

**GENERAL PURCHASING CONDITIONS  
OF THE  
Linz Center of Mechatronics GmbH**

**1. Scope of application and Definitions**

- 1.1 These General Purchasing Conditions shall apply to all legal transactions relating to the supply of goods and the provision of services between the Linz Center of Mechatronics GmbH (hereinafter: LCM) and the supplier or the provider of the service.
- 1.2 In these General Purchasing Conditions, the supplier or the provider of the service shall be designated as the Supplier, irrespective of whether its activity consists of responding to requests, issuing offers or relates to its position as a seller, contractor or service-provider. The term "Delivery" shall be understood to refer to the legal transaction relating to the supply of goods, but also to the Agreement to provide other (ancillary) services, including advisory or installation services, in addition to the fulfilment of legal transactions. The term "Parties" shall be deemed to refer to the Supplier and LCM and both of them together. The "Goods" shall be understood to refer to the object of the Delivery.
- 1.3 The General Terms and Conditions or the official forms of the Supplier shall not be recognised under any circumstances and shall not form part of the Agreement, irrespective of whether LCM was aware of them or not or whether LCM has contradicted their validity or not and irrespective of whether they object to the stipulations of the General Purchasing Conditions or not. The acceptance of the Delivery without submitting an objection shall not constitute any submission on the part of LCM to any such stipulations.
- 1.4 Each time it accepts an order from LCM and/or carries out a Delivery, the Supplier shall, however, submit to the validity of these General Purchasing Conditions. If LCM has maintained a long-term business association with the Supplier or in the event that the Supplier delivers subsequent orders, the General Purchasing Conditions shall apply even if no express reference is made to their applicability.
- 1.5 Any deviations from the General Purchasing Conditions shall only be valid if expressly agreed in writing between the Parties.

## **2. Cost estimates, orders and offers**

- 2.1 Cost estimates from suppliers shall be binding and their accuracy shall be guaranteed by the Supplier, unless agreed to the contrary in writing.
- 2.2 Proposals by LCM to conclude a legal transaction shall only constitute a legal order by LCM if effected in writing, if they include a clear definition of the goods or service involved and clearly state that LCM shall be bound thereto. In this situation, too, LCM shall nevertheless be entitled to revoke the order until such time as the legal transaction has come into being.
- 2.3 The Supplier must check all of the information, especially the technical requirements and conditions, other descriptions, specifications and data included in an order placed by LCM, in order to determine their technical feasibility and practicality and shall issue an immediate warning in the event that these contain errors, are incomplete, are unclear, cannot objectively be implemented or stand in contradiction to the justified expectations of LCM that Delivery will be made in accordance with the Agreement.
- 2.4 The proposals by the Supplier to conclude a legal transaction shall constitute a binding offer, if the goods or service are defined with sufficient clarity. The Supplier shall be bound to an offer of that type for a minimum of 60 days after it is received by LCM. The costs incurred for the preparation, compilation and transmission of the offer shall be borne in all cases by the Supplier; LCM shall not be obliged to preserve or return the offer and the enclosed documentation.

## **3. Conclusion of a legal transaction (Agreement) and the amendment of its contents**

- 3.1 The legal transaction shall be legally concluded, as soon as the Supplier receives notification that LCM has consented to an effective offer (in the form of receipt or confirmation of order), or in the event of an actual order being placed, once LCM receives notification of acceptance by the Supplier. In the event that the Supplier commences performance of the legal transaction, this shall be deemed to constitute acceptance.
- 3.2 In the event that the acceptance by the Supplier contains additions or deviations from the order placed by LCM, these shall be deemed not to have been included,

unless the Supplier has expressly drawn the attention of LCM to those additions or amendments. The conclusion of a legal transaction shall subsequently require the express and written approval by LCM of those changes or additions; the acceptance of the Delivery by LCM shall thereafter not constitute the effective acceptance of any such changes or additions.

