

# General terms & conditions of sale of the company Jenaer Antriebstechnik GmbH

## I General provisions

1. All legal relations between the purchaser and Jenaer Antriebstechnik GmbH (hereinafter referred to as "JAT") shall be solely governed by the present sales conditions (hereinafter referred to as "AVB"). The purchaser's general terms and conditions are herewith explicitly rejected and shall apply only if expressly accepted by JAT in writing. The scope of delivery shall be determined by the congruent mutual written declarations.
2. The language of contract is German or English.
3. JAT herewith reserves any industrial property rights and/or copyrights pertaining to its cost estimates, drawings and other documents (hereinafter referred to as "documents"). The documents shall not be made accessible to third parties without JAT's prior consent and shall, upon request, be returned without undue delay to JAT if the contract is not awarded to JAT. Sentences 1 and 2 shall apply mutatis mutandis to the purchaser's documents; these may, however, be made accessible to those third parties to whom JAT has rightfully subcontracted supplies.
4. The purchaser has the non-exclusive right to use standard software and firmware, provided that it remains unchanged, it is used within the agreed performance parameters, and on the agreed equipment.
5. Partial deliveries are allowed, unless they are unreasonable to accept for the purchaser.
6. The term "claim for damages" used in the present AVB also includes claims for indemnification for useless expenditure.
7. JAT reserves the right to change product descriptions and seals. JAT shall notify the purchaser accordingly.

## II Prices, terms of payment and set-off

1. Prices are ex works and exclude packaging, customs duties, handling costs, bank charges and other any fees. Value added tax shall be added at the then applicable rate.
2. If JAT is also responsible for assembly or erection and unless otherwise agreed, the purchaser shall pay the agreed remuneration and any incidental costs required, e. g. for travelling and transport as well as allowances.
3. All receivables are due 30 days after receipt of invoice, unless otherwise agreed in writing between the parties.
4. JAT reserves the right to prepayment.
5. Payments shall be made free JAT's paying office.
6. The purchaser may set off only those claims which are undisputed or non-appealable.
7. JAT reserves the right to change offers, in particular when due to changes caused by own suppliers.

## III Retention of title

1. The items pertaining to the supplies ("retained goods") shall remain the property of JAT until each and every claim JAT has against the purchaser on account of the business relationship has been fulfilled. If the combined value of JAT's security interests exceeds the value of all secured claims by more than 10%, JAT shall release a corresponding part of the security interest if so requested by the purchaser; JAT shall be entitled to choose which security interest it wishes to release.
2. For the duration of the retention of title, the purchaser may not pledge the retained goods or use them as security, and resale shall be possible only for resellers in the ordinary course of their business and only on condition that the reseller receives payment from its customer or makes the transfer of property to the customer dependent upon the customer fulfilling its obligation to effect payment.
3. Should the purchaser resell retained goods, it assigns to the supplier, already today, all claims it will have against its customers out of the resale, including any collateral rights and all balance claims, as security, without any subsequent declarations to this effect being necessary. If the retained goods are sold on together with other items and no individual price has been agreed with respect to the retained goods, the purchaser shall assign to JAT such fraction of the total price claim as is attributable to the price of the retained goods invoiced by JAT.
4. The purchaser may process, amalgamate or combine retained goods with other items. Processing is made for JAT. The purchaser shall store the new item thus created for JAT, exercising the due care of a diligent business person. The new items are considered as retained goods.  
Already today, JAT and the purchaser agree that if the retained goods are combined or amalgamated with other items that are not the property of JAT, JAT shall acquire co-ownership in the new item in proportion of the value of the retained goods combined or amalgamated to the other items at the time of combination or amalgamation. In this respect, the new items are considered as retained goods.  
The provisions on the assignment of claims according to No. 3 above shall also apply to the new item. The assignment, however, shall only apply to the amount corresponding to the value invoiced by JAT for the retained goods that have been processed, combined or amalgamated.  
Where the purchaser combines the retained goods with real estate or movable goods, it shall, without any further declaration being necessary to this effect, also assign to JAT as security its claim to consideration for the combination, including all collateral rights for the pro-rata amount of the value the combined retained goods have on the other combined items at the time of the combination.
5. Until further notice, the purchaser may collect assigned claims relating to the resale. JAT is entitled to withdraw the purchaser's permission to collect funds for good reason, including but not limited to delayed payment, suspension of payments, start of insolvency proceedings, protest or justified indications for over-indebtedness or pending insolvency of purchaser. In addition, JAT may, upon expiry of an adequate period of notice disclose the assignment, realise the claims assigned and demand that the purchaser informs its customer of the assignment.
6. The purchaser shall inform JAT forthwith of any seizure or other act of intervention by third parties. If a reasonable interest can be proven, the purchaser shall, without undue delay, provide JAT with the information and/or documents necessary to assert the claims it has against its customers.
7. Where the purchaser fails to fulfil its duties, fails to make payment due, or otherwise violates its obligations JAT shall be entitled to rescind the contract and take back the retained goods in the case of continued failure following expiry of a reasonable remedy period set by JAT; the statutory provisions providing that a remedy period is not needed shall be unaffected. The purchaser shall be obliged to return the retained goods. The fact that JAT takes back retained goods and/or exercises the retention of title, or has the retained goods seized, shall not be construed to constitute a rescission of the contract, unless JAT so expressly declares.

