

■ General Terms and Conditions of Purchase and Delivery

I General Information

- (1) The following General Terms and Conditions of Purchase – hereinafter referred to as GTCP – shall apply to all deliveries, services and offers made with respect to the HUPFER® Group – hereinafter referred to as the Client – by its contracting parties – hereinafter referred to as the Contractor. Unless otherwise agreed, the version of the GTCP applicable at the time of the Client placing the purchase order, or in any case the version last communicated to the Contractor in text form, shall also apply as a framework agreement to similar future contracts without the Client having to refer to them again in each case.

The following companies belong to the HUPFER® Group:

- HUPFER® Metallwerke GmbH & Co. KG, 48653 Coesfeld GERMANY
- RÜTHER® Food-Präsentation & Ausgabetechnik GmbH, 59889 Eslohe GERMANY
- PKT Polkenberger Küchentechnik GmbH & Co. KG, 04703 Leisnig GERMANY
- TRAK Conveyor Systems Ltd, L34 9HX Liverpool GREAT BRITAIN

- (2) Where individual contractual provisions exist that deviate from or contradict the provisions of these GTCP, the individual contractual provisions shall take priority over those of the GTCP.
- (3) These GTCP shall apply exclusively. Any deviating, contradictory or supplementary general terms and conditions of the Contractor shall only become a part of the contract if and to the extent that the Client has expressly accepted their validity in text form. This requirement of consent shall apply in any case, even if, for example, the Client accepts deliveries from the Contractor without reservation or pays for said deliveries, being aware of the Contractor's General Terms and Conditions.
- (4) If a delivery clause is used in individual contracts, it shall refer to INCOTERMS® 2010. In this case, INCOTERMS® 2010 by the International Chamber of Commerce (ICC) in Paris shall become a part of the contract.
- (5) Legally relevant declarations and notifications that the Contractor shall make vis-à-vis the Client after conclusion of the contract (e.g. the setting of deadlines, reminders, notice of rescission) shall require the text form to take effect.

II Purchase Orders and Orders

- (1) Purchase orders and release orders, as well as their acceptance, amendments and additions, shall require the text form, unless a more stringent form has been agreed or is mandatory. The relevant documents may be submitted via remote data transmission.
- (2) Verbal agreements of whatever kind – including subsequent amendments and additions to these GTCP – shall require confirmation by the Client in the text form to take effect, unless a more stringent form has been agreed. The same applies to the cancellation of this form requirement.
- (3) The acceptance of each purchase order shall be promptly confirmed by the Contractor after receipt, at the latest within one week of receipt. If the purchase order is not accepted within the aforementioned one-week period, then the Client shall no longer be bound to the purchase order. The time at which the Client receives the declaration of acceptance of the purchase order shall be the determining factor for whether the purchase order has been accepted in time.
- (4) The Contractor shall promptly point out any errors and ambiguities in the Client's purchase order. Any departure from the purchase order in the acceptance of order shall require express confirmation by the Client.
- (5) The Client's release orders in the context of order and order release planning or in the context of existing framework delivery agreements shall become binding if no objection is made by the Contractor within two working days of receipt.
- (6) The place of performance for deliveries and services is the place of the delivery address specified by the Client, unless otherwise agreed.

III Scope of Services, Contracting Parties' Obligations

- (1) All deliveries of materials by the Contractor shall comply with the relevant applicable European and national (German or English) laws, regulations and directives (e.g. the REACH Regulation, the Restriction of Hazardous Substances (RoHS) Directive, the German Equipment and Product Safety Act (GPSG), the German Food and Feed Code (LFGB), etc.). If the Contractor is unable to comply with the regulations, it shall immediately notify the Client accordingly. The Client shall decide whether and to what extent the contractual relationship is to be continued. Non-compliance constitutes a breach of the Contractor's primary obligations.
- (2) In connection with the energy management system operated by the Client, the Contractor is required to disclose energy consumption for products that consume energy in whatever form. Consumption has a decisive impact on the Client's purchasing decision.
- (3) Delivery items shall be packed and dispatched correctly. The Client's packaging and shipping requirements shall be complied with. Each delivery shall be accompanied by a delivery note.
- (4) The order confirmation, the delivery note and the invoice shall contain the Client's order number, item or material number and an exact description of the delivery item.
- (5) Any additional expenses incurred by the Client due to the non-observance of the aforementioned provisions shall be charged to the Contractor. A lump sum of €25.00 shall be invoiced for this purpose. The Contractor reserves the right to provide evidence of less damage in the individual case.
- (6) If insurance is taken out against the risk of transportation, forwarding, logistics and storage, the Contractor shall bear the associated costs. The relevant insurance policy shall protect against all transport-related risks.

