Conditions of purchase of JP Industrieanlagen GmbH

The following conditions of purchase shall apply to entrepreneurs (§ 14 BGB [German Civil Code]), legal entities under public law and special asset under public law.

1. General information: Applicability of the conditions of purchase, prohibition of assignment, choice of law, legal domicile

1.1. These conditions of purchase shall apply to all deliveries, services and offers from our contractual partners (hereinafter referred to as “supplier”) to us. As long as these conditions of purchase refer only to suppliers, even such contractual partners shall be included, which provide services to us e.g. from a service contract or an agency agreement.

1.2. Our conditions of purchase shall apply exclusively, unless otherwise agreed in the contract; we shall not acknowledge contrary conditions or conditions of the supplier deviating from our conditions of purchase, unless we have expressly agreed to their validity in writing. Our conditions of purchase shall apply even if we unconditionally accept the supplier’s delivery while being aware of contrary conditions or conditions of the supplier deviating from our conditions of purchase.

1.3. Our conditions of purchase shall also apply for all future deliveries and services of the supplier to us up to the validity of our new conditions of purchase.

1.4. All agreements made between us and the supplier for the purpose of execution of this contract including all changes must be laid down in writing in the contract. The telecommunicative transmission, in particular by fax or e-mail shall be sufficient for the adherence to the written form, provided that a copy of the declaration is submitted. The aforementioned shall also apply if a written form is demanded or is considered to be decisive in these conditions of purchase.

1.5. The supplier may not assign claims against us.

1.6. These conditions of purchase and all legal relationships between us and the supplier shall be subject to the substantive law of the Federal Republic of Germany excluding international uniform law, especially excluding the Vienna UN Convention of 11th April 1980 (“CISG”). The contract and negotiation language shall be German.

1.7. The place of performance for the obligations of the purchaser as well as for our obligations shall be the headquarters of our company, unless otherwise agreed.

1.8. If the supplier is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive, even international, legal domicile for all disputes resulting from the contractual relationship shall be Straubing. This legal domicile shall apply even if the purchaser has no general legal domicile in Germany, relocates his/her residence or usual place of residence from Germany after the conclusion of the contract or if his/

her residence or usual place of residence is not known at the time of filing of a suit. However, we shall also be entitled to bring legal action at the place of performance of the delivery obligation.

2. Contracts about deliveries and services, written form, correspondence, shipping documents, invoices

2.1. If our offers (regularly referred to by us as “order”) do not expressly contain a period of commitment, we shall be bound by these for 5 working days from the date of the offer. The receipt of the acceptance declaration by us shall be decisive for the timely acceptance. A delayed acceptance shall be considered as a new offer of the supplier and shall require the acceptance by us.

2.2. Agreements made before or at the time of conclusion of the contract shall be valid only if they are made in writing. The telecommunicative transmission, in particular by fax or e-mail shall be sufficient for the adherence to the written form, provided that a copy of the signed declaration is submitted.

2.3. We can demand changes in the design and execution of the object of delivery as long as these are reasonable for the supplier. In this case, the effects for the supplier, especially with respect to the additional or reduced costs as well as the delivery or performance deadline, must be taken into account appropriately.

2.4. Deliveries and services must contain packing slip, bill of lading, dispatch note and all other accompanying documents that are required by us.

2.5. The exact characters and numbers of the order as well as the item number of each individual item must be specified in all correspondence and on all dispatch notes, shipping documents, bills of lading, packing slips and invoices.

2.6. If individual documents or the details according to the above numbers 2.4. and 2.5. are missing and if this delays the processing by us within the framework of our normal course of business, the payment periods shall extend by the period of delay (refer to number 5.3.).

2.7. The objects of delivery must be properly packed and wrapped in compliance with the applicable statutory provisions and must be prepared for transport and storage in compliance with the customary care.

2.8. Offers and cost estimates of the supplier shall be free of charge and shall entail no obligations for us.

3. Delivery dates and periods, delayed delivery

3.1. Agreed schedules and deadlines are mandatory. The receipt of goods by us or the at the specified place of receipt shall be decisive for the adherence to the delivery date or the delivery period. The ordered goods and samples must have been received on the prescribed delivery dates at the specified places of receipt

(namely – unless these are public holidays – Monday to Thursday from 07:00 hrs. to 12:00 hrs. and from 12:30 hrs. to 16:30 hrs. and on Friday from 07:00 hrs. to 12:15 hrs.). If the supplier finds out after order confirmation that it cannot meet the agreed delivery dates, it must contact us immediately, irrespective of our rights arising from any delayed delivery. The supplier must take all necessary countermeasures to prevent a delay as well as to reduce any consequences of a delay at own costs.

