

General Terms and Conditions of Purchase (Status: January 2019)

1. Application

- 1.1 Our General Terms and Conditions of Purchase (hereinafter referred to as "Terms and Conditions") shall apply to all contracts, including contracts for ancillary services, consulting and disclosure, which we - FLSmidth Hamburg GmbH (Pinneberg, Germany) - may enter as a purchaser/client.
- 1.2 These Terms and Conditions shall govern exclusively with respect to Contracts we have concluded as a purchaser/client, including also contracts for ancillary services, consulting and disclosure. By confirming our order, sellers/contractors (hereinafter referred to as "Contractors") are deemed to have simultaneously acknowledged the application of our Terms and Conditions and accepted their incorporation as an element of the contract. We hereby reject any Contractor terms and conditions which conflict with or differ from our Terms and Conditions. Such other terms and conditions shall be deemed incorporated into the contract only if we expressly consent to them. Our Terms and Conditions shall apply even if we unconditionally accept the work from the Contractor with knowledge that the Contractor's terms and conditions conflict with or deviate from our Terms and Conditions.
- 1.3 Our Terms and Conditions shall apply only to entrepreneurs (§ 14 of the German Civil Code), to public law legal entities or to special funds under public-administrative law within the meaning of § 310 (1) sentence 1 of the German Civil Code.
- 1.4 Our Terms and Conditions shall also apply to all future contracts we may enter into with the Contractor where we are the purchasing/client party.
- 1.5 Any and all agreements made between us and the Contractor, including amendments or addenda to such agreements, shall not be valid unless made in writing. The foregoing shall also apply to any waiver of the requirement of a writing.

2. Principles of UN Global Compact, workplace health and safety, export control

- 2.1 Our companies and branch offices referred to in Item 1.1 hereof belong to the FLSmidth Group, which, as a signatory to the UN Global Compact, expects its suppliers and contractors to maintain and apply policies and procedures that ensure compliance with the law and which support generally acknowledged sustainable business practices, including but not limited to:
 - (1) Respecting fundamental human rights, as articulated in the UN Declaration of Human Rights, including elimination of all forms of forced labour and respect for ethnic, cultural, religious and political diversity;
 - (2) Respecting the UN Convention on the Rights of the Child and elimination of all forms of child labour;
 - (3) Respecting basic labour rights, as articulated by the International Labour Organisation (ILO), including the freedom of association and the right to collective bargaining;
 - (4) Avoiding conflicts of interest and complete elimination of all forms of participation in corruption including bribery, extortion and money laundering of any kind whatsoever;
 - (5) Compliance with all competition and export control laws (Item 2.3 hereof remains unaffected hereby);
 - (6) Respecting intellectual property of the FLSmidth Group and of third parties (Items. 9, 13 and 14 remain unaffected hereby).
- 2.2 In performing its contracts with us, the Contractor is responsible for the safe execution of the supply in compliance with all local regulations and shall take all necessary safety measures, including safe working conditions and training in safe working methods, appropriate personal safety equipment, and other precautions to protect all persons and property against injury or damage. The Contractor must ensure that all of its employees are provided with access to the customary healthcare systems in the country and that all mandatory social insurances for their employees are being complied with.
- 2.3 The Contractor shall inform us in writing prior to formation of our contract, but at the latest at such time as it confirms its acceptance/confirms our order, as to whether its services/products or portions thereof are subject to national or international export controls, embargos, other trade sanctions or trade restrictions, in particular by the EU, the USA, the UN or other laws applicable to our contractual relationship. In this context, the Contractor shall assume and shall take into consideration that we will be exporting its products/services to third countries, the identity of which is not yet known at the time of formation of our contract with the Contractor. The Contractor shall procure at its own cost and expense all such import or export licences and/or other permits as are required for delivery of goods and services to the FLSmidth Group company or branch office in question.

In the event of our further export of the Contractor's products/services we shall endeavour, on the basis of the Contractor's information, to procure the necessary export-import licences and/or other permits for export/import of those goods/services.

