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## General Terms and Conditions of Purchase (GTP) of LIMO GmbH

### § 1 General - Scope of application

- (1) These General Terms and Conditions of Purchase shall apply to all contracts between us and the Contractor regarding the purchase of materials, objects, products, details, software and for all associated services (goods) as well as to all contracts regarding the provision of work by the Contractor.
- (2) Our Terms and Conditions of Purchase shall apply exclusively; we shall not recognise any terms and conditions of the Contractor which conflict with or deviate from our Terms and Conditions of Purchase unless we have expressly agreed to their validity in writing. Our Terms and Conditions of Purchase shall also apply if we unconditionally accept the Contractor's delivery in the knowledge that the Contractor's terms and conditions conflict with or deviate from our Terms and Conditions of Purchase. Deviating conditions of our Contractor are hereby expressly contradicted. This objection shall also apply to the priority of the Contractor's terms and conditions of business, in particular sales or delivery conditions, declared by the Contractor. Our objection shall also be legally effective if the Contractor has specified a special form for it which we have not complied with.
- (3) These Terms and Conditions of Purchase shall apply to all business transactions between us and the Contractor, even if these are no longer expressly mentioned in subsequent contracts.
- (4) Supplements and amendments as well as the termination of agreements made, including these Terms and Conditions of Purchase, must be made in writing in order to be effective. The same applies to this written form requirement. Transmission by telefax is sufficient to comply with the written form, otherwise transmission by telecommunication, in particular by e-mail, is not sufficient.

### § 2 Offer - Order - Confidentiality

- (1) The Contractor must adhere exactly to our enquiry in his offer and expressly point out any deviations in writing. An order shall only be deemed to have been placed if it has been drawn up by us in writing or, in the case of an oral or telephone order, confirmed in writing, unless otherwise agreed in individual cases. Our orders must be confirmed by the Contractor in writing without delay. If this order confirmation is not received by us within 10 days of receipt of the order, our order shall be deemed accepted unchanged. In this respect, § 362 HGB (German Commercial Code) is expressly agreed between the parties.
- (2) Deviations in quantity and quality from the text and content of our order and subsequent changes to the contract shall only be deemed to have been agreed if we have expressly confirmed them in writing. Additional deliveries and/or services which go beyond the scope agreed in the contract may only be carried out by the Contractor after prior conclusion of a corresponding contract amendment (order by us and corresponding acceptance by the Contractor or supplementary offer by the Contractor and acceptance by us).

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- (3) The Contractor is obliged to keep all received data, design documents, drawings, calculations and other documents and information strictly confidential. They may only be disclosed to third parties with our express consent. The obligation to maintain secrecy shall also apply after completion of the contract; it shall expire if and to the extent that the manufacturing knowledge contained in the data, designs, drawings, calculations and other documents provided has become generally known. The Contractor will not use this information to gain a business advantage over LIMO in competition or to circumvent obligations arising from a contract concluded with LIMO.
- (4) If a non-disclosure agreement has been concluded in advance of an order, this shall be regarded as having priority until it is replaced by other formulations in a contract with LIMO.
- (5) The Contractor may not use the company or trademarks of LIMO in advertising materials, other publications or references without prior written consent.
- (6) We reserve ownership rights and copyrights to design documents, drawings, calculations, plans, models and other documents which the Contractor receives from us or becomes accessible to him. They are to be used exclusively for production on the basis of our order; after completion of the order they are to be returned to us unsolicited. The Contractor is not entitled to a right of retention - for whatever reason. Copies or duplicates may not be made without our written consent.