## IV Time for supplies, delay, force majeure, right of withdrawal

1. Times set for supplies shall only be binding if all documents to be furnished by the purchaser, necessary permits and approvals, especially concerning plans, are received in time and if agreed terms of payment and other obligations of the purchaser are fulfilled. If these conditions are not fulfilled in time, times set shall be extended reasonably; this shall not apply if JAT is responsible for the delay.
2. Calendar weeks are used to indicate the point in time when goods have been received and do not constitute a binding delivery period. Binding delivery periods must be explicitly agreed to in writing stating a date.
3. If non-observance of the times set is due to force majeure, such as mobilisation, war, terror attacks, rebellion or similar events (e. g. strike, lockout or administrative order) such times shall be extended accordingly. The same shall apply in the event of JAT not delivering on time or properly. If JAT cannot effect a supply or if effecting a supply would be unreasonable for JAT due to force majeure or administrative order, JAT can rescind the contract.

4. If JAT is responsible for the delay and the purchaser has demonstrably suffered a loss therefrom, the Purchaser may claim a compensation as liquidated damages of 0.5 % for every completed week of Delay, but in no case more than a total of 5 % of the price of that part of the supplies which due to the delay could not be put to the intended use.
5. The purchaser's claims for damages due to delayed supplies as well as claims for damages in lieu of performance exceeding the limits specified in No. 3 above are excluded in all cases of delayed supplies, even upon expiry of a time set to JAT to effect the supplies. This shall not apply in cases of liability based on intent, gross negligence, or due to loss of life, bodily injury or damage to health. Rescission of the contract by the Purchaser based on statute is limited to cases where the Supplier is responsible for the delay. The above provisions do not imply a change in the burden of proof to the detriment of the purchaser.
6. At the request of JAT, the purchaser shall declare within a reasonable period of time whether it, due to the delayed supplies, rescinds the contract or insists on the delivery of the supplies.
7. If dispatch or delivery, due to the purchaser's request, is delayed by more than one month after notification of the readiness for dispatch was given, the purchaser may be charged, for every additional month commenced, storage costs of 0.5 % of the price of the items of the supplies, but in no case more than a total of 5 %. The parties to the contract may prove that higher or, as the case may be, lower storage costs have been incurred.

#### V Passing of risk

1. The passing of risk shall be governed by the INCOTERMS® stipulated in the contract.
2. If no INCOTERM® have been agreed to in the contract, the passing of risk shall be governed according to INCOTERM® 2010, FCA, Buchaerstraße 1 or Moritz von Rohr Straße 11, 07745 Jena. Prices are as stipulated in Chapter II.