IV Delivery Times, Delivery Deadlines, Dates, Delays

- (1) Deliveries by the Contractor shall be effected by the dates specified in the Client's purchase orders. Such dates are binding fixed deadlines. Changes to the delivery date are only permissible with the Client's prior consent in text form. If no delivery deadline or delivery date

is specified, the deadline shall be two weeks after conclusion of the contract.

- (2) Receipt of the goods by the Client shall be the determining factor for adherence to the delivery date or delivery deadline. If no agreement is made for delivery to the place of use / the Client's place of business, then the Contractor shall make the goods available in good time, taking into consideration the time required for loading and shipping, as to be agreed with the forwarding agent.
- (3) If stipulated delivery dates are not adhered to, then statutory provisions for dealing with delay shall apply. If the Contractor anticipates difficulties with regard to production, the supply of preliminary material, adherence to the delivery date or similar circumstances that may prevent it from executing the on-time delivery or delivery of the stipulated level of quality, then the Contractor shall immediately notify the Client's Order Department accordingly in text form. Acceptance of the delayed delivery or service without reservation shall not constitute a waiver of any compensation claims to which the Client is entitled on account of the delayed delivery or service.
- (4) Partial deliveries are generally not permitted, unless the Client has given its express consent or they can reasonably be expected of the Client.
- (5) The Client reserves the right to accept over deliveries or short deliveries.
- (6) Unless proven otherwise, the values determined by the Client during the incoming goods inspection shall be the determining factor for quantities, weights and dimensions.
- (7) Force majeure, industrial action, unavoidable stoppages, riots, administrative measures and other unavoidable events shall exempt the Client from the obligation to accept the deliveries in due time for the duration of such circumstances. During such events and for a two-week period thereafter, the Client – without prejudice to other rights of the Client – shall be entitled to rescind the contract in whole or in part, where such events are not of inconsiderable duration and the Client's demand is considerably reduced because it has had to procure the goods elsewhere.
- (8) In the event of delays in delivery, the Client shall be entitled to claim lump sum damages amounting to 0.5% of the net order value for each week of delay in delivery or part thereof, but not exceeding 5%. The Contractor reserves the right to prove that the Client has sustained less or no damage. The Client remains entitled to provide evidence that greater damage was caused due to the delay. In this case, lump sum damages shall be offset against actual damage.

V Transfer of Risk, Reservation of Proprietary Rights, and Ownership Protection

- (1) The place of performance for deliveries is the place of use; for payments it is the Client's place of business. The risk of accidental loss and accidental deterioration of the goods shall be transferred to the Client at the Client's place of use / place of business. The same applies in the case of sale to destination. It does not apply in the event of another agreement having been made in individual contracts.
- (2) Any materials, parts, containers and special packaging provided by the Client shall remain the property of the Client. They may only be used in accordance with their intended purpose. The processing of materials and the assembly of parts is undertaken for the Client. It is agreed that the Client is the co-owner of the products manufactured by the Contractor utilising the materials and parts that are kept in this respect by the Contractor for the Client in the ratio of the order value to the value of the product as a whole.
- (3) Ownership of the goods shall be transferred to the Client unconditionally and regardless of whether the purchase price has been paid. If in individual cases, however, the Client accepts a quotation of the Contractor that is conditional on payment of the purchase price prior to transfer of ownership, then the Contractor's reservation of proprietary rights shall expire at the latest upon payment of the purchase for the delivered contract products. In the normal course of business, the Client also remains authorised to resell the contract products under assignment in advance of the resultant claim, even before payment of the purchase price. All other forms of reservation of proprietary rights, in particular extended and assigned reservation of proprietary rights, and reservation of proprietary rights extended owing to processing, are in any event precluded.
- (4) Any reservation of proprietary rights made vis-à-vis the Client shall expire upon payment to the Contractor. The Contractor assures his ability to provide the Client with unrestricted ownership of the subject matter of the contract. Any reservations of proprietary rights shall expire upon payment to the Contractor.
- (5) Drawings and other documentation, devices, models, tools and other means of production provided to the Contractor or manufactured according to the Client's specifications shall remain the property of the Client. In this respect, the Client retains all copyrights, copyright exploitation rights and all intellectual property rights to these documents and means of production as well as processes developed. They may only be used for deliveries to the Client. They and subsequently produced goods or goods produced using them may not be passed on to third parties or used for one's own or third-party purposes without the Client's prior consent in text form. If no contract is concluded between the Parties following the submission of the Client's documents or if an existing contract is rescinded or cancelled, then all documents and means of production provided to the Contractor shall be immediately surrendered to the Client in a perfect condition without retaining any copies, single pieces or the like.
- (6) The provision laid out in sub-clause 5 above applies accordingly for print jobs.
- (7) Any tools, devices and models that the Client provides to the Contractor or that are manufactured for the purpose of the contract and are invoiced separately to the Client by the Contractor shall remain the property of the Client or shall become its property. They shall be labelled as the Client's property by the Contractor, they shall be stored by the Contractor with care, protected against damage of any kind and used for the purpose of the contract only. The costs of maintaining and repairing these items shall be borne in equal parts by the contracting parties – unless otherwise agreed. However, where such costs are attributable to defects in objects manufactured by the Contractor or to improper usage on the part of the

Contractor, its employees or other vicarious agents, then such costs shall be borne by the Contractor alone. The Contractor shall notify the Client immediately of all – and not just insignificant – damages, to such objects. Upon request, it is obliged to issue these objects in proper working order to the Client if they are no longer required by it to fulfil the contracts concluded with the Client. This clause applies only if no separate agreement has been made between the Parties.