- 3.3 In the event that the acceptance (confirmation of order) by LCM deviates from an offer made by the Supplier, that deviation shall be deemed to have been approved if the Supplier does not oppose it within 14 days of receipt.
- 3.4 In so far as the Supplier has not fulfilled its obligations in their entirety, LCM shall be entitled to demand changes, including to the goods or service provided, in so far as the Supplier may reasonably be expected to effect such changes and the consequences associated therewith in connection with the Delivery, effort and expense involved are sufficiently taken into account.

#### **4. Object of Delivery or Service**

- 4.1 The object of the Delivery or Service shall only be deemed to be as provided in the Agreement,
- (i) if it has been manufactured or executed in accordance with the agreed requirements and (ii) if it is suitable for the purposes for which the item to be supplied or service to provided are customarily used, and
  - (iii) if it is suitable for the specific purpose expressly notified to the Supplier or brought to its attention in any other manner, and (iv) in the event that, in accordance with the latest, generally accessible rules of technology and science, it fulfils the justifiable safety and security expectations of LCM and its customers regarding the protection of life, limb and health and the protection of property, and (v) if it fulfils the regulations under public law (that is, the stipulations of national and international public law) for the protection of consumers, employees or the environment, and (vi) if it is free of rights or claims by third parties based on commercial or other intellectual property.
- 4.2 The Delivery or Service shall only be deemed to correspond to the state of the art if it is in keeping with the factory standards of LCM or the other applicable technical standards and also complies with the uniform regulations of the European Community for the protection of workers, third parties or the environment. In the event that the stipulations under public law for the protection of consumers, workers or the environment include obligations in relation to labelling and the drawing up and provision of declarations of conformity, certificates of compliance,

operating and assembly instructions, etc., the issuing and handing over of these to LCM shall form part of the obligation to deliver goods or perform services. Even without any such obligation and in so far as this is necessary in order to enable an item to be used in accordance with its purpose, the Supplier shall in all cases draw up and hand over specifications, a set of operating instructions and, if needed, a set of assembly instructions.

- 4.3 If the object for delivery is a machine, the Supplier shall ensure that LCM can be supplied with replacement parts for the machine concerned, or with components that may be used as spare parts, for a period of at least 20 years after the delivery of goods or services has taken place. Replacement or spare parts may not be supplied at anything other than the bulk price.

## **5. Protection regulations and information**

- 5.1 The Supplier must adhere to the rules of national and international public law governing prohibitions of materials (especially those that form part of the Restriction of Hazardous Substances Directive) and the German Chemical Prohibition Ordinance, in the version applicable at the time that delivery is made. If the goods concerned take the form of electrical devices in the sense of Directives (EU) No 2002/95 and (EC) No 2002/96, the regulations contained therein must be adhered to.
- 5.2 The Supplier shall undertake to collect and treat electrical and electronic devices, whether LCM was the final user thereof, or not. By so doing, the Supplier shall also fulfil the obligation incumbent upon the manufacturer. In the same way, the Supplier shall take responsibility for fulfilling the duty of disposal in accordance with the Federal Waste Management Laws of Austria or those of the individual federal provinces. In the event that LCM fulfils this undertaking by the Supplier – whether LCM is legally obliged to do so, or not – the Supplier shall reimburse LCM in respect of the costs incurred for that purpose.
- 5.3 The Supplier shall provide LCM with all of the information about the goods to be supplied or service to be provided that is necessary or useful, in order to enable LCM to fulfil the regulations under public law governing the protection of consumers, workers or the environment. These shall especially include, but shall not be restricted to, instructions relating to the packaging, transportation, storage, use and disposal of the products.

## **6. Price and accounting**

- 6.1 Unless expressly agreed otherwise, all prices shall be understood to be “CIP to the head office of LCM” or “CIP to the named location of delivery”. Prices shall include the cost of packaging, loading, transportation and all road tolls, customs duties, import and export charges and comprehensive insurance (including insurance against theft, loss, damage or breakage). Unless agreed otherwise, the prices shall include the taking back and orderly recycling and disposal of electrical and electronic devices and packaging materials.
- 6.2 The prices laid down in the Agreement shall take the form of fixed prices.
- 6.3 Invoices shall be sent in at least four copies to the head office of LCM and duplicate copies of invoices must be marked as such. Invoices shall include all of the details of the order or delivery, the VAT registration number and, if necessary, the ARA Licence number. In the event that on delivery of the goods, additional services (such as assembly) are provided and paid for, or if the price also includes the costs of transportation, these must be listed separately on the invoice. If additional services require separate confirmation (evidence of time spent, confirmation of work carried out, etc.), these must be enclosed along with the invoice.
- 6.4 Invoices that do not fulfil the substantive or formal requirements laid down under Section 6.3 or that do not fulfil the requirements under public law, especially those relating to taxation or customs law, shall be deemed not to have been submitted in the required manner and shall not cause payment of the invoice to fall due.