If it should prove impossible for us to procure the requisite import or export licences and/or other permits for exports agreed or contemplated by us within the meaning of subs. 2 and 3 of this Item 2.3, we shall be entitled to rescind in whole or in part from the contract by written notice to the Contractor. In the event of such rescission, the Contractor shall immediately refund any payments received from us or from third parties with respect to such products/services, without deductions. The Contractor shall not derive any claims whatsoever from any rescission of the contract/contract element affected by such rescission which we may declare, irrespective of the type or manner of claim. Where the Contractor bears responsibility for our rescission, the Contractor shall reimburse us for all costs we have incurred in connection with our rescission.

3. Order and order confirmation

The Contractor must accept/confirm our orders in writing without delay upon receipt. Where we have not received the Contractor's acceptance of order within 1 week from the date it received our order, we reserve the right to cancel the order. Orders placed orally shall not be valid without our written confirmation. The Contractor shall quote our order number in its order confirmation and in all correspondence with us.

4. Prices, terms of payment

- 4.1 All prices agreed with the Contractor are fixed prices and are deemed to include shipping, packaging, forwarding and insurance expenses as well as import and export duties. We shall not be deemed to acknowledge supplemental claims of any kind unless we have given prior express written confirmation thereof and/or made an express change to our order in writing. However, we shall be entitled to general price reductions by the Contractor (e.g. where Contractor's list prices are reduced) even without any written confirmation.
- 4.2 Unless otherwise agreed in writing, we shall effect payment within 30 days (applying a 3 % cash discount), or within 60 days (applying a 2 % cash discount), or within 90 days net. Our payment period shall not begin to run until we have received both the invoice and the goods / until all services to us have been rendered; in the case of work services [*Werkleistungen*], our payment period shall not begin until formal acceptance has occurred. Our payments shall be subject to the reservation of incoming goods inspections and accounting control of invoices. Any payments we make shall not be deemed to imply acceptance or formal acceptance of the goods/services.
- 4.3 We shall be at liberty to select the means of payment. Any and all costs of payment transactions, in particular bank transfer fees, special fees in foreign trade and payments and currency conversion fees, shall be borne by the Contractor.
- 4.4 Where we are in arrears with any payment, the maximum default interest which the Contractor may claim is 5% *per annum*.
- 4.5 No assignments of receivables or direct debit authorities shall be valid without our express consent.

5. Set-off, group security, retention and refusal of contractual performance

- 5.1 Each of our individual companies and branch offices referred to in Item 1.1 is entitled to set-off all receivables and liabilities arising out of their business relationship with the Contractor. Each of our companies and branch offices in Item 1.1 shall, furthermore, be entitled to set-off any and all receivables and liabilities of all our other companies and branch offices referred to in Item 1.1.
- 5.2 The Contractor hereby confirms its agreement that any security and collateral existing in favour of any one of our companies and branch offices referred to in Item 1.1 shall in each case also be deemed to constitute security interests covering the receivables of all of our companies and branch offices referred to in Item 1.1.
- 5.3 The Contractor shall only be entitled to exercise rights of set-off, retention and refusal of contractual performance where its counterclaims have been determined by *res judicata* judgment or are undisputed. Otherwise, the Contractor shall only be deemed authorised to exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship.

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6. Deliveries of goods/services, deadline periods, schedules, delay