VI Prices and Conditions of Payment

- (1) Unless otherwise agreed, the prices agreed upon are fixed prices and include value-added tax at the applicable rate, which shall be shown according to statutory requirements, including packaging, freight and other auxiliary costs.
- (2) Unless otherwise agreed, the Client shall bear only the least expensive freight costs if the price agreed upon is "ex works" or "EXW" in accordance with INCOTERMS® 2010.
- (3) If the price agreed upon does not include packaging and remuneration for packaging – provided not only on loan – is not expressly specified, then this shall be charged at cost price (proof to be provided)
- (4) If the Contractor has assumed installation or assembly and, unless otherwise agreed, the Contractor shall bear all the necessary additional costs, such as travel expenses, the provision of tools, daily allowances, etc.
- (5) Unless otherwise agreed, the validity of prices for recurring deliveries is agreed to be from the day of the price negotiation through to 31 March of the following year, but at least for 12 months.
- (6) The validity of prices agreed upon shall be automatically extended for another year if neither the Client nor the Contractor notifies the need for amendment in text form at least three months before the expiry of the period of validity. Until an agreement has been reached on new prices, the prices previously agreed between the Client and the Contractor shall continue to apply. The Contractor is entitled to end the cooperation following the expiry of the price validity agreed upon.
- (7) For invoices received up to the 15th day of the month, payments shall be effected at the end of the month and for invoices received up to the end of the month, payments shall be effected on the 15th day of the following month less 3% cash discount or within 45 days net cash. The bank's receipt of the Client's transfer order shall suffice for the payments owed to be deemed punctual.
- (8) The Client shall not owe any interest payable after due date. Statutory provisions apply to default in payment. The Client shall be liable to pay default interest amounting to five percentage points p.a. above the base lending rate.
- (9) Any payments effected by the Client shall not be deemed to constitute the acceptance of a statement and are made subject to invoice verification.
- (10) The Client is entitled to offset rights, rights of retention and the plea of non-performance of contract to the extent permitted by law. In particular, the Client shall be entitled to retain due payments, as long as the Client is still entitled to claims arising from incomplete or defective services vis-à-vis the Contractor.
- (11) The Contractor may only assign claims arising from this contract to third parties with the prior consent of the Client in text form.

VII Proof of Origin, Proof of Value-Added Tax, Export Restrictions

- (1) The Contractor shall include all necessary information in the proof of origin requested by the Client and shall provide it to the Client, duly signed, together with the delivery. The same applies accordingly for proof of value-added tax in the case of international and intra-Community deliveries.
- (2) The Contractor is obliged to immediately inform the Client of any obligations to obtain a permit or any restrictions concerning (re-)exports of its goods in accordance with German, European, US American, UK or any other export and customs regulations as well as the export and customs regulations of the country of origin of its goods in its business documents.
- (3) The procurement of export licences, where appropriate, is one of the Contractor's primary contractual obligations. In addition, the Contractor bears the risk of the non-issuance of import and export licences, where appropriate.
- (4) The Contractor is obliged to immediately inform the Client of any changes in licence requirements related to its goods delivered to the Contractor owing to technical or legal amendments or administrative determinations.
- (5) Contractors from Member States of the European Union and of the European Economic Area and from Switzerland are required to automatically provide the Client with long-term suppliers' declarations no later than 30 days after acceptance of the order and within the first two months of each calendar year thereafter in accordance with the European regulation prevailing at the time. If this cannot be undertaken for individual deliveries of goods, relevant proofs of origin shall be provided at the time of invoicing at the latest.

VIII Warranty and Liability

- (1) Unless otherwise agreed in the following or in individual contracts, statutory provisions apply with regard to the Client's rights in the event of material defects and defects of title of goods and in the event of any other breaches of duty on the part of the Contractor.
- (2) Statutory provisions (Sections 377, 381 of the German Commercial Code, HGB) apply to the commercial duty to inspect and to give notice of defects subject to the following conditions: the Client's duty to inspect is limited to defects that are evident during the incoming goods inspection by the Client upon visual inspection, including delivery documents, and upon spot-checks during quality control procedures (e.g. transport damage, incorrect deliveries and short deliveries). The Client shall give notice of defects immediately, at the latest within one week of discovery. The time limit shall commence upon the receipt of the goods at the place of use or at the Client's premises. In this respect, the Contractor waives the right of objection to belated notice of defect. Where acceptance of the goods has been agreed, there

shall be no duty to inspect. In other respects, it depends on the extent to which it is advisable in the ordinary course of business to inspect the goods taking into account the particular circumstances of the case. This shall not affect any requirements specified in the Quality Assurance Agreement, provided that such an agreement forms a part of the contractual relations. In the event of doubt, the terms of the Quality Assurance Agreement take priority over those contained in these GTCP.