### **§ 3 Prices - Terms of payment**

- (1) The price stated in the order is binding. In the case of successive supply contracts and contracts for work and services, the fixed price is also a lump sum and includes all expenses necessary for the rendering of services. In the absence of a written agreement to the contrary, the price shall include delivery "free domicile", including packaging, customs, insurance, freight and unloading. The return of the packaging requires a special agreement.
- (2) All invoices shall state the order reference number, order number and date, item and material numbers, the commodity codes, the place of dispatch and the delivery note number. Invoices shall also indicate the origin of the goods and be accompanied by the proof of origin required for the correct customs treatment. As long as these details are missing, invoices are not payable.
- (3) Unless otherwise agreed in writing, we shall pay the purchase price within 14 days of delivery or, in the case of contracts for work and services, of the performance of the work and receipt of the invoice, with 2% discount or net within 30 days of receipt of the invoice.
- (4) Time delays caused by incorrect or incomplete invoices do not affect the discount period. Advance payments are only permissible and due against the provision of an unlimited, directly enforceable contractual performance guarantee by a European bank in the amount of 10% of the total net order value. If we do not yet obtain ownership of the delivery parts on which the advance payment claim is based, a down payment guarantee from a European bank in the amount of the advance payment requested is also a precondition for the advance payment.

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- (5) As the case may be, we may assert rights of set-off and retention to the extent permitted by law against the Contractor's claims.

#### **§ 4 Delivery time - Terms of delivery - Scope of delivery**

- (1) The delivery time stated in the order is binding. Agreed delivery periods shall commence from the date of the order. Decisive for compliance with the contractual delivery periods or dates is the receipt of the delivery at the place of receipt specified by us.
- (2) The Contractor is obliged to inform us immediately in writing, stating the reasons and the probable duration of the delay, if circumstances occur or become apparent to him which indicate that the agreed delivery time cannot be met.
- (3) If the Contractor culpably exceeds the agreed deadline or the date for delivery or the agreed date for the readiness for acceptance of the work, he shall be obliged to pay us a liquidated damages amounting to 0.15% of the agreed net price or net work wage for each calendar day of delay, but not more than a total of 5% of the net price/net work wage. We reserve the right to claim liquidated damages and to set them off against claims of the Contractor until final payment. Claims for damages exceeding the amount of the liquidated damages remain unaffected. However, the liquidated damages shall be offset against such claims for damages.

Insofar as delivery dates or periods are postponed due to any justified claims for extension on the part of the Contractor or insofar as these are redefined by mutual agreement, the above liquidated damages provision shall be linked to the new dates without the need for a new special agreement with regard to the liquidated damages provision.

- (4) In the absence of an agreement on a delivery period, the Contractor shall be in default if he does not comply with the delivery period which is reasonable and customary under the circumstances.
- (5) If a procurement risk and/or a guarantee is expressly assumed in his order confirmation/offer, the Contractor shall be liable regardless of fault.
- (6) The Contractor is only entitled to partial deliveries or partial services after our prior written consent. We are entitled to refuse acceptance of prematurely delivered goods or, in the event of acceptance, to charge a reasonable storage fee, unless expressly agreed otherwise. Delivery by the Contractor can only take place on working days, exclusively Monday to Friday, between 08.00 and 16.00 hours.
- (7) Ownership of the goods shall pass to us without reservation upon delivery thereof.
- (8) The Contractor must provide all technical documentation at the agreed time, but at the latest upon delivery of the goods or services, in particular operating and maintenance instructions, training material, drawings, technical data sheets, product safety sheets, factory test certificates, conformity certificates and all other necessary or customary documentation, as well as the associated source and object codes in the case of software.

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- (9) Unless otherwise agreed, the documentation for the delivery of machines, incomplete machines and machine parts also includes the following documents:
- a. For the delivery of machines within the meaning of the European Machinery Directive 2006/42/EC: Operating instructions, declarations of conformity and risk analysis according to EN ISO 12100
  - b. for the delivery of incomplete machines or machine parts within the meaning of the European Machinery Directive 2006/42/EC: Assembly instructions, installation declaration, operating instructions and risk analysis in accordance with EN ISO 12100.

All documentation must be prepared in accordance with the requirements of the European Machinery Directive 2006/42/EC and the EN ISO 12100.

