

### 1. Scope/ Written Form Requirement

1.1. The legal relationships between Supplier and the respective company of the IMO group (IMO) shall be governed solely by the following terms and conditions. Supplier's terms and conditions and differing agreements shall apply only if they have been accepted by IMO in writing. Silence, acceptance of the delivery or payment thereof shall not constitute acceptance.

1.2. The supply agreement and also any changes, side agreements, declarations on its termination and also other declarations and notifications must be in text form, unless otherwise determined in these Terms and Conditions. If Supplier does not confirm a purchase order within eight (8) working days from receipt, IMO shall be entitled to cancel it at any time.

### 2. Supply Item / Changes to Supply Item

2.1. Supplier shall ensure that it knows all the important data, circumstances for the fulfilling of its contractual obligations (supply item) and also IMO's intended use for its consignments in good time. It warrants that its consignments embody all the performances necessary for compliant, safe and economic use that they are suitable for the intended use and comply with the state of knowledge and art. When rendering its performance, Supplier shall comply with all pertinent standards, statutes and legal regulations, in particular the pertinent environmental protection, hazardous materials, hazardous goods and accident prevention regulations, and also the generally accepted safety and industrial medical rules and IMO's works standards. The supplier shall guarantee that the supply item does not contain non-permissible materials or materials in non-permissible concentrations. Supplier shall inform IMO about required official licenses and reporting obligations for the importing and use of the supply items.

2.2. Where and in so far as reasonable, IMO can require Supplier to make changes to the design and implementation of the supply item. Supplier shall carry out the changes in a reasonable period of time. Appropriate agreements shall be reached on the effects, in particular concerning higher or lower costs, and also the delivery dates. If no agreement is reached within a reasonable period of time, IMO shall decide as it thinks fit.

### 3. Duty to Verify Title/Duty to Inform

It is essential that the supply items are delivered free of any third party rights. Thus the Supplier is under a duty to verify title and inform IMO of any possible conflicting industrial and intellectual property rights. Any breach of such duty is subject to the normal statutory limitation period.

### 4. Prices / Terms of payment

4.1. The agreed prices are fixed prices net of value-added tax. Unless otherwise agreed, payment shall be rendered within 21 days with 3% cash discount, or within 60 days net. The period shall commence with receipt of the contractually compliant delivery and a proper and verifiable invoice. In the event of acceptance of early consignments, the period shall however commence with the agreed delivery date at the earliest. The means of payment shall be chosen by IMO; invoices shall be submitted stating order number, article number, unloading point, Supplier number, number of units and unit price and also quantity per shipment without carbon copies.

4.2. Supplier can offset only against undisputed or legally final and binding claims.

4.3. IMO shall be entitled to offset against the claims Supplier has against IMO all those claims IMO has against Supplier.

### 5. Assignment

Supplier shall not be entitled to assign the execution of the contract or its contractual claims and rights, either in full or in part, to a third party without the prior written consent of IMO. Supplier shall provide IMO with the names of its sub suppliers upon request.

### 6. Terms of Delivery

6.1. Shipments shall be effected DDP Gremsdorf for Suppliers settled outside the EU and CPT Gremsdorf for Suppliers settled inside the EU according to Incoterms in the version valid at the time, to the location designated by IMO, unless otherwise determined, including packaging and preservation. IMO's Dispatch and Transportation Regulations shall apply in the version valid at the time. Each shipment shall include a delivery note. The delivery note shall bear the IMO order, article and supplier numbers. Unidentifiable goods shall be deemed not accepted. Where EXW shipment is agreed, IMO and the addressee designated by IMO are to be informed in good time about the dimensions and the weight of the shipment. The transport insurance shall be taken out by IMO in so far as IMO has a duty to do so under the agreed delivery clause (Incoterms in the version valid at the time). Otherwise transport insurance is to be provided by Supplier. Supplier shall include a certificate of preferential treatment in each shipment from preferred countries. The long-term supplier declaration as per Regulation (EC) 1207/2001 shall be presented once a year.