- (3) The Client's warranty claims in respect of the quality of the delivery item or services provided shall not be affected by the Client's approval of drawings, calculations and other technical documents provided by the Contractor, nor shall any claims arising from a breach of contractual obligations.
- (4) Unless otherwise agreed, warranty claims become statute-barred after 24 months from the receipt of the goods delivered at the place of use or at the Client's premises.
- (5) The Client shall be entitled to select the type of supplementary performance. The Contractor shall be entitled to refuse the type of supplementary performance selected by the Client subject to Section 439 (2) of the German Civil Code (BGB).
- (6) If the Contractor fails to honour its obligation to supplementary performance – according to the choice of the Client by elimination of the defect (rectification) or delivery of a defect-free item (replacement delivery) – within a reasonable period of time stipulated by the Client (7 days), then the Client may remedy the defect itself or have it remedied by a third party and demand compensation for the expenses necessary for this or an appropriate advance payment from the Contractor.
- (7) The costs incurred by the Contractor for the purpose of examination and supplementary performance, including any transport, dismantling and installation costs as well as personnel and travel expenses, shall be borne by the Contractor even if it transpires that there was in fact no defect. The Client's liability to pay compensation in the event of unjustified requests to remedy defects shall remain unaffected; in this respect, however, the Client shall only be liable if it recognised or was grossly negligent in failing to recognise that there was no defect.
- (8) By way of derogation from Section 442 (1) BGB, the Client shall be entitled to claims for defects without restriction even if the defect remained unknown to the Client as a result of gross negligence.
- (9) In the event of defective title, the Contractor shall indemnify and hold harmless the Client from claims of third parties. The right of indemnity shall also include court, regulatory and attorney costs, fees, penalties and professional fees at a reasonable rate of remuneration, which may be higher than the relevant statutory claims for remuneration.
- (10) If, as a result of the defective delivery, the Client incurs costs, in particular transport costs, road charges, labour costs, material costs or costs for incoming goods inspection beyond the normal scope, then the Contractor shall bear these costs.
- (11) If a material defect becomes apparent within 18 months of the transfer of risk, then it shall be assumed that the defect already existed at the time of the transfer of risk, unless this assumption cannot be reconciled with the nature of the item or defect.
- (12) The Contractor shall be strictly liable for the guaranteed quality of the delivery. The limitation period laid down in the Section 479 BGB applies to such breaches of duty.
- (13) The Contractor is obliged to take out employers' liability insurance and product liability insurance with coverage totalling a lump sum of at least €200,000 for personal injury, property damage and financial loss per event resulting in personal injury, property damage and financial loss, €2,000,000 for the sum of all damages occurring within a year, for any damage that it may cause, and to maintain this insurance at least until fulfilment of its services under the respective order, including warranty obligations, which also includes the warranty period.
- (14) The Contractor shall provide suitable proof to the Client, on request (e.g. by presenting an insurance certificate or confirmation from the insurance company) of the existence of the necessary insurance cover at any time until such time as its services arising from the relevant order have been fulfilled.
- (15) The Contractor shall immediately inform the Client in writing of any change in the insurance relationship and shall provide suitable proof as stated in the above subclause VIII (13) at the Client's request.
- (16) The Contractor shall be liable to the Client for all direct and indirect damages resulting within the framework of the relevant order in accordance with the following subclause:
- (17) Under no circumstances shall the Contractor be liable in each damage event for more than €200,000 per event or more than €2,000,000 per year, in particular due to the breach of obligations arising from the relevant order, arising from strict liability and arising from liability in tort, asserted against it or its vicarious agents arising from or in connection with the execution of an order, regardless of the legal grounds. The limitations of liability in this provision shall not apply in the case of claims for injury or death or in the case of damages caused intentionally or through gross negligence, nor for damages for which the Contractor is liable in accordance with the German Product Liability Act (ProdHaftG).
- (18) Neither party shall be liable for delays or the non-fulfilment of its contractual obligations in the event of force majeure – such as war, civil disturbances, forces of nature or fire, sabotage, aviation crashes on data centres in which systems are operated on behalf of the Client, epidemics, quarantine, actions taken by the government, strikes, lock-outs or the like. Exceptions to this are payment obligations that shall be fulfilled by the Client that are not contradictory to any sanctions or embargo provisions that may apply to the Client.
- (19) Any damage claims existing in accordance with this Section VIII shall become statute-barred within 36 months. This shall not apply in the case of the Contractor's liability due to intent, gross negligence or in accordance with the German Product Liability Act (ProdHaftG).
- (20) If product liability claims are made against the Client owing to strict liability vis-à-vis third parties or if it incurs damage (e.g. due to a recall) in any other way, then the Contractor shall indemnify it from or, in the event of a recall, shall bear all costs in connection with the product recall, where the damage is due to an error for which the Contractor is responsible.
- (21) The Contractor shall implement a quality assurance system of an adequate nature and extent complying with the latest state of the art and shall maintain documentation on all relevant