## § 5 Transfer of Risk - Documents - Packaging

- (1) Unless otherwise agreed in writing, delivery shall be made „free domicile“. The Contractor is responsible for the proper packaging of the delivery. Transport shall be at the risk of the Contractor. This shall also apply if we have exceptionally undertaken to bear the costs of transport; in this case the Contractor shall be obliged to use the mode of transport prescribed by us, otherwise the for us most favourable mode of transport and delivery. The Contractor is obliged to take out transport insurance, irrespective of whether he himself bears the transport risk. Insofar as it is necessary for the fulfilment of our claims, the claim against the transport insurer shall be assigned to us. The costs of transport insurance shall be borne by the Contractor.
- (2) In the case of purchase contracts, the risk shall pass to us only after any necessary unloading by the Contractor upon receipt of the goods; in the case of contracts for work and services, only after declaration of acceptance.
- (3) The Contractor shall be obliged to state our order number exactly on all shipping documents and delivery notes; the Contractor shall prepare the transport documentation in accordance with our specifications regarding the language, form and layout to be used (readiness for dispatch notice, packing list, preference documents, certificates of origin) without incurring any costs; if he fails to do so, we shall not be responsible for the resulting delays in processing.
- (4) Packaging is included in the price. If, as an exception, something else has been agreed, the packaging shall be invoiced at cost price. The Contractor must use the packaging specified by us and ensure that the packaging protects the goods from damage. If the Contractor has no specifications for the type of packaging, the Contractor shall select packaging and ensure that the packaging protects the goods from damage. The calculation always takes place at cost prices. The Contractor shall take back the packaging at its own expense. He bears the take-back and disposal obligation according to § 10 Abs. 2 German Elektro- und Elektronikgesetz.

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## § 6 Force majeure

Force majeure such as labour disputes, riots, operational disturbances through no fault of LIMO's own, governmental actions and other unavoidable, unusual and unforeseeable events shall release LIMO from its obligation to accept the goods in good time for the duration of their occurrence. During these events and within one week of their end, LIMO shall be entitled - without prejudice to LIMO's other rights - to withdraw from the contract in whole or in part, insofar as the events are not temporary and the demand is therefore considerably reduced.

## § 7 Technical requirements - Quality assurance

- (1) The Contractor warrants that the goods and services to be supplied comply with the samples approved by us, all relevant standards (DIN standards and EC standards), all safety regulations and the specifications stated in the order. The Contractor guarantees that the delivered objects and services comply with the intended purpose, the state of the art, the generally recognised technical and occupational health and safety regulations of authorities and trade associations and all relevant legal regulations. If machines, equipment or plants are the subject of the delivery, the Contractor shall guarantee that these meet the requirements of the special safety regulations for machines, equipment and plants applicable at the time of performance of the contract, including the occupational health and safety and accident prevention regulations, and that the delivery and service has a CE marking. In addition, the Contractor warrants the faultless design, the use of suitable and faultless materials, the quality of the execution, the proper functioning of all parts of the scope of delivery and/or services and the achievement of the technical performance data or compliance with the agreed technical characteristics.
- (2) A reference to standards in the purchase order shall in principle include an agreement as to the nature of the goods that the requirements of the standard are met. Samples, specimens and other documents and information provided by the Contractor shall also be deemed to be quality agreements. The DIN standards and, if available, the European standards, in particular CEN and CENELEC, shall apply as the minimum standard for his deliveries to us.
- (3) If we make plans, drawings, material and/or accessories available to the Contractor, he is obliged to check these for their completeness, correctness and suitability for the intended purpose and to inform us immediately of the incompleteness and incorrectness of the documents handed over. If the Contractor does not raise any objections, he shall also be liable for warranty in this respect without limitation.
- (4) The Contractor shall maintain a state-of-the-art quality assurance system and prove this to us at all times. The Contractor undertakes as his own contractual obligation to carry out the necessary intermediate and final inspections during production and to subject the parts delivered to him to an effective incoming goods inspection if he procures the delivered item or parts thereof from his own suppliers.