3.2. Force majeure, labour disputes, operational disruptions for which we are not responsible, unrest, government measures and other unavoidable events shall entitle us – notwithstanding our other rights – to withdraw from the contract fully or partially, as long as they are not of inconsiderable duration or result in a substantial reduction of our demand. The supplier must, within the reasonable limits, immediately provide the required information and adapt its obligations to the changed circumstances in good faith. All rights in the event of a delayed delivery shall remain reserved.

3.3. In the event of a delayed delivery, we shall be entitled to demand compensation in the amount of 0.5% of the net order value, however not more than 5% at the maximum, per completed week of delay; assertion of further damage shall remain reserved. We shall be entitled to declare the reservation of compensation at the latest at the time of payment of the invoice, which temporally follows the delayed delivery.

3.4. If the day, on which the delivery or performance must take place at the latest, can be defined based on the contract, the supplier shall get into default with the expiry of this day, without requiring a reminder on our part.

3.5. In the event of a delayed delivery or performance, we shall be entitled to the legal rights unrestrictedly, including the right of withdrawal and the right to demand compensation instead of performance, after fruitless expiry of a reasonable grace period.

4. Delivery and performance, transfer of risk and transfer of ownership

4.1. The delivery or performance must, unless otherwise agreed in writing, take place “free to the door” at the place specified in the order. We can thereby determine the method of transport. If Incoterms 2010 are applicable, the “DAP – Delivered At Place” clause shall be deemed agreed; if customs duty is owed within the framework of the delivery, the “DDP – Delivery Duty Paid” clause shall be deemed agreed.

4.2. We shall be entitled to refuse the acceptance of partial deliveries/partial services, unless we have agreed to these or these are reasonable for us.

4.3. In case of deliveries with installation or assembly and in case of services, the risk shall be transferred with the acceptance; in case of deliveries without installation and assembly, it shall be transferred with the receipt at the place of receipt specified by us. If an acceptance has been agreed, this shall be decisive for the transfer of

risk. Even for the rest, the statutory provisions of the service contract law shall be accordingly applicable at the time of acceptance. If we are in default with the acceptance, this shall be at par with the handover or acceptance. The statutory provisions shall apply for the occurrence of our default with the acceptance. However, the supplier must exclusively offer its services to us even if a certain or ascertainable calendar period has been agreed for an act or cooperation on our part (e.g. provision of material). If we are in default with the acceptance, the supplier can demand reimbursement of its additional expenses according to the statutory provisions (§ 304 BGB). If the contract concerns an unwarranted object to be produced by the seller (one-off production), the supplier shall be entitled to further rights only if we have obligated ourselves for cooperation and are responsible for the cooperation not being provided.

4.4. Retentions of title of the supplier shall apply only insofar as they are related to our payment obligation for the respective objects of delivery, for which the supplier has the retention of title. In particular, advanced or extended retentions of title (e.g. the so-called manufacturer's clause or the assignment of claims as collateral vis-à-vis our customers in case of resale of the object of delivery), transferred retentions of title as well as balance or current account reservations shall be inadmissible.

4.5. The unconditional acceptance of a delayed delivery or service does not constitute a waiver of claims for compensation, to which we are entitled due to the delayed delivery or service.

4.6. The values determined by us during the incoming goods inspection shall be decisive with respect to quantities, weights and dimensions, unless different values are proved by the supplier.

4.7. With regard to software belonging to the product's scope of delivery, including its documentation, we shall, besides the right of use to the legally permissible extent (§§ 69 a et. seqq. UrhG [German Copyright Act]), also have the right of use with the agreed characteristics and to the extent required for a contractual use of the product. We shall have the right to make a backup copy without any explicit agreement.

4.8. Without our prior written consent, the supplier shall not be entitled to have the performance owed by it carried out by third parties (e.g. sub-contractors). The supplier shall bear the procurement risk for its services, unless this deals with a one-off production.