data. In the event of a product liability claim, the Contractor is obliged to present the Client with the relevant documentation and documents in order to enable proof of a flawless product to be furnished.

IX Rights of Rescission and Termination

- (1) Beyond the statutory rights of rescission, the Client is entitled to rescind the contract if the Contractor's financial circumstances deteriorate materially or threaten to deteriorate, jeopardising the fulfilment of a delivery obligation vis-à-vis the Client. The Client may still invoke the rights to which it is entitled in accordance with Article 71 of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- (2) The Client is also entitled to rescind the contract if a) the Contractor becomes insolvent, b) the Contractor discontinues its payments, c) the Contractor is subject to impending insolvency in accordance with Section 18 of the Insolvency Statute (InsO) or the Contractor's overindebtedness becomes apparent, d) the Client files for insolvency proceedings, or a similar debt settlement procedure, to be opened over the Contractor's assets or operations or e) if the opening of insolvency proceedings over the Contractor's assets is rejected for lack of assets.
- (3) In the event of a continuing obligation, the above subclauses IX (1) and (2) shall apply analogously except that an extraordinary right of termination shall apply instead of the right of rescission.
- (4) If the Contractor has effected partial performance, then the Client shall only be entitled to rescind the entire contract if the Client has no interest in partial performance.
- (5) If the Client rescinds or terminates the contract owing to the aforementioned contractual rights of rescission or termination, then the Contractor shall compensate the Client for damages arising from this, unless it is not responsible for the accrual of the rights of rescission or termination.
- (6) Statutory rights and entitlements shall not be limited by the provisions contained in this subclause IX.

X Property Rights

- (1) The Contractor warrants and guarantees that the contractual use of the contract products will not infringe property rights of third parties. The Contractor is aware of the intended use of the contract products by the Client. As soon as the Contractor realises that the use of its deliveries and services results in the use of third-party (applications for) property rights, intellectual property rights or industrial property rights, it shall immediately inform the Client accordingly. In the case of infringement, the Contractor shall indemnify the Client from all claims and costs, including legal costs at an appropriate hourly rate, asserted by third parties as a result of the infringement of property rights. In the case of infringement, the Contractor is also obliged to either procure the right to the contractual use of the relevant contract products free of charge or to change the contract products to the extent that the infringement of property rights no longer exists, but that the contract products are in compliance with the contract nonetheless.
- (2) The Contractor shall provide notification of the use of (its own) published and unpublished (applications for) property rights for the subject matter of the contract.
- (3) The Contractor shall immediately report to the Client all inventions that may arise in the scope of or in the course of a contract concluded with it and/or its vicarious agents, present all the necessary documents for exploiting the invention, and provide all information about the inventions requested by the Client. The same applies accordingly to all expertise that the Contractor and/or its vicarious agents may acquire in the context of or in the course of executing the contract. The Contractor assigns to the Client the right to file applications for property rights for all inventions arising in the context of or in the course of contracts concluded with it and/or its vicarious agents involving these GTCP. The aforementioned granting and assignment of rights are covered by the stipulated prices of the contract products.

XI Secrecy

- (1) If the Client and the Contractor have concluded a separate confidentiality agreement or else individual obligations to maintain secrecy, then these shall take priority over subclause XI (2) to (6) below.
- (2) The Contractor is obliged not to disclose any matters relating to the Client that come to the notice of the Contractor during or in the course of the execution of the contract, unless the Client releases it from this obligation in writing. The provisions relating to the protection of personal data shall be taken into account accordingly. This shall remain in effect until revoked in writing.
- (3) The obligation to maintain secrecy shall not apply where the disclosure of matters is strictly necessary to protect the legitimate interests of the Contractor.
- (4) The obligation to maintain secrecy shall continue to apply after the contractual relationship ends.
- (5) The obligation to maintain secrecy applies to the same extent to the Contractor's employees and support staff as to the Contractor itself. The Contractor shall ensure that secrecy is maintained.
- (6) If the Contractor draws on expert third parties/subcontractors and/or data-processing companies – with the prior written consent of the Client – then the Contractor shall ensure that they likewise maintain secrecy.