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- (5) We are obliged to inspect the goods for any deviations in quality and quantity within a reasonable period of time; the complaint shall be deemed to have been made in good time if it is received by the Contractor within a period of 2 weeks from receipt of the goods or, in the case of hidden defects, from discovery. To the above extent, the obligation to examine and give notice of defects pursuant to §§ 377, 378 HGB (German Commercial Code) is excluded.

## **§ 8 Warranty - Liability for defects - Consequential damage caused by defects**

- (1) The warranty period shall be 36 months, calculated from the date of transfer of risk. For repaired or newly delivered goods, the warranty period begins anew. A written notice of defect by our company shall suspend the limitation period for 8 weeks from receipt of the notice of defect, provided that no further suspension of the limitation period results from the statutory provisions.
- (2) We shall be entitled to the statutory claims for defects in full; in any case, we shall be entitled to demand from the Contractor, at our discretion, either rectification of the defect or delivery of a new item.
- (3) We shall be entitled to remedy the defect ourselves at the expense of the Contractor if the Contractor is in default with remedying the defect.
- (4) The Contractor shall also reimburse consequential damages and economic damages, in particular loss of production. The damage eligible for reimbursement also includes incidental costs incurred before and during the repair of the damage, such as dismantling and installation costs, material costs, travel and freight costs, costs for the provision of labour and, in particular, costs in connection with the determination of the damage or defect, e.g. expert costs. This shall also apply if the expenses increase because a purchased item or a delivered item has been delivered to our customers in accordance with its intended purpose after delivery.
- (5) The return of defective goods shall be at the expense and risk of the Contractor. If we take over the packaging of the returned goods at the request of the Contractor or if we otherwise take measures for the return, any liability for non-personal damage is excluded unless we are guilty of intent or gross negligence.

## **§ 9 Product Liability - Indemnification - Liability Insurance Protection**

- (1) As far as the Contractor is responsible for a product damage, he is obliged to indemnify us from any claims for damages of third parties on first demand, as far as the cause is in his area of control and organisation and he is liable in the external relationship himself.
- (2) Within the scope of his liability for cases of damage within the meaning of paragraph (1), the Contractor shall also be obliged to reimburse any expenses pursuant to §§ 683, 670 German BGB or pursuant to §§ 830, 840, 426 BGB which result from or in connection with a notice and/or recall action

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carried out by us. As far as possible and reasonable, we shall inform the Contractor of the content and scope of the recall measures to be carried out and give him the opportunity to comment. Other statutory claims shall remain unaffected.

- (3) The Contractor undertakes to maintain a product liability insurance with a sum insured of € 10 million per personal injury/property damage - lump sum - and to prove to us at any time upon request that it exists; if we are entitled to further claims for damages, these shall remain unaffected.

## § 10 Industrial property rights

- (1) The Contractor grants LIMO a right, unlimited in territory, time and subject matter, to use the deliveries and services, to integrate them into other products and to distribute them worldwide. To the extent necessary for the execution of our deliveries and services to third parties and to the extent permitted by law, the Contractor shall transfer to us without additional remuneration all possible copyrights, industrial property rights and similar legal positions to his services. In particular, we have the right to use, continue, modify and publish the services provided by the Contractor without his cooperation and to transfer these rights in their entirety and individually to a third party. This shall also apply in the event of premature termination of this contract.
- (2) If, in connection with the order, improvements are made to documents or know-how supplied by us, we shall be entitled to a free, non-exclusive right of use for commercial exploitation.
- (3) The Contractor guarantees that no rights of third parties are infringed in connection with his delivery. The Contractor shall in particular be liable for ensuring that the rights of third parties, in particular patents, utility models, competition rights, copyrights and trademark rights or other industrial property rights, are not infringed by the delivery or use of the delivery item or the work owed or its distribution or resale.
- (4) If claims are asserted against us by a third party due to infringement of its rights, the Contractor shall be obliged to indemnify us against these claims upon our first written request; we shall not be entitled to make any agreements with the third party - without the consent of the Contractor - in particular to conclude a settlement.
- (5) The Contractor's obligation to indemnify refers to all expenses necessarily incurred by us as a result of or in connection with claims asserted by a third party. This includes in particular expenses or costs incurred by us for the avoidance or elimination of infringements of industrial property rights, as well as defence costs, e.g. lawyer's fees. The assertion of further claims, in particular claims for damages, shall remain unaffected by this.
- (6) Claims of LIMO are excluded insofar as LIMO is responsible for the infringement of the property right or the infringement of the property right is caused by special specifications of LIMO, by an application not foreseeable by the Contractor or by the fact that delivered goods are modified by LIMO or a third party or used together with goods not delivered by the Contractor. Claims of LIMO are further excluded