#### VI Assembly and erection

1. Unless otherwise agreed in written form, assembly and erection shall be subject to the following provisions:
  - a. The purchaser shall provide at its own expense and in due time:
    - i. all earth and construction work and other ancillary work outside JAT's scope, including the necessary skilled and unskilled labour, construction materials and tools;
    - ii. the equipment and materials necessary for assembly and commissioning such as scaffolds, lifting equipment and other devices as well as fuels and lubricants;
    - iii. energy and water at the point of use including connections, heating and lighting;
    - iv. suitable dry and lockable rooms of sufficient size adjacent to the site for the storage of machine parts, apparatus, materials, tools, etc. and adequate working and recreation rooms for the erection personnel, including sanitary facilities as are appropriate in the specific circumstances; furthermore, the purchaser shall take all measures it would take for the protection of its own possessions to protect the possessions of JAT and of the erection personnel at the site;
    - v. protective clothing and protective devices needed due to particular conditions prevailing on the specific site.
  - b. Before the erection work starts, the purchaser shall unsolicitedly make available any information required concerning the location of concealed electric power, gas and water lines or of similar installations as well as the necessary structural data.
  - c. Prior to assembly or erection, the materials and equipment necessary for the work to start must be available on the site of assembly or erection and any preparatory work must have advanced to such a degree that assembly or erection can be started as agreed and carried out without interruption. Access roads and the site of assembly or erection must be level and clear.
  - d. If assembly, erection or commissioning is delayed due to circumstances for which JAT is not responsible, the purchaser shall bear the reasonable costs incurred for idle times and any additional travelling expenditure of the JAT personnel.
  - e. The purchaser shall attest to the hours worked by the erection personnel towards JAT at weekly intervals and the purchaser shall immediately confirm in written form if assembly, erection or commissioning has been completed.
  - f. The purchaser is only entitled to instruct the staff of JAT regards safety and property rights.
  - g. If, after completion, JAT demands acceptance of the supplies, the purchaser shall comply therewith within a period of two weeks. Otherwise, the acceptance of supplies shall be deemed complete if the supplies have been used — if applicable after completion of the agreed test run.

#### VII Receiving supplies

1. The purchaser shall not refuse to receive supplies due to minor defects.

#### VIII Defects as to quality

1. JAT shall be liable for defects as to quality as follows:
  - a. Defective parts or defective services shall be, at JAT's discretion, repaired, replaced or re-delivered free of charge, provided that the reason for the defect had already existed at the time when the risk passed. The purchaser is required to promptly examine the supplies and notify JAT about any defects.
  - b. Claims for repair or replacement are subject to a statute of limitations of 12 months calculated from the start of the statutory statute of limitations; the same shall apply mutatis mutandis in the case of rescission and reduction. This shall not apply where longer periods are prescribed by law according to Sec. 479 para. 1 German Civil Code ("Bürgerliches Gesetzbuch"), in the case of intent, fraudulent concealment of the defect or non-compliance with guaranteed characteristics ("Beschaffheitsgarantie"). The legal provisions regarding suspension of the statute of limitations ("Ablaufhemmung", "Hemmung") and recommencement of limitation periods shall remain unaffected.
  - c. Notifications of defect by the purchaser shall be given in written form without undue delay.
  - d. In the case of notification of a defect, the purchaser may withhold payments to an amount that is in a reasonable proportion to the defect. The purchaser, however, may withhold payments only if the subject matter of the notification of the defect involved is justified and incontestable. The purchaser has no right to withhold payments to the extent that its claim of a defect is time-barred. Unjustified notifications of defect shall entitle JAT to demand reimbursement of its expenses by the purchaser.
  - e. JAT shall be given the opportunity to repair or to replace the defective good ("Nacherfüllung") within a reasonable period of time.
  - f. If repair or replacement is unsuccessful, the purchaser is entitled to rescind the contract or reduce the remuneration; any claims for damages the purchaser may have according to No. 10 shall be unaffected.
  - g. There shall be no claims based on defect in cases of insignificant deviations from the agreed quality, of only minor impairment of usability, of natural wear and tear, or damage arising after the passing of risk from faulty or negligent handling, excessive strain, unsuitable equipment, defective civil works, inappropriate foundation soil, or claims based on particular external influences not assumed under the contract, or from non-reproducible software errors. Claims based on defects attributable to improper modifications or repair work carried out by the purchaser or third parties and the consequences thereof are likewise excluded.
  - h. The purchaser shall have no claim with respect to expenses incurred in the course of supplementary performance, including costs of travel, transport, labour, and material, to the extent that expenses are increased because the subject matter of the supplies has subsequently been brought to another location than the purchaser's branch office, unless doing so complies with the normal use of the supplies.
  - i. The purchaser's right of recourse against JAT pursuant to Sec. 478 of the German Commercial Code is limited to cases where the purchaser has not concluded an agreement with its customers exceeding the scope of the statutory provisions governing claims based on defects. Moreover, No. 8 above shall apply mutatis mutandis to the scope of the right of recourse the purchaser has against JAT pursuant to Sec. 478 para. 2 of the German Commercial Code.
  - j. The purchaser shall have no claim for damages based on defects, such as productions downtime due to a quality defect. This shall not apply to the extent that a defect has been fraudulently concealed, the guaranteed characteristics are not complied with, in the case of loss of life, bodily injury or damage to health, and/or intentionally or grossly negligent breach of contract on the part of JAT. The above provisions do not imply a change in the burden of proof to the detriment of the purchaser. Any other or additional claims of the purchaser exceeding the claims provided for in this Article VIII, based on a defect, are excluded.