## **7. Delivery**

- 7.1 Delivery times and delivery deadlines shall be binding upon the Supplier. Delivery must take place by the required deadline at the delivery location expressly agreed between the Parties, or to the delivery location laid down in the General Purchasing Conditions. Partial deliveries shall require the express approval of LCM. Additional costs for express transportation required to fulfil a delivery deadline shall exclusively be borne by the Supplier. The rights and duties of the Parties to deliver (dispatch), hand-over and transfer risk shall be governed by the Incoterms 2000.

- 7.2 As far as accompanying documentation is concerned, all deliveries must be accompanied by a waybill stating precisely the item being delivered, all of the order details, including the gross and net weights and, if applicable, details regarding compliance with the export permit regulations (such as the Export Control Commodity Number). Documentation confirming the eligibility of the goods concerned for preferential treatment, such as movement certificates and certificates of origin must also be enclosed. Irrespective of the agreed delivery clause in accordance with the Incoterms 2000, the Supplier must, in the case of deliveries made from outside the European Union, take responsibility for ensuring customs clearance for export and enclose a customs invoice with the transportation documentation. The delivery paperwork shall
- in so far as the delivery is taking place within the European Union – contain the information that LCM will require in order to draw up its procurement statistics. If the event that the goods are handed on by LCM, the Supplier shall provide LCM with appropriate support when completing import customs clearance in the third country. In the absence of the accompanying documentation or in the event that such documentation is incomplete, LCM shall be entitled to refuse acceptance of the delivery.
- 7.3 In the event that LCM draws up requirements governing the packaging, dispatch, the type of transportation or the transport provider to be used, these must be adhered to. The packaging must be selected in such a way that the goods may be transported safely.

If third parties (forwarders, subcontractors, branch operations, etc.) are involved, the Supplier must guarantee their compliance with the shipment terms of LCM. Immediately after the goods have been dispatched to the receiving plant of LCM specified in the order, dispatch notes (delivery notes) must be attached in duplicate to the freight waybill (with the exception of bulk goods). If goods are being sent by air or by mail, dispatch notes must be enclosed and if being sent by a carrier, they must be passed to the carrier and marked "For delivery to the recipient".

The full order number must be stated clearly and visibly on freight waybills, on dispatch documentation intended for the recipient and on the parcel itself (marking, self-adhesive label).

All dispatch documentation, invoices, etc. must state the overall weight (gross weight, net weight), or, as a minimum, an estimated weight, together with the item number. In the event that the order states a contract item number, this must also be included on all paperwork and all delivery documentation.

In the case of cross-border deliveries from countries other than EU Member States, two invoices should be enclosed in the freight documentation for the purpose of customs documentation and movement certificates or certificates of origin, or should be marked "For use by Customs" and sent promptly and in good time to the receiving plant, so that they have arrived before the goods themselves are delivered. In the case of deliveries from countries other than EU Member States, a supplier statement must be included in the delivery documentation.

The costs of any transport insurance that may be required shall only be borne by LCM if agreed in advance in writing. Any additional costs incurred during the fulfilment of the order that are neither included in the Agreement nor in the most recent version of the Incoterms, shall be borne by the Supplier. Reference is otherwise made to the conditions of dispatch conditions individually agreed for each type of transaction involved and/or the prescriptions or requirements that apply in accordance with customs regulations.

