



General Terms and Conditions of Delivery and Service

1 Scope of application

- 1.1 The following General Terms and Conditions of Delivery and Service (hereinafter: **"Terms and Conditions"**) apply to any manufacturing, sales and/or deliveries of products and/or services (hereinafter: **"Delivery Item"**) from JUMO GmbH & Co. KG (hereinafter: **"Supplier"**) to a client, customer, partner, purchaser or distributor (hereinafter: **"Purchaser"**). Supplier and Purchaser (hereinafter: **"Parties"** or **"Party"**) expressly agree that these Terms and Conditions apply exclusively. Supplier does not acknowledge Purchaser's terms and conditions which conflict with or, which deviate from these Terms and Conditions, unless Supplier expressly accepts their validity in writing. These Terms and Conditions also apply if Supplier performs without reservation its contractual obligations even though he is aware of conflicting or deviating terms and conditions of Purchaser.
- 1.2 Those employees of Supplier, which do not have signatory powers, are also not authorized to conclude verbal agreements, verbal amendments to these Terms and Conditions or to make other verbal arrangements.
- 1.3 In addition to these Terms and Conditions, the Supplemental clauses *"Licensing of Software Products for Industrial Automation (power supply, measuring, shifting, steering)"*, available at <https://jumo.to/eq13-en>, shall apply to the licensing of software from Supplier to the benefit of Purchaser.
- 1.4 In addition to these Terms and Conditions, the Supplemental clauses *"Development of Software Products for Industrial Automation (power supply, measuring, shifting, steering)"*, available at <https://jumo.to/eq14-en>, shall apply to the development of software by Supplier to the benefit of Purchaser.
- 1.5 These Terms and Conditions shall only apply to enterprises as defined in Section 14 para. 1 of the German Civil Code (BGB).
- 1.6 These Terms and Conditions shall also apply in their respective version as a framework agreement to future contracts, without Supplier having to refer to them again in each individual case; Supplier shall immediately inform Purchaser of any changes to these Terms and Conditions.
- 1.7 Individual written agreements concluded with Purchaser in individual cases (including side agreements, supplements, and amendments) shall have priority over these General Terms and Conditions in any case.
- 1.8 Legally relevant declarations and notifications which must be submitted by Purchaser to Supplier after conclusion of the Contract must be made in writing in order to be valid.

2 Offer, order confirmation, conclusion of contract and term of contract

- 2.1 The offers issued by Supplier are not binding. A Contract shall only come into effect through the transmission of an order confirmation by Supplier.
- 2.2 The extent of the performance obligation of Supplier is determined solely by Supplier's written order confirmation (hereinafter: **"Contract"**).
- 2.3 The Contract is concluded for the duration of the performance.
- 2.4 If the subject matter of the Contract is a continuing obligation, it shall be concluded for a period of twelve (12) months and shall be tacitly renewed for a period of twelve (12) months in each case unless it is terminated three (3) months before the expiry of the respective Contract period. In the event of termination for any reason whatsoever, the Purchaser shall be obliged to accept and pay for all manufactured Delivery Items already ordered at the agreed price. Insofar as the Delivery Item has been ordered but not yet manufactured, the Purchaser shall be obliged to accept and pay for the production materials already purchased at full cost, unless the Supplier can at its own reasonable discretion use these production materials for other purposes.

3 Copyright and reservation of ownership to drawings, etc.

- 3.1 Supplier reserves the ownership, including intellectual property rights, of drawings, data, data carriers, specifications, documentation, know-how and drafts, sketches, cost estimates and other documents attached to the offer and/or the Contract (hereinafter: **"Documents"**).
- 3.2 Purchaser may only use the Documents for the agreed purpose and shall not adapt, reproduce them or make them available to third parties without the consent of Supplier.
- 3.3 Upon request of the Supplier, the Documents themselves and all approved reproductions thereof shall be returned to Supplier by the Purchaser. Exempt from this are copies which are required for the statutory documentation obligation. Also excluded from this are archived and encrypted security copies of electronic data traffic, as well as security copies due to internal security and compliance guidelines of the Contractual Partner