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if they are based on the fact that LIMO has used or resold the delivered goods after LIMO has been informed by the Contractor that the use of the delivered goods violates patent rights or copyrights of third parties.

## § 11 Compliance with statutory standards and international conventions

- (1) The Contractor is obliged to comply with existing data protection requirements. This applies in particular to personal data, e.g. from the area of LIMO. Data protection requirements are in particular those of the German Federal Data Protection Act (BDSG) and the European General Data Protection Regulation (GDPR). The Contractor may only collect, process or use personal data to the extent that this is necessary for the fulfilment of the contract. Any other collection, processing or use is prohibited and not permitted. The Contractor shall ensure that all persons entrusted with the performance of its obligations comply with the statutory provisions on data protection. Any obligation on the part of these persons to maintain data secrecy required by data protection law must be undertaken prior to the first commencement of their activities and must be proven to us upon request.
- (2) The Contractor hereby expressly commits himself to LIMO GmbH to comply with the obligations of the minimum wage law applicable to the Contractor in connection with the respective order. In addition, the Contractor undertakes to obligate subcontractors commissioned in connection with the aforementioned order accordingly.
- (3) Furthermore, the Contractor hereby expressly commits himself to LIMO GmbH to indemnify LIMO GmbH from claims by employees of the Contractor or his subcontractors, insofar as these claims are based on a violation of the obligations of the minimum wage law affecting the Contractor or a subcontractor employed by him.
- (4) Unless expressly stated otherwise in the order, the goods shall comply with the conditions of origin of the relevant preferential arrangements of the EU. The Contractor must inform LIMO in writing and without being asked in his business documents (at any rate in his offers, order confirmations or invoices) if the goods:
  - a. in the export list (Annex "AL" of the German Foreign Trade and Payments Ordinance) and/or
  - b. in Annex I of Regulation (EU) No. 428/2009 (Dual-Use Regulation) and/or
  - c. is listed in Annex IV of the Dual-Use Regulation.
- (5) The information also includes the export classification number; the number of the applicable export license; the country of origin of the product and its components (including technology and software); whether the product was transported through or across the United States, manufactured or stored in the United States, and whether the product was manufactured using U.S. technology; the statistical commodity code (HS code); and the contact details of the Contractor's contact person in case of queries. At LIMO's request, the Contractor shall immediately provide further information in writing on his goods and their components concerning foreign trade. The Contractor shall inform LIMO