In the event of a failure to adhere to the dispatch, customs clearance or documentary requirements specified by LCM, all risks, damage and costs resulting therefrom shall be borne by the Supplier, or the due date for payment of the amount stated on the invoice shall be delayed accordingly, until such time as the missing documentation is provided.

Ownership of loading devices/packagings shall, in all cases, pass to LCM; any returns of goods shall be made at the risk and expense of the Supplier. In the event that in accordance with the Agreement, the Supplier is to receive reimbursement of the costs of packaging, the Supplier shall solely be entitled to reimbursement of the expenses it itself incurs.

- 7.4 The transfer of risk from the Supplier to LCM shall take place in accordance with the clauses from the Incoterms as agreed between the Parties. In the event that a formal acceptance procedure is conducted, the transfer of risk shall not take place prior to this formal acceptance.
- 7.5 In connection with Quality Assurance, the Supplier shall be obliged to undertake an examination of the goods for compliance with the Agreement, for product safety and with regard to fulfilment of the environmental requirements. On delivery of the goods, LCM shall only test the goods in connection with their identity, the quantity delivered and with any clearly recognisable damage that has occurred during transportation. The supplier shall forgo all rights of examination and all entitlements to give notice of defects under the applicable law.
- 7.6 LCM shall not be obliged to accept the delivery of goods prior to their due date. In the event that LCM does, in fact, accept delivery, the

contractually agreed delivery deadline shall determine the start of the payment and guarantee deadlines and the date on which risk is transferred. The Supplier shall be deemed to be in default in the event that it fails to carry out the Delivery (or part delivery) at the agreed location within the agreed or established delivery period or within the agreed or established delivery deadline. If there is any possibility that the delivery deadline may not be met, the Supplier shall be obliged to inform LCM of this without delay. If a formal acceptance procedure has been specified, checks carried out in order to establish whether the order has been fulfilled in accordance with the Agreement shall be carried out at the time that risk is transferred, or, if a formal acceptance procedure is to be undertaken, at the time at which formal acceptance takes place. In the event of a delay or default and notwithstanding the assertion of more extensive claims for damages, LCM shall be entitled to apply a contractual penalty equivalent to 1% of the price, irrespective of culpability, in respect of every calendar day, or part thereof, the total contractual penalty payable not exceeding 30% in each case of default or delay.

## **8. Suspension and cancellation of delivery**

8.1 LCM shall be entitled to require that the Supplier cease making further deliveries. In such cases, the Supplier shall inform LCM of the consequences arising therefrom, especially with regard to the costs and the change of deadline. In the event that LCM wishes to suspend delivery for a period of less than three months, the Supplier shall not be entitled to claim compensation in respect of any additional costs.

8.2 Until such time as the Delivery has been performed in full, LCM shall be entitled to terminate the Agreement, without stating the reasons. LCM shall reimburse the Supplier for any unavoidable expenses that have arisen up to that point. The Supplier shall not be entitled to compensation in respect of lost profits.

## **9. Terms and conditions of payment**

9.1 Notwithstanding Section 9.2., the price shall fall due within 90 days following receipt of the invoice, on condition that the Supplier has made available the goods themselves, or the documents entitling LCM thereto. In the event that payment is effected within 30 days, LCM shall receive a discount of 3%; if paid within a deadline of 60 days, LCM shall receive a discount of 2%. In the event of partial payments, the justification of subtracting the discount from each partial payment shall be examined on an individual level. A payment shall be deemed to have been made in time, if the instruction to pay has been issued to the credit institution on the final day of the period for payment. The repayment of an invoice by means of offsetting shall constitute payment. The costs and fees applicable

to cashless payments shall be borne by the Supplier, with the exception of the costs and fees charged by the bank of the Customer. At LCM's discretion, payments shall be paid by bank transfer, cheque, by three months' acceptance or by bill receivable. Shipments sent cash on delivery shall not be accepted, except by special agreement. The collection of amounts receivable by banks shall not be permitted. LCM shall return any collection instructions enforced upon it by banks unpaid. Assignments shall require the prior written permission of LCM.