- 6.1 All schedules agreed for deliveries of goods and services of the Contractor, including interim and individual deadlines, shall be binding and the Contractor shall comply with them. Schedules and deadlines shall only be deemed to have been complied with if the Contractor's goods and services are available at the agreed location on the agreed date. Wherever the Contractor recognises or should recognise that its compliance with a schedule or deadline is at risk, it must notify us thereof without delay in writing and indicate what schedule or date is feasible with respect to its goods and services. Our claims for delay of performance by the Contractor shall remain unaffected even in the event we consent to the new contract schedule or deadline; such consent shall be given exclusively in writing. This Item 6.1 shall apply *mutatis mutandis* to periods for which contractual performance by the Contractor has been agreed, including interim and individual periods.
- 6.2 Where the Contractor is behind schedule with its contractual performance, we shall be entitled, for each week of delay or part thereof, to demand lump-sum liquidated damages for delay in the amount of 1% of the net contract price, but not to total more than 20% of the net contract price, except where the Contractor furnishes evidence to it that we have incurred no damages or only a lesser amount of damages. In any event, we shall always be entitled to demand compensation of losses we have actually incurred.
- 6.3 Where the Contractor is behind schedule with its contractual performance, it shall bear an obligation to effect rush shipping (express freight, express courier, express packages, air freight etc.) at its own cost and expense.
- 6.4 In the event of a delay by the Contractor, following the setting of a reasonable grace period by us, which has expired to no avail, we shall be entitled, at our option, to resile from the contract and/or to demand compensatory damages instead of contractual performance.
- 6.5 The Contractor may only validly claim the existence of a case of *force majeure* if, no later than 24 hours prior to the agreed deadline or period for performance, it provides us notice of the existence of a case of *force majeure*, in writing or by facsimile, documented in concrete form and in detail. If the communication does not take place by the time referred to in the first sentence thereof, the Contractor shall then only be entitled to claim an event of *force majeure* if the *force majeure* events verifiably occurred within that 24-hour period and were the cause of the delay to the Contractor's performance.
- 6.6 We shall be entitled to have one of our other companies and branch offices referred to in Item 1.1 issue call-off orders for the Contractor's goods and services, in whole or in part. In such case, the Contractor shall issue its invoice directly to the entity placing the call-off order.
- 6.7 The Contractor shall in all cases perform the contract in person. Contractual performance by third parties (sub-supplier/sub-contractor) shall require our prior consent.
- 6.8 The Contractor hereby undertakes in performing the contract only to deploy staff and third parties engaged in conformity with Item 6.7, for whom all statutory registration notification and taxation obligations have been and are timely performed in a due and proper fashion. Any breach of this obligation shall entitle us to terminate the agreement with immediate effect.
- 6.9 In respect of all goods/services to be supplied in whole or in part on our land/the land of a third party (e.g. of our end customer) and as to which the condition of the ground/terrain is of significance, the Contractor shall inspect the ground/terrain in question prior to formation of contract and during its performance of the contract, in consultation with us and/or such third party, shall make the necessary determinations with respect thereto and shall adapt its goods/services to take account of local requirements.
- 6.10 Where the Contractor's contractual performance includes providing us with instructions on operating and/or maintaining equipment, the Contractor shall train at least 4 individuals selected by us in operating/maintaining the equipment. The training shall, at our option, be conducted in German or another major international language at the place of performance. The dates of training shall be arranged in consultation between us and the Contractor.

7. Shipping, packaging, invoicing, risk of loss

- 7.1 Unless otherwise agreed, deliveries shall be effected "carriage paid" to the agreed shipping destination, at the Contractor's risk.
- 7.2 Where, on the basis of a written agreement, delivery is exceptionally envisaged to be "ex works" and the Contractor is charged with arranging shipping, then the principle shall apply that such shipping must be effected by the most cost-effective mode of forwarding. Where the Contractor engages a freight forwarder in this regard for our account, the Contractor shall alert the freight forwarder to the fact that we are a SLVS waiver customer [SLVS-Verzichtskunde];

thus, the freight forwarder is not permitted to charge us for any transport insurance. The same shall apply where delivery is effected "free our plant". The Contractor shall bear liability for correctly declaring the cargo.

- 7.3 A consignment note must be enclosed with the packed items on all shipments. Our order number must always be quoted.
- 7.4 The Contractor shall retrieve all packaging materials at its own cost and expense. The place of performance with respect to the Contractor's duty to retrieve its packaging materials pursuant to sec. 4 of the German Packaging Regulations [Verpackungsverordnung] is the contractual place of performance (Item 16.2).
- 7.5 All invoices must be sent to us; Item 6.6, second sentence shall remain unaffected hereby.