XII Compliance Requirements

- (1) Within the business relationship with the Client, the Contractor undertakes not to offer, grant, call for or accept any advantages in the course of trade or in dealing with public officials that violate applicable anti-corruption legislation. In particular, the Contractor undertakes to observe the requirements of anti-corruption legislation, especially the US-American FCPA, the UK Bribery Act 2010 of the United Kingdom and the anti-corruption legislation of the EU,

the Federal Republic of Germany, Austria and all other national and international anti-corruption legislation to be taken into account. The Contractor also undertakes to require its suppliers and subcontractors to observe anti-corruption legislation and not to violate it.

- (2) The commitment to social responsibility, in particular with regard to working conditions, social and environmental compatibility, transparency, cooperation based on trust, and dialogue is the expression of collective core values. In this connection, application of the ZVEI* Code of Conduct is recommended.
<http://www.zvei.org/Themen/GesellschaftUndUmwelt/Seiten/ZVEI-Code-of-Conduct.aspx>
- (3) Within the business relationship with the Client, the Contractor undertakes not to conclude any agreements or concerted practice with other companies which have as their object or effect the prevention, restriction or distortion of competition in accordance with applicable antitrust rules. The Contractor also undertakes to observe competition law requirements under German, Austrian, European, English and US American law as well as under all other national and/or supranational legal regimes to be taken into account.
- (4) The Contractor assures that it shall comply with applicable legislation governing the general minimum wage and shall oblige any subcontractors its commissions to the same extent. The Contractor shall provide evidence of compliance with the aforementioned assurance on request. In the event of a breach of the aforementioned assurance, the Contractor shall indemnify the Client from claims of third parties and shall be obliged to reimburse any fines imposed on the Client in this connection.
- (5) The Contractor shall observe the relevant statutory regulations concerning the treatment of employees, environmental protection and occupational health and safety, and shall do its utmost to prevent its operations having adverse effects on people and the environment.
- (6) Where suspicion arises of a breach of the obligations arising from subclause XII (1) to (4), the Contractor shall immediately clarify any possible breaches and shall notify the Client of the clarification measures taken. If suspicions prove to be founded, then the Contractor shall inform the Client within an appropriate period of the measures it has taken within the company to prevent future breaches.
- (7) In the event of serious infringements of the law by the Contractor and in the event of breaches of the provisions in subclauses XII (1) to (4), the Client reserves the right to rescind existing contracts with the Contractor or to terminate such contracts without notice. In addition, the Contractor undertakes to indemnify the Client from any damages, including penalties and fines, as well as legal defence costs at an appropriate hourly rate.
- (8) The Contractor is obliged and guarantees that it shall observe and comply with all competition law regulations, including those under national, German, Austrian, European, UK and US American law within its business operations and declares, in particular, that all services offered indirectly or directly to third parties in relation to the Client's products, especially the determination of prices, are provided in accordance with the applicable antitrust and competition law. In the event of the establishment of an infringement by a final or legally enforceable decision of the national, supranational or international (competition) authority or a court or the European Commission in connection with the obligations to be performed under this contract, the Contractor is obliged to pay the Client lump sum damage compensation amounting to 30% of the entire turnover generated with the Client for the duration of the breach, unless the Contractor provides evidence that the Client incurred less damage. The Client may also claim for actual damage. In this case, the lump sum compensation for damages shall be offset against actual damage. The costs of internal or external examinations, including due diligence, if necessary, consultancy fees for internal and external consultants and attorneys at an appropriate fee rate, also count as damage.

XIII Storage

- (1) The Contractor shall store all documents for a period of two years – unless a longer period of storage is required by law – and shall subsequently surrender them to the Client at its request. The Client is entitled at any time, even before the expiry of these two years, to request the surrender of all documents developed and/or produced in connection with the order if the contractual relationship ends beforehand, regardless of the grounds. The Contractor shall surrender the documents to the Client within ten days of the request.
- (2) All documents, drawings, models, ideas of any kind, expertise and suchlike provided to the Contractor by the Client shall remain the property of the Client. They shall be stored with care by the Contractor, protected against damage of any kind and used for the purpose of the contract only. The Client may request their return at any time without giving any reason.

XIV Miscellaneous

- (1) German law shall apply exclusively to the business relationship between the Parties.
- (2) If the Contractor is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, then the exclusive – also international – place of jurisdiction for all disputes arising from the contractual relationship is Coesfeld, Germany. However, the Client is also entitled in all cases to bring action at the place of performance of the delivery obligation in accordance with these GTCP or an individual agreement of higher priority or at the general jurisdictional venue of the Contractor. Statutory provisions of higher priority, in particular concerning exclusive jurisdiction, remain unaffected.
- (3) If a provision of these GTCP is or becomes invalid in whole or in part, then this shall not affect the validity of the other provisions of these GTCP. The Parties are obliged to replace the invalid provision with an effective provision that most closely approximates the economic effect of the invalid provision.