4 Delivery time and default; reservation of self-delivery; force majeure

- 4.1 Compliance with performance and/or delivery dates, deadlines and/or periods shall be subject to the proviso that the Supplier is supplied by its suppliers in good time or that the materials required for the fulfillment of the order can be procured on the market at all. In the event of delayed or non-delivery, the Supplier shall be entitled to withdraw from the Contract and shall thereby be released from its obligation to perform. The Supplier shall be obliged to inform the Purchaser of this without delay and, in the event of withdrawal, shall reimburse the Purchaser for any consideration already paid.
- 4.2 The binding nature of performance and/or delivery dates, deadlines and/or periods presupposes that the Purchaser provides Supplier with documents and other required information in a timely manner, and that the Purchaser does not delay his cooperation or other material contractual duties, in particular, payment obligations.
- 4.3 In cases of force majeure, the Contractual Partner affected by a case of force majeure shall be released from its obligation to perform to the corresponding extent for the duration of the effect. A case of force majeure shall be deemed to have occurred if it is beyond the control and influence of the affected Contractual Partner. A case of force majeure could not reasonably have been foreseen at the time of the conclusion of the Contract and the effects could not reasonably have been prevented or overcome by the affected Contractual Partner. A case of force majeure shall be deemed to be in particular
 - a) War or comparable warlike acts, large-scale military mobilisation, civil war, riot, rebellion and revolution, military or other seizure of power, insurrection, act of terrorism, sabotage, or piracy.
 - b) Lawful or unlawful official acts, compliance with laws or government orders, expropriation, confiscation of works, requisition, nationalisation.
 - c) epidemics, pandemics, natural disasters or other extreme natural events such as floods.
 - d) Explosion, fire, destruction of equipment, prolonged failure of transportation, telecommunication, information systems or power.
- 4.4 general labour unrest such as boycotts, strikes and lockouts; slowdown strikes; occupation of factories and buildings. The affected Contractual Partner shall immediately inform the other Contractual Partner of the case of force majeure and its effect. If performance of the Contract is delayed by more than one month for reasons

of force majeure, each Contractual Partner shall have the right - without entitlement to compensation from the other Contractual Partner - to terminate the Contract in writing for the quantities affected by the interruption in performance of the Contract and/or to withdraw from the Contract.

- 4.5 Partial deliveries respectively performances are allowed insofar as they can be reasonably accepted by Purchaser.
- 4.6 If Supplier culpably defaults, Purchaser's claims shall be determined exclusively according to Section 9 of these Terms and Conditions.

5 Transfer of risk

- 5.1 Unless otherwise agreed, all deliveries of the Supplier's Delivery Items to the Purchaser shall be made in accordance with Incoterms® 2020 FCA (Free Carrier).
- 5.2 Insofar an acceptance procedure of a service and/or a work has been agreed but a fixed acceptance deadline has not been agreed upon, Purchaser shall accept the Delivery Item within a period of fourteen (14) days from the notification of completion. If Purchaser does not confirm the acceptance within the set period and omits to notify reasons, the Delivery Item shall be deemed to have been accepted. The risk of performance shall pass to the Purchaser upon acceptance at the latest.
- 5.3 If Purchaser has placed an order on-call, he must call up the Delivery Item within twelve (12) months from the date of the order, unless the Parties have agreed otherwise. If Purchaser does not call up the Delivery Item(s), Purchaser is in default of acceptance and the risk passes to him.

