the-shelf Items and non-off-the-shelf Items, such license granted by the Supplier to the Purchaser shall include for the Purchaser the right of reproduction in any form, language, format and medium, the right of distribution in part or in whole including the right to sell, loan, rent, distribute, download by any means and in any language, the right to modify, adapt, improve, correct and translate in any form and language, and interface with any other item. The Supplier grants the Purchaser the right to sub-license all the above-mentioned rights.

14.5 The Supplier assures that he has the required licenses for the software used or delivered in the scope of the Order and that he complies with the applicable intellectual property law. It is the responsibility of the Supplier to avoid the use, in any manner and for any purpose, throughout its contractual chain, of an OSS (Open Source Software) component that would result in a viral/contamination effect of the software produced and/or delivered in the frame of the Order. The Supplier shall request the authorization from the Purchaser to introduce OSS components under OSS license for the purpose of the software to be delivered.

14.6 Infringement Indemnity. With respect to any third party claims, suits or actions relating to the infringement or alleged infringement of any intellectual property rights of a third party in relation to the Order, the Supplier shall defend,

fully indemnify and hold harmless the Purchaser, its agents, successors and assigns, against any and all costs, losses, damages, liabilities, expenses (including legal fees), fines or other financial sanctions or loss of profit which may be incurred as a result of any alleged or proven infringement.

14.7 The Supplier shall promptly inform the Purchaser of any dispute or claim (legal or otherwise) that arises with a third party and the substance of such dispute or claim.

14.8 The Purchaser may accede to the Supplier being a party in a legal dispute by filing third-party notice. In any case, the Parties shall consult closely in relation to defending such claims, suits and actions.

15. Confidentiality and Publicity

15.1 Any and all information relating to the Order and communicated by the Purchaser to the Supplier, or to which the Supplier may have access in connection with the Order, and/or any information in any form, on any medium, which is declared as being confidential or which can reasonably be regarded as confidential because it is by its nature, commercially sensitive or is manifestly of a confidential nature shall be referred to as "Confidential Information".

15.2 The Supplier shall use Confidential Information exclusively for the purposes of the Order. Disclosure of Confidential Information to the Supplier's personnel shall be for the purpose of performance of this Order only and shall be on a strictly need-to-know basis. The Supplier shall not disclose any Confidential Information to any third party without the Purchaser's prior written consent.

15.3 The Supplier shall be under no obligation of confidentiality if it can prove that the Confidential Information was

- (i) already publicly known when the Supplier gained access to it or
- (ii) that it became publicly known through no fault of the Supplier after it gained access to it or
- iii) that the Supplier was able to lawfully gain access to the Confidential Information.

15.4 The obligations relating to confidentiality shall remain in full force and effect for the duration of any Order and continue for a period of five (5) years after the expiry or termination of the Order.

15.5 Neither Party shall make any news release or public announcement referring to the Order, nor use, reproduce or imitate for any purpose whatsoever any of the filed, registered or unregistered trademarks of the other Party, including its company names, associated logos, program names or logos associated with its products or services, unless a prior written consent is given by the other Party.

16. Assignment and Transfer

The Purchaser shall be entitled to assign or transfer at any time all or part of its rights, warranties, benefits, remedies and obligations under the Order to any third party. The Supplier shall not assign or transfer any of its benefits, rights, remedies and/or obligations under the Order to a third party without the prior written consent of the Purchaser.

17. Governing Law and Dispute Management

17.1 This Order shall be governed by and construed and shall take effect in accordance with the laws of Germany, excluding the application of the 1980 "United Nations Convention on Contracts for the International Sales of Goods".

17.2 Amicable Resolution. In the event of any dispute, controversy or claim (a "Dispute"), arising out of or in connection with this Order including any question regarding its existence, validity or termination, the Parties shall make every effort to resolve the Dispute amicably within a period of three (3) months following notification of a Dispute by one to the other.

17.3 Arbitration. If the Parties fail to amicably resolve the Dispute within the three (3) month period referred to above, such Dispute shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce ("ICC"). The number of arbitrators shall be three (3) and the place of arbitration shall be Jena, Germany. Each Party shall nominate one arbitrator and the two arbitrators shall nominate the president in consultation with the Parties. The language to be used in the arbitral proceedings shall be English. The law of this arbitration agreement is that of the seat. Either Party retains the right, consistent with this Order, to apply to any court of competent jurisdiction for provisional, injunctive and/or conservatory relief, and any such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.

17.4 The existence and content of the arbitral proceedings and any ruling or award shall be kept confidential by the Parties and members of the arbitral tribunal except (i) to the extent that disclosure may be required of a Party to fulfil a legal duty, protect or pursue a legal right, or enforce or challenge an award in bona fide legal proceedings before a state court or other judicial authority, (ii) with the consent of all Parties, (iii) where such information is already in the public domain other than as a result of a breach of this Article 17 "Governing Law and Dispute Management", or (iv) by order of a state court or other judicial authority upon application of a Party.

18. Amendments

The Order including these Conditions shall not be amended except by specific agreement in writing (including changes and amendments to this Article 18 "Amendments"), signed by duly authorized representatives of the Parties.

19. Independent Contractors

The relationship of the Parties under these Conditions shall be that of independent contractors. Neither Party shall have the right to contract or in any other way to enter into commitments on behalf of or in the name of the other Party.

20. Entire Agreement

The Order constitutes the entire agreement between the Parties in relation to its subject matter. It supersedes all prior agreements, understandings and representations, whether written or oral between the Parties, relating to the subject matter of the Order.

21. Notices

21.1 Unless otherwise specified, all notices and communications between the Purchaser and the Supplier in respect of the Order shall be in writing and sent by mail, electronic mail, facsimile, or messenger service to the Procurement Department at the Purchaser's facility identified in the Specific Conditions. The date of delivery of any such notice or communication shall be the date of dispatch, if delivered by electronic mail, facsimile or messenger service, or five (5) business days after mailing, if delivered by mail.

21.2 The Supplier shall promptly inform the Purchaser of any change related to its company name and/or related to the address of any of its involved sites, before the effective date of such changes.

22. Waiver

Failure or delay at any time by either Party to enforce any provision of the Order, or any part thereof, shall not constitute a waiver of such provision or affect the validity of the Order, nor prejudice the right of the affected Party to enforce such provision at a subsequent time.

23. Severability

Any provision of the Order prohibited by, or unlawful or unenforceable under the governing law actually applied by any court of competent jurisdiction shall, to the extent required by such law, be severed from the Order and replaced with another provision having substantially the same effect without it modifying the remaining provisions.

24. Language

These Conditions have been drawn up in English and only this language version shall be deemed authentic. Any translation of these Conditions into a language other than English shall be for information purposes only. All notices, correspondence, communication and documentation to be issued, exchanged or delivered to either Party in connection with this Order shall be in English.