#### **IX Industrial property rights and copyrights; defects in title**

1. Unless otherwise agreed, JAT shall provide the supplies free from third parties' industrial property rights and copyrights (hereinafter referred to as "IPR") with respect to the country of the place of delivery only. If a third party asserts a justified claim against the purchaser based on an infringement of an IPR by the supplies made by JAT and used in conformity with the contract, the supplier shall be liable to the purchaser within the time period stipulated in Article VIII No. 2 as follows:
  - k. JAT shall choose whether to acquire, at its own expense, the right to use the IPR with respect to the supplies concerned or whether to modify the supplies such that they no longer infringe the IPR or replace them. If this would be impossible for JAT under reasonable conditions, the purchaser may rescind the contract or reduce the remuneration pursuant to the applicable statutory provisions;
  - l. JAT's liability to pay damages is governed by Article XI.
  - m. The above obligations of JAT shall apply only if the purchaser immediately notifies JAT of any such claim asserted by the third party in written form, does not concede the existence of an infringement and leaves any protective measures and settlement negotiations to JAT's discretion. If the purchaser stops using the supplies in order to reduce the damage or for other good reason, it shall be obliged to point out to the third party that no acknowledgement of the alleged infringement may be inferred from the fact that the use has been discontinued.
2. Claims of the purchaser shall be excluded if it is responsible for the infringement of an IPR.
3. Claims of the purchaser are also excluded if the infringement of the IPR is caused by specifications made by the purchaser, by a type of use not foreseeable by JAT or by the supplies being modified by the purchaser or being used together with products not provided by JAT.
4. In addition, with respect to claims by the purchaser pursuant to No. 1 a) above, Article VIII Nos. d, e, and i shall apply mutatis mutandis in the event of an infringement of an IPR.
5. Where other defects in title occur, Article VIII shall apply mutatis mutandis.
6. Any other claims of the purchaser against JAT or its agents or any such claims exceeding the claims provided for in this Article IX, based on a defect in title, are excluded.

#### **X Impossibility of performance; adaptation of the contract**

1. To the extent that delivery is impossible, the purchaser is entitled to claim damages, unless JAT is not responsible for the impossibility. The purchaser's claim for damages is, however, limited to an amount of 10 % of the value of the part of the supplies which, owing to the impossibility, cannot be put to the intended use. This limitation shall not apply in the case of liability based on intent, gross negligence or loss of life, bodily injury or damage to health; this does not imply a change in the burden of proof to the detriment of the Purchaser.
2. Where events within the meaning of Article IV No. 2 substantially change the economic importance or the contents of JAT's or considerably affect JAT's business, the contract shall be adapted taking into account the principles of reasonableness and good faith. To the extent this is not justifiable for economic reasons, JAT shall have the right to rescind the contract. If JAT intends to exercise its right to rescind the contract, it shall notify the purchaser thereof without undue delay after having realised the repercussions of the event; this shall also apply even where an extension of the delivery period has previously been agreed with the purchaser.

#### **XI Other claims for damages; limitation period**

1. The purchaser has no claim for damages based on whatever legal reason, including but not limited to infringement of duties arising in connection with the contract or tort.
2. This does not apply if liability is based on, e. g. the German Product Liability Act ("Produkthaftungsgesetz"), intent, gross negligence, negligent injury to life, limb or health, or negligent breach of a fundamental condition of contract ("wesentliche Vertragspflichten"). However, claims for damages arising from a breach of a fundamental condition of contract shall be limited to the foreseeable damage which is intrinsic to the contract, provided that no other of the above case applies. The above provisions do not imply a change in the burden of proof to the detriment of the purchaser.
3. To the extent that the purchaser has a claim for damages, it shall be time-barred upon expiration of the statute of limitations pursuant to Article VIII No. b. The same shall apply to the purchaser's claims in connection with actions undertaken to avoid any damage (e. g. call-back). In the case of claims for damages under the German Product Liability Act, the statutory statute of limitations shall apply.