8. Quality, documentation

- 8.1 The Contractor's goods/services must conform to the documents forming the basis of the contract with respect to agreed design, quality, colour, quantity and our technical specifications, and (by subsidiary application) the Contractor's own technical specifications; the Contractor shall document its compliance with these criteria and shall deliver the documentation thereof to us together with its goods/services. The Contractor hereby warrants its compliance with the legal and technical standards and requirements in force at the time each contract is formed, including the accident prevention regulations, the Act on Technical Devices (German Machine Safety Act [Maschinenschutzgesetz]), the relevant regulations and directives, the VDE rules and the generally recognised, most recent sound engineering practices. Our expectation is that the Contractor shall orient the design and quality of its goods and services to the evolving state of the art and shall alert us to potential improvements and technical changes. The Contractor may not make any changes to its goods and services without our express prior written consent.
- 8.2 Where the Contractor maintains a quality assurance system, then our duty under sec. 377 German Commercial Code [Handelsgesetzbuch] to inspect and give notice of defects [Rügeflicht] vis-à-vis merchants within the meaning of the German Commercial Code shall be limited to defects in respect of the type of product and the quantities delivered as well as damages in transit which are clearly evident. To the extent the Contractor does not maintain a quality assurance system, it shall constantly monitor the quality of its goods/services. For this purpose, it shall establish and maintain a quality assurance system pursuant to ISO 9001 or another standard agreed with us. Specifically, with respect to all products supplied to us the Contractor shall record in writing when, in what way, and by whom its defect-free production of the goods was assured. The Contractor shall maintain these records for at least 10 years and shall produce them to us upon request. The Contractor shall impose a corresponding obligation on its sub-suppliers and its suppliers of pre-materials.
- 8.3 The Contractor hereby undertakes to inspect, at regular intervals, the work of its staff and of sub-suppliers/sub-contractors it engages in conformity with Item 6.7, and to inform us with respect to its findings.
- 8.4 The Contractor hereby undertakes to grant us access to its business premises and a right of inspection of all of its documents relating to our order at any time upon reasonable prior notice during the usual business hours. All material documents relating to our order which are not handed over to us must be archived for a term of 10 years from the date of the Contractor's delivery of the goods and services to us/from our formal acceptance. The Contractor shall ensure that we are able to assert the same rights vis-à-vis its sub-suppliers/sub-contractors, as well.
- 8.5 The Contractor shall provide to us all documents it is obliged to furnish or make available to us pursuant to the contract (operating and maintenance instructions, documentation, calibration and testing certificates, plans etc.) in German. Agreed translations into other languages shall be provided at the Contractor's cost and expense. The Contractor shall bear liability for correct translation.

9. Manufacturing documentation, data

- 9.1 Such manufacturing documentation as is provided to the Contractor, including films, drawings, models, standard specifications, tools, devices, samples and other items of property and documents (hereinafter referred to as "MD") shall remain our property and are entrusted to the Contractor exclusively for purposes of its performance of the contract. The Contractor shall treat the MD with the greatest of care, shall label them as our property and store them separately. The Contractor shall return the MD to us upon our request at any time, and shall do so at the latest upon completion of its contractual performance; no later than at the time of returning our MD to us, the Contractor shall destroy any copies of our MD it has created (including any in electronic form). The Contractor shall have no right to assert any right of retention to the MD or refusal to

perform its contractual obligations with respect to the MD. Products which are created using MD belonging to us or financed by us may be delivered only to us. The Contractor is not entitled to use our MD directly or indirectly as documentation for providing goods and services to third parties. Absent our prior express consent, the Contractor is not permitted to duplicate the MD entrusted to it or to permit third parties to have sight thereof or otherwise to make available or provide our MD to any third parties. The Contractor shall bear liability for any damage and loss of the MD placed at its disposal. Where the Contractor or third parties make unauthorised dispositions with respect to the MD and where the Contractor bears responsibility for this, the Contractor shall pay a contractual penalty to us in the amount of the net sales price of the products manufactured pursuant to the MD, except where the Contractor furnishes evidence to us that we have incurred no damages or only a lesser amount of damages. In any event we shall at all times be entitled to demand compensation of such damages as we have actually incurred.