6 Prices and terms of payment

- 6.1 The prices stated by Supplier are ex works plus value added tax at the legal amount valid at the time of delivery, packaging excluded. The packaging shall be charged separately.
- 6.2 The purchase price must be paid within 30 days of receipt of invoice free of transaction charges.
- 6.3 Supplier reserves the right to request from Purchaser the presentation of an irrevocable and unlimited bank guarantee in the amount of the contractual price upon conclusion of the Contract.
- 6.4 If a cost element demonstrable increases within the total cost forming the price (e.g. personnel costs or hourly rates, operating and production costs, e.g. due to rising energy costs or verifiable third-party material costs), Supplier reserves the right to adjust the price proportionally, but only in relation to the corresponding changed cost element and insofar as it is reasonable for Purchaser. The Supplier shall inform the Purchaser thereof without delay, setting out the changed cost elements in each case. The resulting new price shall apply from the first day of the calendar month following receipt of the written notification.
- 6.5 If the subject matter of the Contract is not a continuing obligation, a price increase pursuant to Clause 6.4 shall only be possible if the delivery of the Delivery Item and/or the performance of the service does not have to be fulfilled within four months from the conclusion of the Contract.
- 6.6 If payment by instalments has been agreed upon, the respective instalment must be paid in advance by the 3rd working day of the respective payment period, unless Parties have agreed on a specific payment date. If Purchaser defaults on payment for more than one instalment, the total outstanding amount shall become due. This shall also apply if payment by instalment has been agreed upon after the due date. Supplier's right to charge default interest shall remain unaffected by an agreement to pay by instalments after the due date.
- 6.7 The offset against Purchaser's claims, which are disputed by Supplier, not recognized, not legally upheld, or not ready for decision in pending court proceedings, are excluded. The Purchaser shall not have a right of retention or a right to refuse performance unless the counterclaims of the Purchaser on which the assertion of these rights is based are undisputed or are legally binding. A right of retention can only be exercised if the counterclaim is based on the same Contract.
- 6.8 In the case of non-compliance with the terms of payment or if Supplier becomes aware, after concluding the Contract, that an existing or future claim could be jeopardized by the Purchaser's lack of solvency, the Supplier shall be entitled to perform outstanding services only against advance payment or the provision of security.
- 6.9 In the case of change requests by Purchaser after conclusion of the Contract, Supplier reserves the right to adjust the agreed prices as well as the agreed Terms of Delivery correspondingly.

7 Retention of title

- 7.1 Supplier retains ownership of all Delivery Items until fulfillment of all existing claims of the Purchaser under the Contract respectively the business relations with Purchaser, even if the respective Delivery Item has already been paid for in full. In the case of a current account, the total reserved property shall serve to secure the outstanding balance claim. If the estimated value of the reserved goods, serving as security for Supplier, exceeds the outstanding claims against Purchaser by more than twenty percent (20%), Supplier shall release securities of his choice upon request of Purchaser.
- 7.2 During the existence of the retention of title, Purchaser may neither pledge nor otherwise transfer the Delivery Item as security. In the event of seizure, confiscation, or other compulsory execution measures against the goods subject to retention of title as well as in the event of other disposals of the goods subject to retention of title by third parties, he shall notify the Supplier thereof without delay. Nevertheless, the Purchaser shall inform its customers and other third parties of the Supplier's existing rights to the Delivery Items. The costs of an intervention incurred by the Supplier (e.g. costs of a third-party action in accordance with § 771 ZPO) shall be borne by the Purchaser insofar as the third party is not in a position to reimburse the costs.
- 7.3 In the event of any conduct by Purchaser that constitutes a breach of the Contract, in particular in the event of default of payment, Supplier reserves the right to reclaim the reserved goods after the unsuccessful expiry of a reasonable deadline set for Purchaser and Purchaser is in that case obliged to surrender the goods.
- 7.4 The enforcement of the retention of title and/or the assertion of the claim for surrender, as well as the seizure of the reserved goods by Supplier, shall be deemed as withdrawal from the Contract.
- 7.5 Supplier is entitled to ensure the Delivery Item at Purchaser's expenses against fire, water and other damage insofar as Purchaser has not demonstrably concluded the insurance himself.
- 7.6 Purchaser is entitled to resell the Delivery Item in the ordinary course of business if he receives payment from his customer or makes the reservation that ownership of Purchaser passes to his customers only after he has fulfilled his payment obligations. In the event of resale, the Purchaser hereby assigns as a security to the Supplier all claims against his customer arising from the resale up to the amount of the invoice until all outstanding claims of the Supplier have been settled, without any further declarations being required. Supplier accepts the transfer. After transfer, Purchaser stays authorized to recover the claim, but the Supplier reserves the right to collect the claim himself as soon as Purchaser does not fulfil its payment obligations and is in default of payment.
- 7.7 The adaptation and processing of the Delivery Item by Purchaser shall always take place



in the name and on the behalf of Supplier. If the Delivery Items are processed, Supplier shall acquire sole ownership of the new item, which shall thus become the reserved good. This shall also apply if the Delivery Item is connected or mixed with other items belonging to Purchaser. If the estimated value of the goods subject to retention of title serving as security for the Supplier exceeds the outstanding claims against the Purchaser by more than twenty per cent (20%), the Supplier shall be obliged, at the Purchaser's request, to release securities of its choice to the corresponding extent. If the connection or mixing takes place in such a manner that Purchaser's item must be regarded as the main item, it is deemed to have been agreed that Purchaser shall transfer proportional joint ownership to Supplier. Purchaser keeps the resulting sole ownership or joint ownership for Supplier.