■ General Terms and Conditions for Purchasing Services

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- (2) Where individual contractual provisions exist that deviate from or contradict the provisions of these GTCP, the individual contractual provisions shall take priority over those of the GTCP.
- (3) These GTCP shall apply exclusively. Any deviating, contradictory or supplementary general terms and conditions of the Contractor shall only become a part of the contract if and to the extent that the Client has expressly accepted their validity in text form. This requirement of consent shall apply in any case, even if, for example, the Client accepts deliveries from the Contractor without reservation or pays for said deliveries, being aware of the Contractor's General Terms and Conditions.
- (4) If a delivery clause is used in individual contracts, it shall refer to INCOTERMS® 2010. In this case, INCOTERMS® 2010 by the International Chamber of Commerce (ICC) in Paris shall become a part of the contract.
- (5) Legally relevant declarations and notifications that the Contractor shall make vis-à-vis the Client after conclusion of the contract (e.g. the setting of deadlines, reminders, notice of rescission) shall require the text form to take effect.

II Subject Matter of the Contract

- (1) The subject matter of the contract or the exact designation of tasks shall be described in the Contractor's written or verbal quotation.
- (2) Within the meaning of these GTCP, services are all types of services – regardless of whether they can be classified in legal terms as industrial services, services or agency businesses – that are to be provided in the context of a service order, a service contract, in the context of a consultancy contract – irrespective of the consultancy service involved – an experts' contract, an audit contract, and suchlike.
- (3) The contracting parties agree to cooperate in accordance with specific, individual contractual agreements. The Parties do not want an employment contract, nor is an employment contract substantiated. The Contractor shall provide its services independently and shall be responsible for paying taxes and social security contributions in its company. Where necessary, the Client reserves the right to conduct a procedure to determine status. The Contractor shall not be entitled to the establishment of an employment relationship with the Client.

III Formation of a Contract

- (1) The contractual relationship for services shall be formed by the Contractor submitting a quotation and the Client accepting the offer or placing a purchase order.
- (2) The Contractor shall be bound to its quotation for three months. The Client shall send the declaration of acceptance to the Contractor in writing. The time at which the Client's declaration of acceptance is sent shall be the determining factor for timely acceptance.

IV Scope of Services, Contracting Parties' Obligations

- (1) As a rule, the services to be provided by the Contractor shall include the tasks listed in accordance with the order placed by the Client.
- (2) The Contractor shall inform the Client of the result of its activity at regular intervals if the contract period is longer than one month. At the Client's request, the Contractor shall provide information on the current state of progress at any time and free of charge.
- (3) The contracting parties may agree on a timetable for service provision and a planned completion date for the installation/adaptation of software and the completion of services in the contract. If a timetable or a completion date are agreed upon for the completion of services, then these shall be binding. Any amendment shall require the prior written consent of the Client. If the Parties have not agreed on a timetable, then the Client's individual order releases / purchase orders are binding.
- (4) If the Contractor is in fact unable to perform a contractually owed service, then it shall notify the Client immediately.
- (5) The Contractor shall provide the facilities and personnel required to provide the services, unless otherwise agreed in individual contracts. The involvement of vicarious agents and subcontractors beyond the scope defined in the order shall require the prior consent of the Client in text form. The Contractor shall act as general contractor. The Contractor guarantees that it and its subcontractors, where their use is permitted, shall comply with the requirements of the German Minimum Wage Act (MiLoG) and indemnifies the Client from any damages, fines and claims of third parties.
- (6) The Parties shall endeavour, to the best of their knowledge and belief, to support the contracting party in the performance of their respective obligations by providing data, information or experience in order to ensure smooth and efficient working procedures for both Parties.
- (7) Either contracting party may apply in text form to the other Party for amendments to be made to the stipulated scope of services. Following the receipt of the application for amendment, the recipient shall examine whether and on what terms the amendment can be implemented and shall immediately notify the applicant of its approval or rejection in text form and, if necessary, justify its decision. If an application for amendment submitted by the Client

requires an extensive examination, the Contractor may, if announced beforehand, charge for the expenses incurred for examining the application if the Client insists on an examination of the application for amendment nonetheless. If necessary, the contractual adaptations of the stipulated terms and services required for the examination and/or amendment shall be specified in text form in an amendment agreement and shall be formed in accordance with these GTCP.