The Contractor shall impose substantively identical obligations (Items 9.1 paras. (1) and (2)) on any sub-suppliers/sub-contractors with whom it places orders if our MD are entrusted or otherwise provided to them (in whole or in part). In addition, the Contractor shall enter into an agreement with each of its sub-suppliers/sub-contractors, pursuant to which, in the event such sub-supplier/sub-contractor culpably makes unauthorised dispositions with respect to the MD, it shall pay directly to us a contractual penalty in the amount of the net sales price of the products manufactured pursuant to the MD, unless it furnishes evidence that we have not incurred any damages or only a lesser amount of damages (third-party beneficiary contract [*Vertrag zugunsten Dritter*]). Our claims against the Contractor shall remain unaffected by the foregoing; any contractual penalties paid to us by the sub-supplier/sub-contractor shall be credited against our corresponding claims against the Contractor.

- 9.2 In cases of processing and transformation of the MD, we shall be deemed to acquire ownership of the new and transformed item of property already at such time as it comes into existence. The Contractor shall store the new or transformed item of property free-of-charge for us and shall exercise the care of a prudent merchant in so doing [*mit der Sorgfalt eines ordentlichen Kaufmanns*]. The Contractor shall not be entitled to assert any retention of title [*Eigentumsvorbehalt*] to its work product [*Leistungsergebnis*] in any form whatsoever.
- 9.3 We shall remain the exclusive owners of all data transmitted by us. For purposes of its performance of the contract, the Contractor is granted a non-exclusive, limited non-assignable right of use. To the extent that the Contractor modifies, supplements or processes in some other manner data provided to it in the course of its performance of the contract, already at such time as the altered data are created, we shall be deemed the sole right-holder with respect to the altered data and the intellectual property embodied by those data. The Contractor shall protect the data provided to it, including the altered, supplemented or otherwise processed data, from any and all access by others which we have not expressly authorised and shall furnish evidence of appropriate protective measures it has taken upon our request. Where, in the course of performing the contract, the Contractor is granted access to our system networks or to the networks of our customers, the Contractor shall use exclusively its own personal user codes that we have assigned to it in writing with respect to any IT access and shall perform transfers and processing of the data pursuant to our instructions.

10. Formal acceptance

- 10.1 Where the Contractor's contractual scope includes installation, assembly or other works and services [*Werkleistungen*], formal acceptance shall be required. Formal acceptance may not be carried out until such time as the test phase has been successfully completed. Deemed or implied formal acceptance, particularly acceptance by commencement of actual use, may not be asserted by the Contractor.
- 10.2 Where installation work assembly work or other works and services [*Werkleistungen*] of the Consumer Code are integrated into our overall goods and services provided to an end customer, formal acceptance of the goods and services of the Consumer Code shall not take place until such time as formal acceptance of our overall works and services by the end customer occurs. We will inform the Consumer Code without delay of the final acceptance and of the time thereof.
- 10.3 Where installation works, assembly works, or other works and services [*Werkleistungen*] form a part of the Contractor's scope, the risk shall not pass until completion of formal acceptance.
- 10.4 We shall be deemed to retain our claims for contractual penalties against the Contractor even if we do not expressly reserve our right to assert them at the time of formal acceptance.