8 Purchaser's right of withdrawal or reduction

- 8.1 Purchaser is entitled to withdraw from the Contract if the entire contractual performance becomes impossible for Supplier. This shall also apply in case of Supplier's inability to perform. Insofar the impossibility is due to the Supplier's failure to deliver itself in accordance with clause 4.1 or a case of force majeure existing in accordance with clause 4.3, the right to withdraw from the Contract shall only exist in accordance with clause 4.4. Purchaser is also entitled to withdraw from the Contract if, upon ordering identical items, performance of part of the delivery becomes impossible because of the quantity and Purchaser has a justified interest in rejecting the partial delivery. If this is not the case, Purchaser can reduce the price on a pro rata basis.
- 8.2 If there is a delay in performance which is not covered by clauses 4.1 or 4.3 of these Terms and Conditions, Purchaser grants Supplier an appropriate grace period. Purchaser is entitled to withdraw if this grace period is not observed.
- 8.3 If impossibility of contractual performance arises during the agreed delay in acceptance or due to Purchaser's fault, the latter remains obliged to fulfil its obligations.

9 Liability

- 9.1 Claims for damages due to (pre-)contractual breach of duty and from tort except for such damages that have occurred to the Delivery Item itself shall only exist:
- ☐ in the event of culpable breach of duty by Supplier;
 - ☐ in the event of grossly negligent breach of duty by Supplier or in the event of culpable or grossly negligent breach of duty by Supplier's legal representatives or subcontractors.
- 9.2 The limitations of liability under clause 9.1 of the Terms and Conditions shall not apply in the event of culpable injury to life, limb and health and in the event of breaches of essential contractual obligations (so-called cardinal obligations) which arise from the nature of the Contract and the breach of which jeopardizes the achievement of the purpose of the Contract. In this respect, the Supplier shall be liable for any degree of fault and for any type of damage. Likewise, the Supplier shall be fully liable in accordance with the provisions of the Product Liability Act or in the case of defects which were fraudulently concealed or the absence of which was expressly guaranteed by the Supplier.
- 9.3 The liability of Supplier is limited to the foreseeable and typically occurring damage.
- 9.4 Further claims for compensation are excluded.