- 9.2 In order for an invoice to be due for payment, it shall be necessary for the delivery to have been effected completely and in accordance with the requirements and for LCM to have had the opportunity to examine the goods beforehand. The invoice must also be auditable and the invoice and all of its enclosures must fulfil the additional requirements laid down in Section 6.3. If the Supplier is required to make available additional documents, such as the ones referred to in sections 4.2 and 7.2, in addition to the goods, the payment period shall not commence until those documents have been submitted in their entirety.
- 9.3 In so far as the Parties have not agreed otherwise, LCM shall be entitled to retain a liability deposit equivalent to 10% of the invoiced amount for the duration of the warranty period in order to ensure the compliance of the goods or services with the terms of the Agreement. In the event that the goods or services do not adhere to the Agreement, the entire invoiced amount shall not fall due until such time as the item that does not comply with the Agreement has been rectified in full.
- 9.4 LCM shall be entitled to pay off its payment obligations by offsetting them against accounts receivable from companies that hold such accounts receivable against the Supplier and of whom LCM owns at least 50% of the shares.

## **10. Warranty coverage and Quality Assurance**

- 10.1 The Supplier shall guarantee that the goods or service corresponds to the terms of the Agreement. The goods or service shall be deemed to correspond to the terms of the Agreement if they correspond to the stipulations of Section 4. and the regulations stated in this Section. In the event that LCM sets out to describe the goods or service or any parts thereof, or in the event that LCM states any requirements stipulating that manufacturing should take place in a specific way, these shall not be binding upon the Supplier in so far as they are likely to compromise the requirements stated in Section 4. The transfer of orders, either in part or in full, to third parties shall require the prior written permission of LCM.
- 10.2 The Supplier shall be responsible for ensuring that the goods are free of any rights or claims from third parties arising from any commercial or other intellectual

property that were known to the Supplier at the time the Agreement was concluded or about which it could not have been unaware. Notwithstanding the above, the Supplier shall be responsible for ensuring that the goods or service are, in all cases, free of any intellectual property rights of any third parties within the territory of the European Union, the United States of America and Canada.

- 10.3 In the event of a fault, the warranty period applicable to moveable goods shall be 24 months and for immovable goods 36 months and shall commence at the time that risk is transferred, or, if a formal acceptance procedure is specified, at the time of formal acceptance. In the event that delivery, whether changed or unchanged, is made to customers of LCM and if the Supplier is aware of this, the warranty period shall commence once the item has been accepted by the customer of LCM. In the event that a fault cannot be identified by means of a conventional examination, the warranty period shall not commence until such time as the fault has been identified. In the event that a fault is rectified by means of remedial work or by the replacement of a faulty component, the warranty period shall recommence once the fault has been rectified or the component replaced.
- 10.4 In the event that the fault manifests itself within 12 months of the start of the warranty period, it shall be assumed, until proven to the contrary, that the fault was already present at that point in time.
- 10.5 If a fault can be rectified, LCM shall be entitled, at its discretion, to decide whether the fault can be rectified by means of remedial work or by the replacement of the component affected. LCM shall not be obliged to afford the Supplier the opportunity to rectify the fault in kind. The costs incurred in connection with the rectification of the fault, especially transport costs, road charges, labour and material costs and the expense involved in tracing the cause of the fault and rectifying it shall be borne by the Supplier. The Supplier shall be required to rectify the fault at the delivery location; this shall also apply in the event that the delivery is made directly to one of LCM's customers, in accordance with the Agreement.
- 10.6 The Supplier shall be required to set up a Quality Assurance system, which, in terms of its scope and quality, is equivalent to ISO 9001. The purpose of setting up and maintaining a Quality Assurance system is to guarantee product safety and to ensure that the goods or service are of the contractually-agreed quality. The Quality Assurance system also serves to ensure compliance with the requirements under public law regarding the protection of workers, third parties and the environment and to guarantee that any fault can be traced at a later point in time. In the event that the Supplier obtains advance deliveries from

third parties, it shall ensure the quality of such advanced deliveries either using its own resources, notably by means of an equivalent Quality Assurance system operated by the upstream supplier, or by contractually engaging the upstream supplier in the Quality Assurance system applied in relation to LCM. LCM shall be entitled to verify the setting up and maintenance of a Quality Assurance system; that right shall also include the power to conduct regular audits at the Supplier's premises. The notes regarding the production and production controls must be preserved for a period of 11 years from the date of the final delivery and must be issued to LCM if so requested.