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- immediately and without being requested to do so in writing of any changes to information already provided.
- (6) The duty to provide information contained in § 11 (4) of this GTP shall also apply if the export or re-export of the goods is subject to other export laws and regulations and/or these require approval.
  - (7) The Contractor is obliged to comply with U.S. and European anti-terrorism regulations. In particular, he shall comply with Regulation (EC) 881/2002 of 27 May 2002 and Regulation (EC) 2580/2001 of 27 December 2001, as amended, and shall refrain from direct or indirect business relations with any person listed in the Regulations. The Contractor shall also comply with security aspects as set out in the EU Guidelines for Authorised Economic Operators - Regulation (EC) 648/2005 and Regulation (EC) 1875/2006. The Contractor is obliged to inform LIMO immediately in writing of any changes and possible non-compliance with the aforementioned regulations.
  - (8) The Contractor is guided by the principles of sustainable development and observes internationally recognised, fundamental standards for occupational safety, health and environmental protection, labour and human rights and for responsible corporate management. He shall ensure that the goods to be delivered to LIMO do not fall within the scope of the substance bans of Directive (EC) 2011/65/EU (RoHS). He assures that the substances contained in the goods to be delivered and their use have either already been registered or that there is no obligation to register according to Regulation (EC) No. 1907/2006 (REACH Regulation) and that, if necessary, an authorisation according to the REACH Regulation has been granted. The Contractor shall oblige any subcontractors or other third parties engaged by it for the delivery and service to comply with corresponding standards.
  - (9) Conflict Commodities: At LIMO's request, Seller shall determine whether the products under this Agreement contain tin, tantalum, tungsten, gold or other commodities that are designated as "conflict commodities" under the relevant SEC (Securities and Exchange Commission) regulations. If the products covered by the contract do not contain conflict raw materials within the meaning of the relevant regulations and interpretation principles of the US Securities and Exchange Commission (SEC), which are necessary for the functionality or manufacture of the products concerned, the seller shall certify to LIMO upon request that none of the products covered by the contract contains such conflict raw materials. If a product contains one or more conflict raw materials, the seller must certify to LIMO the country of origin of the conflict raw material in question or that the conflict raw material originates from recycling or waste sources as defined by the relevant SEC regulations. If the Seller cannot determine the country of origin and the conflict raw materials in question do not originate from sources of recycling or waste, the Seller shall make reasonable efforts to obtain information from the Contractors concerned as to the country of origin of the conflict raw materials. This is subject to the proviso that the demand in question is carried out in accordance with the currently applicable requirements of the relevant SEC regulations regarding the making of an appropriate demand to the country of origin. In the event that Seller is aware, or becomes aware, that conflict raw materials required for the functioning or manufacture of products covered by this Agreement originate in a "regulated country" within the meaning of the SEC regulations on conflict raw materials and do not originate from recycling or waste sources, Seller shall make reasonable efforts to determine whether

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such conflict raw materials originate from a processing facility, which has been certified as 'non conflict area' by a recognised industry group requiring an independent smelting audit to be carried out by a private sector supplier, or whether it originates from a single processing facility which has been assessed by a private sector supplier and for which a published and publicly available assessment report is available. The seller must submit written documentation of his investigations and findings in this regard. Seller shall also take such additional measures and provide such additional information as LIMO may require in order to continue to be able to comply with applicable laws, regulations and rules relating to conflict raw materials.

- (10) If the Contractor breaches any of the obligations specified in § 11 (1) to (9) of this GTP, he shall reimburse LIMO for all damages and other disadvantages in connection therewith.
- (11) At LIMO's request, the Contractor shall be obliged to indemnify LIMO against any and all disadvantages, of whatever nature and on whatever legal grounds, arising from the fact that the Contractor does not fulfil, or does not fulfil within the time limit, all or part of the obligations referred to in § 10 (1) to (9) of this GTP. The exemption also covers contingent liabilities. If LIMO has unsuccessfully set the Contractor a deadline for indemnification or if the Contractor refuses indemnification, in whole or in part, seriously and finally, LIMO may satisfy the claims of the third party. The Contractor shall reimburse LIMO's services to the third party, bear the expenses and costs incurred in connection with claims asserted by third parties and compensate LIMO for any other damage arising therefrom. LIMO's authority to satisfy the claims pursued by the third party even beyond this, as well as any associated claims against the Contractor, remain unaffected by this.
- (12) Further claims of LIMO shall remain unaffected by the provisions in § 11 (10) and (11) of this GTP.