6.2. The supply items shall have proper, environmentally-friendly packaging as customary in the trade. IMO shall be entitled to specify the type and manner of packaging to Supplier. If IMO returns reusable packaging to Supplier freight paid, IMO shall be entitled to repayment of the value of the packaging.

### 7. Dates / Default

Agreed dates and deadlines shall be binding. Compliance with the delivery date or the delivery deadline shall be determined by the arrival of the goods at IMO or the addressee nominated by IMO. Supplier shall immediately inform IMO about any foreseeable delay in delivery in writing stating the reasons and the expected length of the delay. Supplier can only assert a delay for which it is not responsible if it has complied with its reporting requirement. In the event of

default, IMO shall be entitled to claim liquidated default damages of 1,0 % of the total value of the order per week or part thereof, up to a maximum but not exceeding 10 % of the total value of the order. This shall be without prejudice to other claims and rights. Supplier shall be entitled to prove that no or much lower default losses have arisen. The agreement of liquidated damages or the claiming thereof shall be without prejudice to IMO's statutory claims and rights for default.

### 8. Termination

8.1. IMO shall be entitled to terminate obligation relationships fully or partially without giving any reasons. Otherwise, the right of termination shall be governed by statutory provisions. In such a case, IMO has to pay for all consignments and/or performances rendered up to then and also to pay appropriate remuneration for all purchased material and work done; in this case Section 649, Sentence 2, 2nd Clause Civil Code shall also apply. Further claims and rights of Supplier are hereby excluded. This shall be without prejudice to the right of termination without notice for good cause.

8.2. A good cause within the meaning of 8.1. Sentence 5 shall arise in particular if insolvency proceedings for the assets of Supplier are applied for or Supplier ceases payments. IMO shall have the right to acquire material and/or work in progress including any special tooling on reasonable terms.

### 9. Confidentiality / Copyright / Liquidated Damages

9.1. Supplier shall keep the information provided to it by IMO, such as drawings, documents, know-how, samples, patterns, production resources, models, data media etc., confidential and not make the same available to any third party (including sub suppliers) without the prior written consent of IMO, nor use the same for purposes other than those determined by IMO. This shall apply accordingly for any copies made. This obligation shall not apply for information already legitimately known without duty of confidentiality upon receipt or becoming legitimately known without duty of confidentiality after receipt, generally known – without breach of contract by one of the parties – or for which written permission has been given for other use. Supplier may not use the business relationship for promotional purposes without the prior written consent of IMO. IMO shall retain ownership and all other rights (e.g. copyrights) to the information provided by IMO. Once made, the copies shall become the property of IMO. It is hereby agreed between Supplier and IMO that Supplier shall store the copies for IMO. Supplier shall carefully store, maintain and insure the provided documents, items and also copies thereof at its own expense and shall surrender or destroy the same upon request at any time. Right of retention for any reason whatsoever is hereby excluded. The complete return or destruction shall be confirmed in writing upon request.

9.2. Each breach of the duties under 9.1. Sentence 1 and 2 shall give rise to immediate liquidated damages of € 25,000. The agreement of liquidated damages or the claiming thereof shall be without prejudice to IMO's further claims and rights. Any liquidated damages shall be offset against claims for damages.

### 10. Quality Management / Incoming Goods Inspection / Right of Inspection

10.1. Supplier shall continuously monitor the quality of its consignments and performances. To this end it shall set up and maintain a quality management system, for example to ISO 9001:2000, or another system of comparable standard agreed with IMO. Changes of the supply item shall require IMO's prior consent. Supplier shall record in writing for all products supplied to IMO, when how and who assured the fault-free production of the consignment. These records are to be retained for at least 20 years and be presented to IMO upon request Corresponding agreements are to be entered into with sub suppliers.

10.2. IMO shall conduct incoming goods inspection only for visible signs of damage or visible deviations in identity and quantity. IMO shall immediately report such defects. IMO reserves the right to conduct further incoming goods inspection. In addition, faults shall be reported as soon as they are identified during the normal course of business. Supplier hereby waives the defence of late complaint. Where faults are found, IMO shall be entitled to return the entire consignment.

10.3. Supplier shall grant IMO and IMO customers the right to inspect its production facilities after timely announcement so that they can inspect the ordered goods.