#### **XII Software clause**

1. This software clause shall apply exclusively to the – time-limited as well as unlimited – provision of standard software which is handed over for use as part of a supply or in connection with a supply of the associated hardware (hereinafter referred to as "software") as well as to the whole supply insofar as a breach of obligation or interference to service was caused by the software. The AVB shall apply exclusively to the hardware.
2. Firmware is not deemed "software" within the meaning of this software clause.
3. In addition to Article 1 No. 2 of the AVB, the following applies: The supply of documentation shall be agreed upon in writing. If documentation is supplied, the term "software" as used hereinafter shall also include the documentation.
4. Instead of Article 1 No. 3 of the AVB, the following shall apply:
  - a. JAT grants the purchaser the non-exclusive right to use the software. The right is limited to the agreement period of time; in the absence of such agreement, the right to use shall be unlimited in time.
  - b. To the extent that the right to use is limited in time, the following regulations shall apply complimentary: The purchaser shall use the software solely on the hardware referred to in the contract documents (e. g. product voucher), in the absence of such reference, the use shall be limited to the respective hardware supplied together with the software. The use of the software on any other device shall require the express prior written consent of JAT and shall, if used on a more powerful device, entitle JAT to claim an appropriate additional remuneration; this does not apply, however, to the extent and for the period, in which the purchaser uses a temporary substitute device within the agreed scope of use, because of a defect in the agreed device.
  - c. Where the contract documents refer to more than one device, the purchaser shall not use the software provided on more than one of these devices simultaneously (Single License), to the extent that it has not been granted a Multiple License pursuant to No. 4 (i) below. Where more than one workplace exists for a specific device where the software can be used independently, the Single License shall apply to only one workplace.
  - d. The Software shall exclusively be provided in machine readable format (object code).
  - e. The purchaser shall be entitled to make only one copy of the software and solely so for back-up purposes (back-up copy). Any other duplication on the part of the purchaser shall be allowed only subject to a Multiple License pursuant to No. 4 (i).
  - f. Sales as provided for in Sec. 69 para. e (decompilation) of the German Copyright Act, the buyer shall not be entitled to modify, decompile, translate, or isolate parts of the software. The purchaser shall not remove alphanumeric or other identifiers from the data medium and shall transfer such identifiers unchanged to any back-up copy.
  - g. JAT grants the purchaser the right – which shall be revocable for good cause – to assign the right to use granted to him to a third party. The purchaser to whom the software has not been provided for commercial resale shall pass on the right to use the software only together with the device he has bought in combination with the software from the JAT. If the right to use is transferred to a third party, the purchaser shall ensure that the right to use granted to the third party does not exceed the scope of rights to the software granted to the purchaser under this contract, and the purchaser shall ensure that the third party shall be obliged to comply with at least the same obligations as are imposed herein. When doing so, the purchaser may not retain copies of the software. The purchaser shall not be entitled to grant sublicenses. Where the purchaser provides the software to a third party, the purchaser shall ensure that any existing export requirements are observed and shall hold the seller harmless in this respect.
  - h. Where the purchaser has been provided with software for which JAT only has a right derived from third parties (Third Party Software) the terms of use between JAT and its licensor shall apply additionally to this No. 4 and shall take precedence over them. To the extent that the purchaser is provided with open source software, the provisions of this No. 4 shall be amended and superseded by the conditions of use underlying the open source software. Upon request, JAT shall hand over to the buyer the source code, insofar as these conditions for use envisage a hand-over of the source code. JAT shall point out in the contract documents if third party software or open source software and pertaining conditions of use exist and make the conditions of use available if so requested. Any breach of the conditions of use on the part of the purchaser shall entitle not only JAT, but also its licensor, to assert claims and rights arising therefrom in their own name.