4.9. Deviations from our orders shall be permitted only with our prior written consent.

5. Prices and payment conditions

5.1. The prices shall be "free to the door duty paid" at the specified places of receipt; if validity of Incoterms 2010 is agreed, the "DAP – Delivered At Place" clause shall be deemed agreed; if customs duty is owed, the "DDP – Delivery Duty Paid" clause shall be deemed agreed. Unless otherwise agreed, the shipping and packaging costs, the cost of disposal of the packaging as well as the costs for the transport

insurance shall be borne by the supplier. Packaging costs shall only be remunerated separately, if this has been agreed in writing. In case of carriage-paid return of the packaging, these must be credited to us with at least two thirds of the calculated value. If pricing ex works or sales depot of the supplier is agreed, the dispatch must take place at the respectively lowest cost unless we have prescribed a certain method of transport. Additional costs incurred due to non-compliance with the shipping instructions shall be borne by the supplier. Additional costs for an accelerated transport possibly required in order to comply with a delivery date shall be borne by the supplier. We shall not acknowledge the charging of deposits for the packaging. For rail shipments, used chargers must be particularly declared in the bill of lading for the purpose of carriage-paid shipment and return. All damages incurred due to improper packaging shall be borne by the supplier.

5.2. Invoices must – in compliance with number 2.5. – be submitted after the delivery separately in a single copy.

5.3. Unless longer payment terms are agreed, payments shall be made 30 days net from complete delivery and performance, including any agreed acceptance and receipt of an invoice corresponding to the tax regulations. If we pay within 14 calendar days from complete delivery and performance or acceptance (if necessary) and upon receipt of an invoice corresponding to the tax regulations, we shall be entitled to a discount deduction of 3%.

5.4. All our payments shall take place subject to the reservation of our rights due to any defects. They shall not imply acknowledgement of the fulfilment or waiver of warranty or compensation for damages. The same shall be applicable for the receipt acknowledgement of our acceptance of goods.

5.5. In the event of a defective delivery, we shall be entitled to withhold the payment of the invoice proportionately up to 3-times the value estimated as being necessary for the defect rectification
up to the proper fulfilment of the delivery. If and to the extent that payments have already been made for defective deliveries, we shall be entitled to withhold other due payments up to the amount of the payment made.

5.6. For the rest, we shall be entitled to offsetting and retention rights as well as the defence of non-performance of the contract to the extent permitted by law irrespective of number 5.5.

5.7. The supplier may offset or exercise rights of retention against our claims only with undisputed or legally determined claims.

5.8. We shall not owe any interests on maturity. The entitlement of the supplier to the payment of interests on arrears shall remain unaffected by this. The statutory provisions shall apply for the occurrence of our default. In any case however, a reminder shall be required from the supplier. In the event of a default of payment, we shall owe annual interests on arrears in the amount of 5 percent over the basic interest rate pursuant to § 247 BGB.

6. Quality, Quality Assurance and checking by us

6.1. The supplier shall assure that its deliveries correspond to the legal regulations, the acknowledged rules of technology and the safety provisions and that the agreed technical data is complied with. It shall also assure that the goods correspond to the occupational safety and accident prevention provisions as well as the law on technical equipment. For the rest, the supplier shall guarantee that particularly the EN standards, DIN standards, VDE regulations and other acknowledged technical provisions are complied with. The supplier shall provide full warranty for impeccable work, dignified and proper execution according to the agreement and the use of good and flawless raw materials as well as the availability of the assured characteristics. If a place, which is not located in the Federal Republic of Germany, is specifically agreed as the place of performance, the supplier must additionally comply with the provisions of the respective foreign country, in which the place of performance is located.

6.2. The supplier must provide the deliveries and services under consideration of the latest technology at the time of transfer of risk (i.e. at the time of handover or at the time of acceptance). Any intended technical changes or changes that affect our production must be submitted to us in advance for approval.

6.3. The supplier shall implement and maintain effective Quality Assurance and shall prove the same to us upon request. The supplier shall apply a Quality Management System pursuant to DIN ISO 9000 et. seqq. or an equivalent system. We shall be entitled to verify this Quality Assurance System by ourselves or through a third party commissioned by us.

6.4. Changes to the object of delivery shall require prior written release by us.

6.5. We shall have the right to verify the order execution by the supplier. For this purpose, we shall be entitled to enter the supplier's factory during normal working hours upon prior, timely announcement. The supplier and we shall bear the respective expenses incurred for the check.

6.6. Checks as well as the submission of proofs shall not affect our contractual or statutory rights of acceptance and defect rights.