10 Liability for defects

- 10.1 In the event of a defect in the Delivery Item, the Purchaser's claims shall initially be limited to the remedy of the defect (rectification) or delivery of an object free of defects (subsequent delivery), at the discretion of the Supplier.
- 10.2 If the subject matter of the Contract is a purchase and a commercial transaction for both Contractual Partners, the Purchaser shall be obliged to inspect the goods for defects immediately upon receipt and, if any defects are discovered, to notify the Supplier thereof in writing without undue delay. If he fails to give such notice, the goods shall be deemed to have been approved, unless the defect was not recognizable during the inspection. Otherwise, §§ 377 ff. HGB shall apply.
- 10.3 No guarantee is assumed by Supplier for damages or defects caused by the following reasons:
- ☐ natural wear and tear;
 - ☐ inappropriate or incorrect use;
 - ☐ incorrect alterations or repairs made without the prior consent of Supplier;
 - ☐ defective assembly or commissioning by Purchaser or third parties;
 - ☐ defective or negligent treatment of the Delivery Item, in particular with regard to the existing operating instructions;
 - ☐ in the event of excessive exposure;
 - ☐ when using unsuitable equipment and replacement materials;
 - ☐ the combination of the Delivery Item with another item, insofar as this combination has not previously been expressly approved by Supplier and the damage or defect results from this combination.
- 10.4 After concertation with Supplier, Purchaser shall give Supplier the time and opportunity required to be able to carry out all improvements and replacements which, at the discretion of Supplier, appear necessary.
- 10.5 If the Supplier is obliged to provide supplementary performance, the Supplier shall bear the expenses required for supplementary performance insofar as it is obliged to do so by law. If the subsequent performance fails or if the Purchaser unsuccessfully sets a reasonable deadline for subsequent performance, the Purchaser may withdraw from the contract or reduce the remuneration.
- 10.6 Unless otherwise agreed, Supplier shall ensure that deliveries are performed free from property rights and copyrights of third parties, however solely in the country of the place of delivery. Should a breach of property rights in the country of the place of delivery nevertheless occur, Supplier shall either procure a corresponding right of use from the third party or modify the Delivery Item to such an extent that it no longer breaches the property rights. Insofar as this is not possible for Supplier under appropriate and reasonable conditions, both Purchaser and Supplier reserve the right to withdraw from the Contract.
- 10.7 In case of deficiencies in title, the provisions contained in Sections 9 and 10 of these Terms and Conditions apply correspondingly whereas claims of Purchaser are only valid if (i) Purchaser notifies Supplier immediately in writing of any claims enforced by third parties, (ii) Purchaser neither directly nor indirectly acknowledges an alleged infringement (iii) all possibilities of defense remain preserved without limitation for Supplier, (iv) the infringement is not based on the fact that Purchaser has altered the Delivery Item or used it in a manner not in accordance with the Contract, and (v) the deficiency in title is not attributable to instructions of Purchaser. Claims for damages shall only exist in accordance with clause 9 of these Terms and Conditions.

11 Statute of limitation

- 11.1 Guarantee claims – irrespective of legal basis – shall become time-barred twelve (12) months from beginning of the legal statute of limitation. This shall not apply if it concerns defects of a construction or items for a construction, which have caused the defect, as well as in the case of entrepreneurial recourse in accordance with Sections 478, 479

BGB. Notwithstanding sentence 1, the statutory terms for claims shall also apply in the event of claims under Section 9 of these Terms and Conditions.

- 11.2 Used Delivery Items are sold under the exclusion of any liability for material defects. This exclusion shall not apply in cases under Section 9.1 of these Terms and Conditions.