### 11. Scope of Liability / Compensation of Expenses / Deadline / Insurance

11.1. If the supply item is faulty, IMO's claims and rights shall be governed by statutory regulations, unless agreed otherwise in the following provisions. Where operating safety is jeopardized or there is a risk of unusually high losses or to maintain supplies to its customers, IMO can - after informing Supplier - carry out the repair itself or have this done by a third party. Supplier shall bear the costs incurred. Supplier shall be liable for all losses and expenses incurred by IMO indirectly or directly owing to faults in the supply item. Compensation shall also be made for the expenses of an incoming goods inspection above and beyond the usual scope if parts of the shipment have been identified as defective. This also applies for a partial or complete inspection of the received shipments during the further course of business processes at IMO or IMO customers. In so far as Supplier resorts to the help of third parties when rendering its performance, it shall be liable for these as for agents.

11.2. In so far as Supplier is responsible for product damage, it shall hold IMO free and harmless with respect to third-party claims for damages upon first request where the cause lies within its control and organization. Under its liability for the aforementioned cases, Supplier shall also reimburse all and any expenses in conjunction with a recall action conducted by IMO. In so far as possible and reasonable, Supplier shall be informed about the content and scale of such recall actions and be given the opportunity to express its opinion. This shall be without prejudice to other statutory claims.

11.3. Unless otherwise required by law, Supplier shall be liable for faults arising within 36 months from receipt of the shipment by IMO or from acceptance (where such acceptance is required by law or contractual agreement). In the event of

subsequent performance, the period shall be prolonged by the time during which the supply item cannot be used as contractually agreed. The same deadlines shall apply for replacement deliveries. Claims for faults shall be time-barred at the earliest two months after the final customers' claims have been settled.

11.4. Supplier shall maintain reasonable insurance cover for the duration of the supply relationship. Proof shall be presented upon request.

#### **12. Supplies from IMO**

Materials, parts, containers, special packaging, tools, measuring equipment and suchlike provided by IMO shall remain IMO's property. In the event of supplies from IMO being processed, connected or mixed, IMO shall become co-owner of the new product in the ratio of the value of its supplies to the total value of the new product. Copies of items supplied may only be made after prior written consent from IMO. Once made, the copies shall become the property of IMO. Supplier shall have no right of retention to the items supplied for any reason whatsoever. Items supplied and also any copies thereof may not be made available to third parties (including sub suppliers) and or used for purposes other than those agreed.

#### **13. Tools**

Without prejudice to other agreements, IMO shall acquire full or co-ownership to the extent IMO participated in the proven costs for tools to manufacture the supply item. (Co-)ownership of the tools shall pass to IMO upon payment. They shall otherwise remain loaned to Supplier. Supplier shall be entitled to legally dispose over the tools, to change their location or render them lastingly inoperable only with IMO's approval. Supplier shall label the tools as the (co-) property of IMO. Supplier shall bear the costs for maintaining, repairing and replacing the tools. Replacement tools shall be owned by IMO as per its share in the original tool. In the event of co-ownership of a tool, IMO shall have a pre-emptive purchase right to Supplier's co-ownership thereof. Supplier shall use tools subject to IMO's (co-)ownership solely to manufacture the supply items. After termination of the supply relationship, Supplier shall immediately surrender tools upon request; for tools subject to IMO's co-ownership, IMO shall reimburse Supplier with the fair value of its co-ownership after receipt of the tools in question. Supplier shall not have any right of retention whatsoever. Supplier shall also surrender tools in the event of insolvency being filed against it or a longer interruption to supplies. Supplier shall insure the tool to the agreed extent or where no agreement has been reached to the customary extent.

#### **14. Force Majeure / Longer-Term Supply Interruptions**

14.1. Industrial disputes, civil unrest, official actions and other unforeseeable and unavoidable events shall release Supplier and IMO from their performance obligations for the duration of the interruption and to the extent of its impact. The affected party shall immediately provide the other contractual party with detailed information and undertake everything within reason to mitigate the effect of such events. The affected party shall immediately inform the other contractual party about the end of the interruption.