7. Claims for defects, claims for compensation and reimbursement of expenses

7.1. If the supplier is a merchant, the statutory provisions (§§ 377, 381 HGB [German Commercial Code]) shall apply for the commercial duties of inspection and to give a notice of defects with the following conditions: Our duty of inspection shall be limited to defects, which clearly come to light during our incoming goods inspection upon an external examination including the delivery papers as well as during our quality control in the sampling procedure (e.g. transport damages, incorrect and short deliveries). If an acceptance has been agreed, there shall be no duty of inspection.

For the rest, it shall be important as to what extent an inspection is doable under consideration of the circumstances of the individual case in the ordinary course of business. If the goods are delivered directly by the supplier at a construction site, we must take into account within the scope of an ordinary course of business that the interests of our customer and the construction process must be considered on priority; the execution of the duties of inspection must also take place according to this. Our duty of giving a notice of defects that are discovered later shall remain unaffected. In all cases, our complaint (notice of defects) shall be considered as immediate and timely if it is received by the supplier within five working days from the discovery of the defect. There shall be no duty of inspection and to give a notice of defects vis-à-vis suppliers that are not merchants.

7.2. If the supplier does not meet its obligation for subsequent performance – as per our choice, through defect rectification or through delivery of a defect-free product – within the reasonable deadline set by us, we can rectify the defect ourselves and demand compensation from the supplier for the expenses required for this or a corresponding advance payment. If the subsequent performance by the seller has failed or is unreasonable for us (e.g. due to particular urgency, danger to operational safety or impending occurrence of disproportionate damage), there shall be no need for a deadline to be set. The supplier must be informed immediately, if possible, in advance. For the rest, we shall be entitled to a reduction of the purchase price or to withdraw from the contract in the event of a material defect or a defect of title according to the statutory provisions.

7.3. According to the statutory provisions, we shall be unrestrictedly entitled to compensation and reimbursement of expenses, as regards the prerequisites as well as the legal consequences, irrespective of whether the claim for compensation originates from a defective performance or from the violation of other contractual obligations or other legal obligations.

7.4. The supplier must reimburse the costs incurred by us for the checking, sorting, disassembly, etc. of defective goods. If we determine defects only during the handling or processing or during the operationalisation, we can demand compensation from the supplier for the costs incurred uselessly until then. We shall also be entitled to the rights from number 7.2.

7.5. The limitation period for defects shall be three years from the transfer of risk, unless the law prescribes a longer warranty period or such a longer warranty period has been agreed. If an acceptance has been agreed, the limitation period shall start with the acceptance. The 3-year limitation period shall also apply accordingly for claims from defects of title, whereby the legal limitation period for third-party surrender claims in rem shall remain unaffected; moreover, claims from defects of title shall not become time-barred in any case as long as the third party can still assert the right against us – especially for the lack of limitation.

7.6. We shall be entitled to return the product reprimanded as being defective to the address of the supplier at its costs and risk or to demand, as per our choice, defect rectification or delivery of a defect-free product at the costs and risk of the supplier at

the place of performance.

7.7. If a material defect is detected within six months from the transfer of risk, it shall be assumed that the defect already existed at the time of transfer of risk, unless this assumption is inconsistent with the type of the product or defect.

7.8. If we take back products produced and/or sold by us as a result of the defectiveness of the object of the contract delivered by the supplier or if our purchase price was reduced due to this or if a claim was otherwise made on us due to this, we shall reserve the right of recourse against the supplier, whereby an otherwise necessary deadline shall not be required for our defect rights.

7.9. The costs expended by the supplier for the purpose of testing and repair (including any removal and installation costs) shall be borne by the supplier even if it turns out that there actually was no defect. Our liability for compensation of damages in case of an unauthorised demand for defect rectification shall remain unaffected; however, we shall be liable in this respect only if we have recognised or not recognised due to gross negligence that there was no defect.

7.10. Deviating from § 442 para. 1 sentence 2 BGB, we shall be unrestrictedly entitled to claims for defects even if we were unaware of the defect at the time of conclusion of the contract as a result of gross negligence.

8. Confidentiality, design protection and industrial property rights

8.1. The supplier must observe confidentiality about all business or technical documents, information and data, which have been made accessible to it by us in the course or on the occasion of the contractual cooperation; it may especially not disclose these to third parties, may use these only for the purposes of the contract fulfilment and provide these only to such persons and employees, who must acquire knowledge of them for the purpose of the contract fulfilment. This shall not apply if the information is demonstrably self-evident. The supplier may neither use the details about our business that become known to it during the period of the contractual relations and thereafter by itself nor forward the same to third parties. We shall reserve all rights to such information (including copyrights, the right to registration of industrial property rights such as patents, utility models, semiconductor protection, etc.). Without our written consent, products manufactured according to our documents may not be offered, delivered or otherwise brought to attention either directly or in connection with other products. This confidentiality agreement shall also apply to our customer relations. In this respect, the supplier shall not be entitled to directly get in touch with our customers.