12 Installation and services

- 12.1 Unless agreed otherwise in writing, assembly work and services (repairs and maintenance) shall be remunerated. The remuneration includes, in particular, travel expenses, daily allowances as well as the usual rates for working hours, and surcharges for overtime, night work, Sunday work, and work on public holidays, for work under difficult circumstances and for planning and monitoring.
- 12.2 The costs of preparation, waiting and travel time shall be charged separately to Purchaser by Supplier. If the assembly or commissioning is delayed without the fault of Supplier, Purchaser shall bear, to an appropriate extent, all costs for the waiting time and for further necessary travel.
- 12.3 Purchaser shall provide at his own expense the necessary support staff with the required tools in the required number. Furthermore, Purchaser shall provide sufficiently large, suitable, dry, and lockable rooms for the storage of machine parts, equipment, materials, tools, etc. To protect the property of Supplier, as well as the assembly and service staff, Purchaser shall take the same measures which he would take to protect his own property. If the nature of Purchaser's business requires special protective clothing and equipment for the assembly and service staff, it shall be provided by Purchaser.
- 12.4 The assembly staff of Supplier and his subcontractors are not authorized to carry out any work which is not part of Supplier's obligation to deliver, install or assemble the Delivery Item or which is initiated by Purchaser or a third party without consultation of Supplier.
- 12.5 If assembly is carried out by Purchaser or by a third party commissioned by him, the appropriate operating and assembly instructions of Supplier must be observed.
- 12.6 When performing (repair and maintenance) services, Supplier can decide at his discretion, based on his experience and technical assessment, whether Supplier performs the services at Purchaser's premises or at his own premises. If the service is carried out at Supplier's premises, Purchaser shall submit the item to Supplier. After the service has been performed, Supplier shall return the Delivery Item to Purchaser.
- 12.7 Insofar Purchaser does not report made alterations, the devices shall be reset to the standard configuration after the service. If Purchaser informs Supplier of altered settings and programs, Supplier shall configure and program the Delivery Item accordingly when performing the service. However, Purchaser is required to check these settings. Supplier does not assume any guarantee for this. Furthermore, Supplier does not assume any responsibility for the functionalities after incorporation of the Delivery Item into the system of Purchaser.
- 12.8 Supplier's service technician is merely authorized to carry out services on parts other than those supplied by Supplier if a quick and easy solution is to be expected, and if Purchaser expressly places a corresponding additional order.
- 12.9 Supplier's technician can cancel the service if it turns out that he is not able to provide repair in the expected short timeframe. In this case, Purchaser shall pay the time-based remuneration as well as the material used in carrying out the additional order. If, based on a professional judgment, the technician could have completed the service work in the expected short timeframe and did not realize this due to gross negligence or if he acted with wilful misconduct, Purchaser owes no payment for the canceled service.
- 12.10 It is Purchaser's responsibility to verify whether claims arising from delivery and maintenance contracts with third parties are affected or lost because of the granting and execution of an additional order. Supplier does not assume any liability for this. This affects among other things the following obligations on the part of Purchaser:
- ☐ When delivering equipment to be maintained and in the event of return deliveries, Purchaser shall always strictly comply with the valid version of the Ordinance on Hazardous Substances;
 - ☐ In particular, Purchaser shall package and label devices which have been filled with hazardous substances, or which otherwise have come into contact with them, in accordance with the corresponding legal provisions;
 - ☐ In addition, Purchaser must expressly refer in the service order to the devices' connection with hazardous materials as defined in the Ordinance on Hazardous Substances and, if necessary, enclose a safety data sheet in accordance with EU Regulation (EC) N° 1907/2006 (REACH);
 - ☐ If no devices such as the ones manufactured by Supplier are involved, for which the latter continues to be liable for defects, Supplier can refuse at any time to accept a service order for devices which refers to the connection to hazardous substances.
 - ☐ In case of failure to comply with the Ordinance on Hazardous Substances, Supplier reserves the right to assert possible claims for compensation; this shall not apply if Purchaser or his agent are not responsible for the breach of duty.

13 Export control regulation

- 13.1 The contractual performance is provided under the condition that there are no legal conflicts due to national or international regulations, in particular export control regulations as well as embargos or other trade and foreign trade law restrictions. The Purchaser undertakes to provide all information and documents required for the export, transfer or import.
- 13.2 Delays in delivery due to necessary export inspections or approval procedures shall invalidate agreed delivery periods and dates. The Supplier is obliged to inform the Purchaser immediately of the delay in delivery and its cause. In the event of a delay in delivery of more than one month, the Contractual Partners shall be entitled to withdraw from the Contract to the extent affected by the delays in delivery by means of a corresponding written declaration, without the other Contractual Partner being entitled to damages as a result.
- 13.3 If required official (export) permits are not granted or if the performance of the Contract is not subject to approval or if the Purchaser breaches its obligation to provide all necessary information and documents to obtain the required permits despite the Supplier setting a reasonable deadline, the Supplier shall be entitled to rescind the Contract to the extent affected. Claims for damages by the Purchaser shall be excluded in accordance with clause 9.
- 13.4 Supplier is entitled to terminate the Contract without notice if termination is required for Supplier to comply with national or international legal provisions. In the case of such termination, the enforcement of damages or other rights by Purchaser due to the termination or its consequences is excluded.
- 13.5 The Purchaser / Importer shall not
- a) sell, export or re-export, directly or indirectly, to the Russian Federation or for use in the Russian Federation any goods supplied that fall under the scope of Article 12g of Council Regulation (EU) No 833/2014
 - b) sell, export or re-export goods that fall within scope of Article 8g of Regulation (EU) 765/2006 directly or indirectly to the republic of Belarus and/or for use in the Republic of Belarus,
 - c) export or otherwise transfer intellectual property rights, trade secrets, as well as access or reuse rights to materials or information, including possible licenses related to the regulations mentioned under a) or b), for use in Russia and/or Belarus, or to allow potential sublicensees of such rights (intellectual property or trade secrets) to do so; rather, the Client / Importer must also prohibit these potential sublicensees from doing so.