## **§ 12 Provision of materials - reservation of title - tools**

- (1) If we make parts available to the Contractor, we reserve title to them. The Contractor must store these items separately and use them only for our order. The Contractor is liable for confirmation or loss. The parts provided must all be insured by him against fire, water and theft.
- (2) Processing or transformation by the Contractor shall be carried out for us as manufacturer. If our reserved goods are processed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the value of our object (purchase price plus VAT) to the other processed objects at the time of processing.
- (3) If the item provided by us is inseparably mixed with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the value of the item subject to retention of title (purchase price plus VAT) to the other mixed items at the time of mixing. If the mixing takes place in such a way that the Contractor's item is to be regarded as the main item, it shall be deemed agreed that the Contractor shall transfer co-ownership to us on a pro rata basis; the Contractor shall hold the sole ownership or co-ownership in safe custody for us.

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- (4) Subject to further rights, LIMO may demand their surrender at any time. In the event of depreciation in value or loss, the Contractor shall pay compensation. This also applies to the invoiced transfer of order-related material. The Contractor has no right of retention to material provided by LIMO.
- (5) We reserve ownership of tools; the Contractor is further obliged to use the tools exclusively for the manufacture of the goods ordered by us. The Contractor is obliged to insure the tools belonging to us at replacement value against fire, water and theft at his own expense. At the same time, the Contractor hereby assigns to us all compensation claims arising from this insurance; we hereby accept the assignment. The Contractor is obliged to carry out any necessary maintenance and inspection work on our tools as well as all maintenance and repair work at his own expense and in good time. He shall notify us immediately of any malfunctions; if he culpably fails to do so, claims for damages shall remain unaffected.
- (6) Insofar as the security rights to which we are entitled pursuant to paragraphs (1) to (5) exceed the purchase price of all our reserved goods not yet paid for by more than 10%, we shall be obliged to release the security rights at our discretion at the request of the Contractor.

### **§ 13 Special provisions for contracts for work and services as well as design and engineering services**

- (1) The price specified in the order is a fixed lump sum price which covers all activities necessary for the provision of the services and the achievement of the success of the work., By accepting the contract, the Contractor acknowledges that by inspecting the existing plans he has been able to inform himself prior to the conclusion of the contract about the nature and scope of the work and to fully determine all expenses and measures necessary for the fulfilment of his contractual tasks. The information thus received constitutes the basis for the lump-sum fixed price.
- (2) In the case of design or engineering services, the Contractor can only invoice the actual time spent at hourly rates if this was expressly agreed. In this case, the Contractor must obtain our decision before exceeding the amount of time specified in the order or in the order confirmation.
- (3) Any release notes on plans or other approvals given for technical documents and/or calculations of the Contractor shall not release the Contractor from his obligation to perform his services professionally and completely and shall not affect his liability for defects.
- (4) If the Contractor owes a work performance or work delivery, we can demand changes and additions to the order at any time at our reasonable discretion and taking into account the interests of the Contractor until acceptance. The Contractor shall be obliged to propose to us any changes it deems necessary or expedient with a view to successful performance of the contract. After our written consent, the Contractor shall also carry out these changes. If a change results in an increase or reduction of costs and/or a missed deadline, the Contractor is obliged to point this out at the same time as his proposed change or immediately after receipt of our request for change and to submit a supplementary offer. The amendment shall be made on the basis of a written agreement specifying the remuneration of the additional costs or the consideration of the reduced costs and the timetable.