14.2. In the event of a longer-term supply interruption, the ceasing of payments or the opening of insolvency proceedings, the rejection of the opening of such proceedings for want of estate or the opening of comparable proceedings for the one contractual party, the other contractual party shall be entitled to cancel the contract with respect to that part not yet performed. If Supplier is affected by one of the aforementioned events, it shall support IMO to the best of its ability in the relocation of the production of the supply item to IMO or a third party, incl. licensing of the industrial property rights required for production on customary terms and conditions.

#### **15. Damages**

15.1. Supplier shall be liable to IMO not only for intention and gross negligence but also for medium and simple negligence.

15.2. Supplier's obligation to pay damages shall not be limited to a certain relationship between the loss and the invoice or order value. Supplier shall hold IMO free and harmless from all and any third-party warranty claims arising from breach of obligations by Supplier.

15.3. Supplier may not refuse to rectify faults if and in so far as IMO withholds payments owing to the presence of faults.

#### **16. Reservation of Title**

16.1. Ownership shall pass to IMO upon acceptance of the goods without prejudice to agreements otherwise. In addition, IMO shall be entitled to dispose over the supplied goods in the normal course of business. Any reservation of title granted to Supplier shall require express written confirmation by IMO.

16.2. The claims against third parties arising from the further sale of the goods supplied shall accrue to IMO only. Any assignment clauses in Supplier's General Terms and Conditions of Supply and Payment are hereby rejected.

16.3. IMO shall be entitled to assign claims arising from the resale to a third party. The exercising of an agreed reservation of title by Supplier shall constitute cancellation of the Agreement. The exercising of the reservation of title shall be effective only if Supplier returns any advance payments made to IMO.

#### **17. Data Protection**

IMO hereby points out that IMO stores personal data in compliance with statutory provisions and processes the same in conjunction with business transactions.

#### **18. Code of conduct for IMO Suppliers**

18.1 Supplier is obliged to comply with the laws of the applicable legal system(s). In particular, Supplier will not engage, actively or passively, nor directly or indirectly in any form of bribery, in any violation of basic human rights of employees or any child labour. Moreover, Supplier will take responsibility for the health and safety of its employees in the workplace, observe the applicable environmental laws and use best efforts to promote and demand adherence to this Code of Conduct by its suppliers.

18.2 If Supplier negligently breaches any of these obligations, IMO is – notwithstanding other claims – entitled to rescind the contract or give notice to terminate the contract. If the rectification of a breach of obligation is possible, this right may only be exercised following the fruitless expiry of a reasonable grace period for rectification of said breach.

#### **19. Export Control and Foreign Trade Data Regulations**

19.1. Supplier shall comply with all applicable export control, customs and foreign trade regulations („Foreign Trade Regulations“). Supplier shall advise IMO in writing within two weeks of receipt of order – and in case of any changes without undue delay – of any information and data required by IMO to comply with all Foreign Trade Regulations in case of export and import as well as re-export, including without limitation:

- all applicable export list numbers, including the Export Control Classification Number according to the U.S. Commerce Control List (ECCN); and
- the statistical commodity code according to the current commodity classification for foreign trade statistics and the HS (Harmonized System) coding; and
- the country of origin (non-preferential origin); and - upon request of IMO - Supplier's declaration of preferential origin in accordance with Regulation (EC) 1207/2001 (in case of European Suppliers) or preferential certificates (in case of non-European suppliers).

19.2. Supplier shall be liable for any expenses and/or damage incurred by IMO due to any breach of the obligations according to 19.1., unless Supplier is not responsible for such breach.

#### **20. Closing Provisions**

20.1. Subject to agreements otherwise Gremsdorf shall be the place of fulfilment for consignments and performances.

20.2. The contractual relationship shall be governed by German law under the exclusion of the conflict of laws and also of the United Nations Convention on the International Sale of Goods (CISG). Place of jurisdiction shall be Gremsdorf. IMO shall however be entitled to sue Supplier before the court with jurisdiction over its domicile or place of business.

20.3. Should any provision be or become invalid, this shall have no effect on the validity of the remaining provisions.