- 13.6 The Purchaser / Importer shall undertake its best efforts to ensure that the purpose of paragraph 13.5 is not frustrated by any third parties further down the commercial chain, including by possible resellers.
- 13.7 The Purchaser / Importer shall set up and maintain an adequate monitoring mechanism to detect conduct by any third parties further down the commercial chain, including by possible resellers, that would frustrate the purpose of paragraph 13.5.
- 13.8 Any violation of paragraphs 13.5, 13.6 or 13.7 shall constitute a material breach of contract, and the Supplier / Exporter shall be entitled to seek appropriate remedies, including, but not limited to: (i) termination of the Contract; and (ii) a penalty of 5 % of the total value of the Contract or price of the goods exported, whichever is higher.
- 13.9 The Purchaser / Importer shall immediately inform the Supplier / Exporter about any problems in applying paragraphs 13.5, 13.6 or 13.7, including any relevant activities by third parties that could frustrate the purpose of paragraph 13.5. The Purchaser / Importer shall make available to the Supplier / Exporter information concerning compliance with the obligations under paragraph 13.5, 13.6 or 13.7 within two weeks of the simple request of such information.

14 Confidentiality Agreement

- 14.1 All information's, including but not limited to business information, technical and commercial information, market and competitive information, etc., and any related information, disclosed by the disclosing Contractual Partner to the receiving Contractual Partner in any form, whether written, oral or digital, shall be deemed to be confidential information (hereinafter "**Confidential Information**").
- 14.2 The following information shall not be considered Confidential Information, and the burden of proving the existence of any of these exceptions shall be on the receiving Contractual Partner:
- Information already in the possession of the receiving Contractual Partner at the time of disclosure by the disclosing Contractual Partner to the receiving Contractual Partner,
 - Information developed by the receiving Contractual Partner independently of the disclosure by the disclosing Contractual Partner,
 - Information disclosed to the receiving Contractual Partner by a third party without breach of any confidentiality obligation by that third party, or
 - Information that was generally known at the time of disclosure.
- 14.3 The receiving Contractual Partner shall treat all Confidential Information of the disclosing Contractual Partner as confidential and shall not disclose such Confidential Information to third parties without the consent of the disclosing Contractual Partner. In particular, the receiving Contractual Partner shall not use any confidential information for purposes other than for the cooperation of the Contractual Partner without the consent of the disclosing Contractual Partner.
- 14.4 In order to ensure that the Confidential Information is kept confidential, the receiving Contractual Partner agrees:
- that all documents and materials containing Confidential Information must be kept in a secure place to protect them from theft or unauthorised access;
 - to make copies of Confidential Information only to the extent necessary for the effective performance of the Contract and, when copying the Confidential Information, to ensure that any markings on the original documents indicating the confidential nature of the Confidential Information are as legible on the copies as on the original documents; and
 - to notify to the Disclosing Contractual Partner immediately upon becoming aware of any actual or threatened unauthorised use or actual or threatened unauthorized disclosure of Confidential Information and take all reasonable steps to prevent or terminate such use or disclosure, with the assistance of the disclosing Contractual Partner if necessary.
- 14.5 The receiving Contractual Partner shall disclose Confidential Information only to those of its employees, directors, affiliates and consultants whose positions are such that such disclosure is necessary for the purposes of the discussions relating to the cooperation between the Contractual Partners. Such persons shall also be bound by a duty of confidentiality comparable to the obligations under this confidentiality agreement.
- 14.6 In the event that the Receiving Contractual Partner is subject to a legal obligation or a lawful judicial or regulatory order to disclose the Confidential Information of the Disclosing Contractual Partner, the Receiving Contractual Partner:
- promptly advise the disclosing Contractual Partner in writing of this obligation and, upon request, assist the disclosing Contractual Partner to the extent possible in protecting the Confidential Information or having it protected by the courts; and
 - unless no other protective measures are taken, disclose only such Confidential Information as is required to be disclosed by legal obligation or order and use its best endeavours to ensure that the Confidential Information disclosed is treated as far as possible in accordance with this confidentiality agreement.
- 14.7 The receiving Contractual Partner shall be obliged to disclose at the request of the disclosing Contractual Partner:
- promptly return all Confidential Information, whether in writing or otherwise, together with all reproductions and copies thereof or, at the disclosing Contractual Partner's option, demonstrably destroy the same;
 - at the same time, return or, at the option of the disclosing Contractual Partner, provide evidence of the destruction of all other materials, including materials prepared by the receiving Contractual Partner itself, which contain or may give rise to inferences of Confidential Information; and
 - confirm in writing to the disclosing Contractual Partner that it has returned or destroyed the Confidential Information in the manner described.
- 14.8 Confidential Information shall be destroyed in the most secure manner in accordance with the current state of the art, in so far as this is possible and reasonable for the receiving Contractual Partner.
- 14.9 The Contractual Partner obliged to surrender or destroy Confidential Information shall not be entitled to assert a right of retention. Exempt from this are copies that are necessary for the legal documentation obligation. Also excluded from this are archived and encrypted security copies of electronic data traffic, as well as security copies due to internal security and compliance guidelines of the receiving Contractual Partner.
- 14.10 The disclosing Contractual Partner remains the owner of the rights in the Confidential Information. Nothing in this confidentiality agreement grants the receiving Contractual Partner any licence, title or interest in the Confidential Information or to any intellectual property rights of the other Contractual Partners.
- 14.11 This confidentiality agreement shall not require either of the Contractual Partners to disclose Confidential Information to the other Contractual Partner. The Contractual Partners reserve the right not to disclose Confidential Information to the other Contractual Partner at any time and for any reason.