- 10.7 The Supplier shall notify LCM in good time of any changes in the identity of any key suppliers, any changes to the working materials or production processes employed, any change in production location or any changes to conformity testing. Any such changes shall require the consent of LCM, in the event that the formal or functional compatibility of the goods or of its individual components as used by LCM or its customers are no longer guaranteed; in the event that any restrictions on use should occur; in the event that the agreed properties or any other properties that are necessary in connection with the intended or customary use of the goods are no longer guaranteed; or in the event that the goods are no longer backwards compatible as a result of the changes.

## **11. Liability**

- 11.1 The Supplier shall be unconditionally liable to pay compensation to LCM in respect of any direct or indirect losses or damage, including lost profits, that are incurred by the latter as a result of unlawful conduct or conduct not in keeping with the terms of the Agreement. The Supplier shall be held liable in respect of any failure on the part of a sub-contractor or on the part of one of its suppliers, in the same manner as if the failure had been committed by the Supplier itself. In the event that the applicable law includes provisions specifying liability, due to no fault of the Supplier, for faulty products or hazardous conduct, the Supplier shall be liable to LCM in accordance with those stipulations, even in the event that no fault can be attributed to the Supplier. The Agreement or the pursuit of a contractual penalty shall not prevent LCM from asserting a claim that is more extensive in scope.
- 11.2 Any entitlements to receive compensation shall be deemed equivalent to recourse claims brought by LCM, in the event that LCM itself is subject to claims initiated by a third party as a result of the goods delivered or service provided by the Supplier. The pre-conditions and the scope of any recourse claim shall be governed by the applicable law.

- 11.3 The Supplier shall indemnify LCM, any contractual partner of LCM, or any other third party, in the event that the Supplier is liable to LCM in accordance with Sections 11.1 and 11.2, or in the event that LCM holds rights of recourse against the Supplier.
- 11.4 In the event that by virtue of the construction, manufacturing or presentation of the goods, or due to a lack of checking (especially including the non-observance or contravention of Quality Assurance obligations) the Supplier breaches a duty to maintain safety, the Supplier shall be liable to reimburse LCM in respect of any losses or damage. In the event that the Supplier observes, or ought, by exercising a due degree of care, to acknowledge that the goods or service, or as a consequence, the end product of LCM, are faulty or will become faulty and will therefore represent a danger to life, limb, health, property or the environment, the Supplier shall be obliged to carry out a product recall. The expenses incurred for that purpose shall be borne by the Supplier, if the Supplier has caused the situation rendering a recall necessary. Measures taken by LCM in the context of the product recall shall constitute an expense in accordance with the stipulations above.

## **12. Intellectual property rights and other documentation**

- 12.1 The documentation handed over by LCM to the Supplier in order to carry out the delivery or service (drawings, plans, specifications, standards documents, models, etc.) shall remain the property of LCM and may solely be used for the fulfilment of the delivery or service. These shall be kept confidential and may only be handed on to third parties or used for purposes other than the fulfilment of the Delivery or Service with the prior permission of LCM. If required by LCM, they shall be returned to LCM no later than the time at which the Delivery or Service is performed; any copies must be destroyed and data deleted.
- 12.2 In the event that in order to make use of the goods or service, it is required, or at least useful, to avail oneself of intellectual property held by the Supplier, LCM shall irrevocably be entitled to make unlimited use of such intellectual property in connection with the goods or service involved and to do so free of charge. LCM shall be entitled to assign this right of use to third parties or to grant sub-licences in that regard, if this is necessary in order to sell, make use of, maintain, improve or launch the goods or service (in changed or unchanged form).
- 12.3 If the goods or service include software or take the form of software, standard software shall be left to LCM for use according to the stipulations,

whereby such use shall also consist of the utilisation thereof in any systems environment whatsoever and of the transfer of the rights of use in relation thereto. Furthermore, LCM shall be entitled to create copies of standard software for security purposes; the copies of the standard software for the purpose of conventional data security purposes shall also form part of the scope of the intended use. Even if not agreed specifically, the application documentation (especially the user and operator's handbook) shall form part of the delivery.