8.2. Samples, drawings, stencils, cost estimates, standard sheets, print templates, gages, models, profiles, tools, moulds, etc. (hereinafter referred to as know-how) shall remain our property and must be kept confidential in accordance with the above number 8.1. The supplier must store and maintain the entrusted know-how free of charge. Know-how of the aforementioned type must be returned to us without request free of charge after the order execution. Tools, fits and similar, which are

produced fully or in partially at our expense, shall become our property with the manufacture. The supplier must store and maintain them carefully free of charge. The supplier shall not have a right of retention in this respect. The gages provided by us shall only be control gages; work gages must be prepared by the supplier itself. For the rest, the above number 8.1. shall be applicable with respect to the confidentiality and the reservation of all rights.

8.3. A misuse against the above numbers 8.1. and 8.2. shall result in an obligation to pay damages and shall entitle us to withdraw from the contract, fully or partially, without compensation.

8.4. The supplier shall assume the full and independent warranty that the delivery and use of the ordered items shall not violate third-party property rights in the home country and abroad and must release us from all claims, which are asserted against us from an infringement of industrial property rights. In the event of a violation of third-party property rights, we shall also have all legal and contractual claims from material defects and defects of title against the supplier besides claims for compensation; this shall also apply for parts, which the supplier has purchased from third parties.

8.5. In case of use of third-party property rights based on license agreements made by the supplier with a territorially restricted area of application, the supplier must ensure that the use is allowed in all countries, where corresponding property rights exist.

8.6. If the supplier has property rights, which concern the application of the products delivered by it and products manufactured for a special use, it shall grant us a free right of joint use of its property rights within the framework of the delivered products.

8.7. Sub-suppliers or sub-contractors of the supplier must be obligated by the supplier to the same extent in accordance with the above numbers 8.1. to 8.6.

9. Provision

9.1. Materials, parts, containers and special packaging provided by us shall remain our property and may only be used as intended. Processing or restructuring by the supplier shall be carried out for us. If the objects provided by us are processed with other objects that do not belong to us, we shall acquire joint ownership of the new object in proportion of the invoice value of the objects provided by us to the invoice values of the other processed objects at the time of the processing; the supplier shall store the new object for sole or joint ownership for us with the diligence of a prudent businessman.

9.2. If the objects provided by us are inseparably mixed or combined with other objects that do not belong to us, we shall acquire joint ownership of the new object in proportion of the invoice value of the object provided by us to the invoice values of the other mixed objects at the time of the mixing or combining. If the mixing or combining takes place in such a way that the object of the supplier should be

considered as main object, it shall be deemed agreed that the supplier shall transfer proportionate joint ownership to us; the supplier shall store the new object for sole or joint ownership for us with the diligence of a prudent businessman.

10. Spare parts

10.1. The supplier must execute spare parts orders for the delivered goods for a period of at least 10 years after the last delivery, namely irrespective of whether we have resold the goods in an unprocessed, processed or modified form.

10.2. If the supplier intends to cease the production of spare parts for the products delivered to us, it must inform this to us immediately after the decision about the cessation. Subject to the above number 10.1., the decision must lie at least 12 months before the cessation of the production.

11. Product liability, recall and business and product liability insurance

11.1. If a claim is made on us due to product liability, the supplier must release us from such claims, if and insofar as the damage was caused by a defect in the object of the contract delivered by the supplier. In cases of fault-dependent liability however, this shall apply only if the supplier is at fault. If the cause of the damage lies within the area of responsibility of the supplier, it shall bear the burden of proof in this respect.

11.2. Within the framework of its indemnification obligation in accordance with number 11.1., the supplier must reimburse expenses pursuant to §§ 683, 670 BGB arising from or in connection with a claim of third parties including recall actions carried out by us or other preventive measures used to prevent damage. We shall inform the content and scope of such recall measures or other preventive measures to the supplier – as far as possible and reasonable – and shall give it the opportunity to comment. Further legal claims shall remain unaffected by this.

11.3. The supplier must take out and maintain business and product liability insurance with a blanket sum insured of at least € 5 million per personal injury/ material damage. Upon demand, it must prove the same to us at any time by submitting suitable documents.