- 14.12 In providing Confidential Information under this confidentiality agreement, neither Contractual Partner makes any representation, express or implied, as to its adequacy, accuracy, sufficiency or correctness or freedom from defects of any kind, including freedom from patent, copyright or trademark infringement, which may result from the use of this Confidential Information.
- 14.13 Each Contractual Partner acknowledges that monetary damages may not be a sufficient remedy for the unauthorised use or disclosure of Confidential Information and that in the event of a breach or threatened breach of this confidentiality agreement, the damaged Contractual Partner shall be entitled, without waiving any other rights or remedies, to obtain injunctive relief or seek an injunction.
- 14.14 This confidentiality agreement shall be valid for five (5) years from the date of disclosure of the Confidential Information.
- 15 Place of performance, place of jurisdiction, and choice of law**
- 15.1 The headquarters of Supplier are the place of performance and the sole place of jurisdiction for all disputes directly or indirectly arising out of the contractual relationship with undertakings, legal entities under public law or special funds under public law.
- 15.2 The law of the Federal Republic of Germany shall apply to these Terms and Conditions of Delivery and Service and to the entire legal relationship between Supplier and Purchaser with the exclusion of the UN Convention on the International Sale of Goods (CISG).
- 16 Final provisions**
- 16.1 If a Contractual Partner has to process personal data under the Contract, it will comply with the Federal Data Protection Act ("*Bundesdatenschutzgesetz*") and other data protection provisions, including the General Data Protection Regulation (Regulation (EU) No. 2016/679 of the European Parliament and of the Council of 27 April 2016). The Contractual Partner must coordinate required data protection measures with the other Contractual Partner and enable it to verify compliance with the reached agreements.
- 16.2 If one or more provisions of these Terms and Conditions or the Contract are deemed, in whole or in part, to be invalid, unenforceable or illegal, this shall not affect the validity, enforceability and legality of the remaining provisions of the Contract. In this case, the Parties undertake to replace the wholly or partially invalid, unenforceable or illegal provision with retroactive effect by a new provision, which, in a legally admissible manner, comes as close as possible from an economic and financial point of view to the content of the invalid, unenforceable or illegal provision.
- 16.3 Purchaser allows Supplier to have the contractual obligations partially or completely carried out by subcontractors.
- 16.4 All obligations provided in the Contract or in the Terms and Conditions, which naturally continue beyond the termination of the Contract, shall remain in force after the termination of Contract, in particular all financial obligations that one Contractual Partner must fulfill in accordance with the Contract in favor of the other Contractual Partner.
- 16.5 To the extent that the Supplier does not object to any document, notice or action of the Purchaser, this shall not constitute a waiver of any provision of the Contract.