- 12.4 In the event that the goods or service include individual software or consist of individual software (that is, software specially developed in response to the needs of LCM), the Supplier shall grant LCM an exclusive, unlimited and non-transferable right of use and shall also hand over the source and object program code in a form that can be read by humans, as well as in machine-readable form.

### **13. Tools, moulds and other aids to performance**

The ownership of tools, moulds, aids to performance, etc. produced at LCM's expense in order to provide the Delivery or Service, shall pass to LCM once it has effected payment. The transfer of rights of ownership shall take place in the form of an instruction, to retain possession of the tool, model or other aids to performance in LCM's name, from that point onwards. The items named shall be suitably labelled as being the property of LCM and shall solely be used for the performance of the delivery or service. These must be maintained, kept in good condition and, if necessary, replaced at the Supplier's expense. All tools, moulds and aids to performance and similar in LCM's possession shall be surrendered no later than the end of the Delivery or Service. Irrespective of this, LCM shall be entitled to request the immediate return of these, in the event that the Supplier commits a contractual breach in the performance of the delivery or service. Rights of retention in relation to the named items – on whatever legal grounds these are based – are hereby excluded.

### **14. Confidentiality**

- 14.1 The following items shall be subject to a requirement to uphold confidentiality: (i) business and operating secrets, (ii) information and data, in accordance with which the Supplier is to manufacture the goods or perform the service and (iii) all data, information, documentation, in whatever form they are held, that are deemed to be confidential by one or other of the parties at the time they are made available or at which access is granted thereto,

and (iv) the know-how of one of the parties (facts that must be kept confidential).

- 14.2 The Parties undertake to ensure that all such items remain strictly confidential and to prevent third parties from gaining access thereto. Each Party shall be required to take all necessary and reasonable organisational measures in order to ensure that this duty to maintain confidentiality is fulfilled. The facts that must remain confidential must otherwise only be made available to those employees and/or sub-contractors/sub-suppliers, who require them in order to carry out their activities.
- 14.3 The duty to maintain confidentiality shall remain unaffected by the termination of the legal transaction or the supplier-customer relationship and shall remain in force for a further period of five years from the date of the final delivery.

## **15. Applicable law and jurisdiction**

- 15.1 The legal relationship between LCM and the Supplier shall be subject to the material substantive law of Austria, excluding provisions relating to the conflict of laws, and shall be subject to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.
- 15.2 Any disputes arising between LCM and the Supplier as a result of or in connection with any communication associated with a legal transaction, any legal transaction and the execution thereof, including any dispute regarding the formation of a legal transaction or any extrajudicial or tortious claims in connection therewith, shall be subject to the exclusive jurisdiction of the competent regular courts in Linz, Austria. Notwithstanding the above, LCM shall, however, be entitled to pursue its complaint at the location of the head office or business premises of the Supplier.

## **16. Miscellaneous**

- 16.1 In so far as any declarations by either of the Parties in accordance with the General Purchasing Conditions require the written form, the transmission of that statement by electronic means or by facsimile shall be sufficient.
- 16.2 The declaration shall become effective at the point in time at which it is either received by the recipient or would, under normal conditions, have been received when using the mode of transmission selected. Declarations that arrive at the recipient's premises on a Saturday, Sunday or a public holiday

shall be deemed to have been effectively received on the subsequent working day.

- 16.3 Declarations by the Supplier shall only be legally effective if made in either the German or English language.
- 16.4 In the event that any provision of the General Purchasing Conditions is legally invalid or is found to be unenforceable, or in the event that a loophole is identified, the validity of the remaining provisions shall remain unaffected. The invalid provision or the loophole shall be replaced with a provision that corresponds as closely as possible to the sense and purpose of the contractual agreement and the will of the Parties.
- 16.5 In cases of doubt, the German-language version of the General Purchasing Conditions shall prevail over any version drawn up in any other language.