11. Claims for defects, prescription, strict liability, insurance coverage for liability

- 11.1 The Contractor hereby warrants its goods and services pursuant to the provisions of law. Beyond its obligations under Item 8.1 hereof, the Contractor warrants that its goods and services shall have the qualities we have separately stipulated, both in terms of quality and dimensions as well as full functionality of the goods and services.
- 11.2 Subject to what is provided in Item 8.2 hereof, any goods receiving inspections by us shall only be deemed to cover such damages as may be detected by external examination and deviations of identity and quantity visible externally. Our inspection is performed by random sample procedure within 10 business days of the date of delivery to us. Defects have found in the process of that inspection shall be deemed apparent defects and we shall give notice thereof without delay; defects we have not identified shall be deemed latent defects. Even minor deviations from our order shall constitute defects. Our confirmation that we have received the goods and payment shall not constitute any approval of the Contractor's contractual performance. We may return defective goods and services to the Contractor at its expense and cost.
- 11.3 Notwithstanding our statutory rights with respect to defects, in cases of particular urgency and/or of imminent significant losses, we shall be entitled to effect subsequent performance [*Nacherfüllung*] in such manner as we deem appropriate, at the Contractor's expense and cost, by procuring contractual cover on our own part [*Selbstvornahme*].
- 11.4 The prescription period for our claims for defects shall be a uniform period of five years for all of the Contractor's goods and services unless a longer prescription period is prescribed by statute. The inception of the prescription period shall be governed by the provisions of applicable law.
- 11.5 The Contractor warrants that its products shall be free of defects within the meaning of the German Product Liability Act [*Produkthaftungsgesetzes*]. Where, due to a defect or shortcoming in the Contractor's contractual performance, a claim in strict liability without fault [*verschuldensunabhängige Haftung/Gefährdungshaftung*] arises, in particular on the basis of product liability, the Contractor shall indemnify us and hold us harmless even without any proof of fault.
- 11.6 At the time of contract formation, the Contractor shall deliver to us proof of liability insurance coverage appropriate to the contract providing for at least the following sums assured: EUR 5.0 million for personal injury, EUR 3.5 million for damage to property and EUR 3.0 million for pecuniary losses per individual event of loss/year. Where the Contractor fails to furnish evidence of appropriate liability insurance within 2 weeks from the date of contract formation, we shall be entitled to take out such insurance at the Contractor's cost and expense or, alternatively, to exercise extraordinary termination of the contract [*außerordentliche Kündigung*].
- 11.7 As of the date of contract formation, the Contractor is deemed to make an irrevocable offer to us, unlimited in time, to assign to us the entirety of its claims for defects against its sub-suppliers/subcontractors. We may accept this offer either in its entirety or with respect to individual sub-suppliers/subcontractors, by written declaration to the Contractor. Even if we accept the Contractor's offer to assign to us its claims for defects against its sub-suppliers/subcontractors, our claims for defects against the Contractor shall remain unaffected thereby. However, if we should assert a claim against the Contractor on the basis of a defect, the Contractor may demand that we re-assign to it any claims for damages it has previously assigned to us against its sub-suppliers/subcontractors.

12. Confidentiality

- 12.1 The Contractor is obligated to treat as business and/or trade secrets – even in cases of uncertainty – any and all of our (undisclosed) technical, business and personal transactions and relationships, to which it becomes privy in connection with its contractual relationship with us, and also to treat such information confidentially and to ensure that it does not, without authority, disclose such information to third parties (including family members or employees not involved in the matter). This duty of confidentiality shall continue to apply even after the contractual relationship has ended.
- 12.2 If the Contractor culpably breaches this confidentiality agreement then it shall be obliged to pay, as liquidated damages, a contractual penalty of 5% of the net contract value with respect to each and every breach, unless the Contractor can prove to us that the breach caused us no damages or only a lesser amount of damages. In any case, we are always entitled to demand compensation for any damages actually sustained.

13. Third-party intellectual property rights

The Contractor shall bear liability for ensuring that its goods and services do not infringe on any domestic or foreign intellectual property rights of third parties. If the use of the Contractor's goods

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and services infringes on third-party intellectual property rights, then the Contractor shall, at our option, either procure for us a right to use the goods and services at the Contractor's own cost and expense or shall furnish subsequent performance of the contract to us in a manner that ensures that no third-party intellectual property rights are infringed thereby. In addition, the Contractor undertakes to indemnify and hold us/our customers harmless against all claims for damages arising out of any infringement of domestic or foreign intellectual property rights by its goods and services.