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- (5) The precondition for acceptance is that the Contractor has completely finished his entire contractually owed work. He shall then be obliged to apply for formal acceptance, of which a record shall be drawn up and signed by both parties. Acceptance of partial services or other partial acceptances is excluded unless otherwise agreed in writing. Even in the event of such a deviating agreement, the partial acceptance shall not replace the final acceptance. Any fictitious acceptance is excluded.
- (6) The Contractor is only entitled, with our prior written consent, to commission subcontractors with the entirety or parts of the contractual performance. We will only withhold this consent for important reasons. The commissioning of subcontractors does not release the Contractor from his contractual obligation towards us. The Contractor is responsible for the subcontractors commissioned by him who are his vicarious agents.
- (7) In order to secure all obligations of the Contractor arising from the contract, the Contractor shall, at the latest within one week after conclusion of the contract, provide us with an unlimited, directly enforceable contractual performance guarantee of a European bank or insurance company in the amount of 10% of the contractually agreed gross remuneration. The guarantee secures the fulfilment of all obligations arising from this contract, in particular also repayment claims including interest, warranty claims (also for indirect consequential damages), claims for damages as well as claims for payment of liquidated damages. We shall be entitled to recover payments until the contractual performance guarantee has been handed over. The contractual performance guarantee shall be returned upon completion and complete acceptance of work and services free of defects.
- (8) To secure warranty claims, we retain 5% of the agreed gross remuneration for the duration of the agreed warranty period. This retention can be redeemed by the Contractor at the earliest with the due date of the final payment and concurrent payment against transfer of an unlimited directly enforceable guarantee of a European bank or insurance company to secure our warranty claims (warranty guarantee) in the same amount.
- (9) Insofar as it is necessary to enter our works premises or the works premises of our customer in order to perform the work, the Contractor shall observe all existing accident prevention regulations and the supplementary instructions of our company or the responsible employees of our customer.
- (10) If the Contractor owes a work performance, we may terminate the entire contract or parts thereof at any time.

## § 14 Other regulations

- (1) We are entitled, within the framework of the German Federal Data Protection Act (BDSG) and the European General Data Protection Regulation (GDPR), to process data of goods and payment transactions with the Contractor to the extent permitted. With the acceptance of an order, the Contractor agrees to this processing.

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- (2) The Contractor shall ensure that the delivery of spare parts within agreed delivery periods is guaranteed for at least 10 years after delivery. Should the production of spare parts be discontinued during this period, we will be notified so that we can supply ourselves with the necessary spare parts for the future. In addition, in the event that the production of spare parts is discontinued, the Contractor shall provide us with the production drawings and parts lists with manufacturer information without having to pay a separate remuneration as for this.
- (3) If the Contractor becomes insolvent, stops making payments or if an application is made to open insolvency proceedings against the assets of the Contractor or one of its owners, we may withdraw from the contract without prejudice to other rights for the unfulfilled part. If the Contractor is responsible for the reason for termination or if the termination takes place in accordance with S. 1, only the services provided up to that point in time in accordance with the contract, self-contained and proven, shall be remunerated, insofar as these are usable for us. Claims for damages on our part remain unaffected. If the Contractor is not responsible for the reason for termination, we shall reimburse the expenses demonstrably incurred up to the termination of the contract and resulting directly from the order, including the costs resulting from unavoidable liabilities. The Contractor shall not be entitled to any further claims for performance or damages on the occasion of the termination. The protective and/or usage rights to the work results created up to the time of termination shall pass to us.
- (4) The assignment of claims and entitlements from this contract by the Contractor without our written consent is not permitted.
- (5) Offsetting by the Contractor or the assertion of a right of retention by the Contractor is excluded, unless the counterclaim of the Contractor is legally established, undisputed or acknowledged by us.
- (6) Should any provision of these Terms and Conditions of Purchase be or become invalid or should there be a gap in these Terms and Conditions, this shall not affect the validity of the remaining provisions. In this case, the Contractor undertakes to cooperate in replacing the invalid or unenforceable provision with a valid provision that comes as close as possible to the content and economic purpose of the invalid provision.

## **§ 15 Jurisdiction - Place of fulfilment - Choice of law**

- (1) If the Contractor is a merchant, our place of business shall be the exclusive place of jurisdiction; however, we shall also be entitled to sue the Contractor at the court of his place of business.
- (2) Unless expressly agreed otherwise, the place of fulfilment for the delivery obligation shall be our place of business.

All legal relationships between the Contractor and us shall be governed exclusively by the substantive law of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the

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International Sale of Goods (CISG) and to the exclusion of the German conflict-of-law provisions of international private law.