- i. The use of the software on more than one device or simultaneously at more than one workplace shall require a separate agreement on the right to use. The same shall apply if the software is used in networks even if the software is not copied for this purpose. With regard to situations named above (hereinafter referred to as "Multiple License"), the following provisions of the Article 4 (a) to (h) shall apply in addition to and with priority of the letters (i) and (ii):
- i. Multiple Licenses requires that JAT expressly confirms in writing the number of admissible copies that the purchaser may make of the software provided in the number of devices and/or workplaces where the software may be used. Article 4 (g) second sentence shall be applicable to Multiple Licenses provided that they may be transferred by the purchaser to third parties only if transferred in the totality and together with all devices, on which the use of the software is allowed.
  - ii. The purchaser shall observe the duplication rules provided by the seller together with the Multiple License. The purchaser shall keep records on the whereabouts of all copies made and submit them to JAT upon request.
5. In addition to Article V of the AVB, the following applies:
- a. If the software is provided via electronic communication media (e. g. via the internet), the risk shall pass when the Software leaves the sphere of influence of JAT (e. g. when making a download).
6. In addition to Article VI of the AVB the following applies:
- a. The buyer must take all necessary and reasonable measures in order to prevent or limit damages through the Software. The purchaser is himself responsible for regularly saving his programmes and data. To the extent the purchaser negligently breaches this obligation, JAT shall not be liable for any consequences arising therefrom; this shall apply in particular to the replacement of lost or damaged data or programmes. No change of burden of proof to the disadvantage of the purchaser is connected with the preceding provisions.
7. In the case of software provided for an unlimited period of time, Article VIII of the AVG shall be replaced by the following:
- a. The limitation period for claims made on account of material defects shall be 12 months. This provision shall not apply where longer periods are prescribed by law according to Sec. 438 para. 1 No. 2 (buildings and items used for a building), Sec. 479 para. 1 (right of recourse), and Sec. 634 a para. 1 No. 2 (defects of a building) of the German Civil Code, as well as in cases of loss of life, bodily injury or damage to health, or where JAT intentionally or as a result of gross negligence fails to fulfil its obligation or fraudulently conceals a defect. The statute of limitations commences upon the transfer of risk to the purchaser. The legal provisions regarding suspension of the statute of limitations ("Ablaufhemmung", "Hemmung") and recommencement of limitation periods shall remain unaffected.
  - b. Software is considered to have a material defect only if the purchaser can prove that there are reproducible deviations from the specifications. A material defect shall not be deemed to exist if it does not manifest itself in the latest version supplied to the purchaser, and/or its use by the purchaser can reasonably be required.
  - c. Notifications of defect shall be given in written form without undue delay. Defects and the relevant data processing environment shall be described as precisely as possible therein.
  - d. Claims based on defects do not exist in the cases of any of the following:
    - insignificant deviations from the agreed characteristics;
    - only minor impairment of usability;
    - damage from faulty or negligent handling;
    - damage from particular external influences not assumed under the contract;
    - modifications made by the purchaser or third parties and any consequences resulting therefrom;
    - Software extensions made by the purchaser or a third party through the use of an interface provided by the Seller;
    - incompatibility of the software provided with the data processing environment of the purchaser;
  - e. If the software is showing a material defect, JAT must first of all be given the opportunity to rectify within a reasonable time frame. JAT shall be entitled to choose between repair and replacement.
  - f. Unless JAT chooses otherwise, JAT shall correct the defect in the software as follows:
    - i. JAT will provide a replacement by way of an update or an upgrade of the software if available to JAT or obtainable with reasonable efforts by JAT. If the purchaser has been granted a Multiple License, it may make a corresponding number of copies of the update, or, as the case may be, upgrade.
    - ii. Until an update, or, as the case may be, upgrade is provided, JAT will make available to the purchaser an interim solution by passing the defect, provided that this does not result in unreasonable expenditures and that the purchaser would otherwise, due to the defect, be unable to complete work that cannot be delayed.
    - iii. JAT shall have the right to choose whether it corrects the defect at the location of the purchaser or at its own location. If JAT chooses to correct the defect at the purchaser's location, the purchaser shall assure that the required hardware and software as well as the required operating conditions (including the required computing time) and qualified operating personnel are available. The purchaser shall submit to JAT the documents and information available to it and required for defect correction.
  - g. If repair or replacement is unsuccessful, the purchaser is entitled to rescind the contract or reduce the remuneration; any claims for damages the purchaser may have according to Article XI of the AVB shall be unaffected.
  - h. In the case of notification of a defect, the purchaser may withhold payments to an amount that is in a reasonable proportion to the defect. The purchaser, however, may withhold payments only if the subject matter of the notification of the defect involved is justified and incontestable. If the notification of defect was unjustified, JAT shall be entitled to demand the reimbursement of expenses incurred from the purchaser.
  - i. For any further claims of compensation for damages, Article XI of the AVB shall apply. Any other claims of the purchaser against JAT or its agents or any such claims exceeding the claims provided for in this No. 7, based on a material defect are excluded.
8. For software provided for a limited period of time only, letters (b), (c), (d), (e), (f) and (i) of para. 1 above shall apply mutatis mutandis instead of Article VIII. Letter (b) shall apply if the right of withdrawal be replaced by the right of termination without notice.
9. Article IX of the AVB applies if:
- a. Article XI.1 of the AVB applies as follows:
    - i. Unless otherwise agreed, JAT shall provide the supplies free from third parties' industrial property rights and copyrights (hereinafter referred to as "IPR") with respect to the country of the place of delivery only. Insofar as a third party asserts justified claims against the buyer owing to the infringement of IPR supplies provided by JAT which are used as per contract, JAT shall be liable to the purchaser with software provided for an unlimited period of time within the statute-of-limitations agreed for material defects, with software provided for a limited amount of time within the statute-of-limitations, as follows:
      - a) (unchanged)
      - b) (unchanged)
      - c) (unchanged)
    - ii. Article IX.2 of the AVB applies.
    - iii. Article IX.3 of the AVB applies.
    - iv. Instead of Article IX.4 of the AVB, the following shall apply:
    - v. In addition, with respect to claims by the purchaser pursuant to No. 1 (a) above, No. 6 para. 1 (h) and (e) sentence 1 of this software clause apply mutatis mutandis in the event of an infringement of IPR.  
In case of other defects of title the terms in No. 7 of this software clause shall apply.
10. Instead of Article IX.5 of the AVB, the following shall apply:
- a. Article IX.1 of the AVB applies.
  - b. Article IX.2 of the AVB applies.
  - c. Article XI.3 of the AVB applies as follows:
    - i. Insofar damages claims are due to the purchaser according to Article XI of the AVB, they become statute-barred according to No. 6 para. 1 (a) of this software clause after the expiration of the limitation period applicable for material defect claims. In the case of claims for damages under the German Product Liability Act, the statutory statute of limitations shall apply.