14. Rights with respect to work product [*Arbeitsergebnis*]

- 14.1 The Contractor shall provide to us all documentation it creates in connection with the contract, including information, papers, software, programmes, codes, updates, camera-ready documents, negatives, photos and other documentation and/or data, including in digital form (hereinafter referred to as "Work Product").
- 14.2 The Contractor shall grant us the exclusive irrevocable global right of use, unlimited in substantive, temporal and geographic scope (hereinafter referred to as "Right of Use"), for all known types of exploitation of the Work Product. The foregoing shall, in particular, include the right to make modifications, translations, edits or other design changes, to digitally store the Work Product in original form or in modified, translated, edited or re-designed form on any medium we should choose, including CD-ROM or DVD, or otherwise to duplicate, publish, disseminate and/or to use the Work Product in order to operate computers and other IT devices. The foregoing shall also apply to Work Product consisting of databases which are not subject to copyright protection or of contributions to such databases. The contractual compensation paid to the Contractor shall be deemed full and final compensation for this Right of Use.
- 14.3 Use of computer programmes and other software shall be deemed to include a duty to provide the programmes for access and use thereof (where whether on a gratuitous or chargeable basis) by distant users via data networks.
- 14.4 We are entitled to transfer the rights under Items 14.1 through 14.3 to third parties in whole or in part and/or to grant corresponding (sub-) Rights of Use therein, without the need to procure any further consents from the Contractor.
- 14.5 With respect to the intellectual property rights embodied in the Contractor's contractual performance: We shall have a priority right to obtain patent protection in respect of all inventions that the Contractor/its employees may make in connection with the contract, whether alone or in common with our employees. The Contractor shall ensure our ability to exercise our priority right by offering to us all inventions it has registered or of which it otherwise becomes aware in connection with the contract no later than two months following registration/discovery thereof by written offer for our assumption free of charge. Where we have no interest in obtaining sole intellectual property rights in our own name, we shall either reach agreement with the Contractor with respect to a joint application for protection of the intellectual property or shall give the Contractor written notice of our consent to its sole application for protection of intellectual property.
In the event the Contractor files a sole application for protection of the intellectual property or if the Contractor makes use of intellectual property rights it held prior to formation of our contract or which arose independently from our contract in performing the contract with us, the Contractor shall grant us the rights referred to under Items 14.1 through 14.4 with respect to all Work Products.
- 14.6 The Contractor shall be solely responsible for compensating its employees pursuant to the German Act on employee inventions [*Gesetz über Arbeitnehmererfindungen*].
- 14.7 In the event the Contractor engages sub-suppliers/subcontractors, the Contractor shall be responsible for ensuring that the same substantive rights as are set out in Items 14.1 through 14.6 are provided to us.

15. Passage of title

The goods shall pass to our ownership at the time of delivery to us. No extended reservation of title [*verlängerter Eigentumsvorbehalt*] communicated to us shall be valid without our written consent. If we have provided parts, modules, etc. to the Contractor for purposes of completing the subject-matter of supply, they shall remain our property.

16. Language, place of performance, judicial forum, governing law

- 16.1 The language of the contract and the dealings is German. The language of contract performance is likewise German.
- 16.2 The place of performance for the Contractor's contractual obligations is the agreed address for shipping. Where there is neither agreement on an address for shipping nor any separate agreement on the place of performance, then the place of performance shall be Pinneberg.

- 16.3 Exclusive jurisdiction and venue for all disputes arising directly or indirectly out of this contractual relationship shall lie with the courts of Pinneberg, provided that the Contractor is a merchant within the meaning of the German Commercial Code. The foregoing shall also apply irrespective of the Contractor's status as a merchant where the Contractor moves its domicile or habitual residence outside of Germany or where its domicile or habitual residence is unknown at the time the action is filed. In any event, we shall also be entitled to bring an action in the courts with general jurisdiction over the Contractor.
- 16.4 The business relations between the Contractor and us arising out of or in connection with this Agreement shall be governed exclusively by the laws of the Federal Republic of Germany, to the exclusion of the uniform UN Convention on Contracts for the International Sale of Goods (CISG).