**XIII Environmental/packaging clause**

1. The purchaser shall ensure that all legal duties, such as the Packaging Ordinance ("VerpackungsV") or the Disposal of Electrical and Electronic Equipment Law ("ElektroG"), are properly observed and the goods are recycled according to the recycling process of the Substance Cycle Waste Management Act ("KrWG").
2. The purchaser shall dispose the goods at his own expense.
3. The purchaser shall further be obligated in case the delivered products are again passed to another user to agree on a respective commitment with such user.

**XIV Compliance; export control; US law**

1. The purchaser shall further be obliged to observe all legal regulations, in particular, with respect to fight against corruption as well as competition law and merger law. The purchaser confirms to JAT that there are no undue advantages towards employees and their subordinates. This duty is transferred by the purchaser to the third party acting on his behalf.
2. JAT is aware that their business activities may affect the Foreign and Security Policy of the German Federal Republic and therefore ensures that JAT observes all regulations of the foreign trade legislations. The purchaser also obliges himself to adhere to these regulations.
3. The purchaser is obliged to make available to JAT information about export control, e. g. information about the classification into the customs tariff or about testing of several embargoes. This in particular includes the country of destination when integration into a machine of the purchaser as well as the area of application and general function of the machine. Should such information not be provided by the purchaser, JAT shall neither provide any information about customs tariff numbers nor external legal limitations.
4. JAT shall not be held liable for the end-use of the goods.
5. The purchaser must upon requested fill in shipment confirmation for turnover tax purposes and make it available to JAT.
6. JAT may only make a statement about US law upon explicit request of the purchaser and when being provided with all necessary information. A right to be classified into the US law by JAT is explicitly excluded.

**XV Confidentiality clause; secrecy**

1. The purchaser and JAT agree that the documents, information and knowledge provided by both parties during or after our business relationship shall be treated as confidential.
2. Upon termination of the business relationship the respectively provided documents may be demanded to be returned.

**XVI Jurisdiction and applicable law**

1. If the purchaser is a merchant, the court of jurisdiction for all disputes arising directly or indirectly from the contract shall be Jena. JAT shall, however, be entitled to commence proceedings at the court with jurisdiction at the purchaser's registered office.
2. For all legal relationships relating to this agreement German material law applies with the exclusion of the United Nations Convention on the International Sale of Goods (CISG).

**XVII Binding nature of the contract, partial ineffectiveness**

1. The individual parts of this contract remain effective even when individuals regulations are nullified. This does not apply if adherence to the contract would present unreasonable hardship for JAT.

**Date:** 14.09.2016