V Term of Contract and Termination

- (1) The contract shall commence and end at the point in time agreed upon individually in the order.
- (2) If the contract concluded between the Parties is a contract for services within the meaning of Sections 631ff. of the German Civil Code (BGB), then the Client shall have an ordinary right to terminate the contract at any time in accordance with the first sentence of Section 649 BGB. The Contractor may invoice the Client for up to 5% for services not yet provided. In the event of the applicability of Sections 631 ff. BGB, the Contractor shall only be entitled to terminate the contract in cases established by law.
- (3) If the Parties have concluded a contract of service, then the ordinary term of notice for contracts with a duration of at least one year and for open-ended contracts shall be three months for either contracting party, and one month otherwise. Notice may only be given to the end of the month. In the event of an ordinary termination, the Contractor is merely entitled to remuneration for the services provided up until the time when the notification of termination enters into force. There shall be no further claims for remuneration.
- (4) Termination without notice for good cause remains unaffected.
- (5) All notifications of termination shall be made in writing in any case. Submission by fax complies with the requirement of the written form.

VI Prices and Conditions of Payment

- (1) Unless other invoicing procedures have been agreed upon in individual contracts, services shall be invoiced at the fixed price or fee payable upon successful outcome stated in the order following completion or monthly if remuneration on a time and material basis has been agreed upon for a duration of more than three months, otherwise likewise upon completion of the order.
- (2) In the absence of a written agreement to the contrary, the price shall include all expenses, travel expenses, etc. incurred by the Contractor.
- (3) If the reimbursement of expenses is agreed upon in the order, but without stipulating an amount, in addition to requesting its remuneration the Contractor may:
 - (3.1) Request a lump sum of €20 only per quarter for postal and telecommunications expenses and stationery costs.
 - (3.2) Request travel expenses for business travel as follows:
 - (3.2.1) In the event of the use of its own motor vehicle, the Revenue Office's currently valid flat-rate for travel for every kilometre driven for payment in lieu of purchase, maintenance and operating costs as well as of the wear and tear of the motor vehicle plus regular cash expenses incurred following the use of the motor vehicle by reason of business travel, in particular parking fees.
 - (3.2.2) In the event of the use of other modes of transport, actual expenditure, where appropriate. In the case of air and rail services, only second class tickets are deemed to be appropriate.
 - (3.3) Necessary and appropriate expenses for overnight accommodation, up to €100.00 per night.
 - (3.4) Travel is deemed to be a business trip when the destination is located outside the municipality where the Client has its business premises. There shall be no reimbursement of travel expenses for trips to the Contractor.
- (4) Estimated prices for services on a time and material basis specified by the Contractor, particularly those in cost estimates, shall be binding (shall be understood as meaning the maximum expense for the service described). Quantities based on estimates shall be based on an assessment of the scope of services carried out to the Contractor's best knowledge and belief.
- (5) The validity of prices for recurring services is agreed to be from the day of the price negotiation through to 31 March of the third following year, but at least for 36 months.
- (6) The validity of the stipulated conditions shall be automatically extended for another year if neither the Contractor nor the Client notifies the need for amendment in writing at least three months before the expiry of the period of validity. Until an agreement has been reached on new conditions, the previously agreed conditions shall continue to apply. Unless otherwise agreed in individual contracts, the Contractor is entitled to end the cooperation following the expiry of the price validity agreed upon.
- (7) Value-added tax shall be invoiced at the rate applicable locally at the time of providing the service.
- (8) For invoices received up to the 15th day of the month, payments shall be effected at the end of the month and for invoices received up to the end of the month, payments shall be effected on the 15th day of the following month less 3% cash discount or within 45 days net cash. The bank's receipt of the Client's transfer order shall suffice for the payments owed to be deemed punctual.
- (9) The Client shall not owe any interest payable after due date. Statutory provisions apply to default in payment. The Client shall be liable to pay default interest amounting to five percentage points p.a. above the base lending rate.

VII Warranty and Liability

- (1) If warranty claims exist pursuant to the type of contract concerned, then statutory warranty provisions apply on the understanding that warranty claims become statute-barred after

36 months. The starting point of the period is determined by statutory regulations.

- (2) The Contractor is obliged to take out employers' liability insurance and product liability insurance with coverage totalling a lump sum of at least €200,000 for personal injury, property damage and financial loss per event resulting in personal injury, property damage and financial loss, €2,000,000 for the sum of all damages occurring within a year, for any damage that it may cause, and to maintain this insurance at least until fulfilment of its services under the relevant order, which also includes the warranty period.
- (3) The Contractor shall provide suitable proof to the Client, on request (e.g. by presenting an insurance certificate or confirmation from the insurance company) of the existence of the necessary insurance cover at any time until such time as its services arising from the relevant order have been fulfilled.
- (4) The Contractor shall immediately inform the Client in writing of any change in the insurance relationship and shall provide suitable proof as stated in the above subclause VII (3) at the Client's request.
- (5) The Contractor shall be liable to the Client for all direct and indirect damages resulting within the framework of the relevant order in accordance with the following subclause:
- (6) Under no circumstances shall the Contractor be liable in each damage event for more than €200,000 per event or more than €2,000,000 per year, in particular due to the breach of obligations arising from the relevant order, arising from strict liability and arising from liability in tort, asserted against it or its vicarious agents arising from or in connection with the execution of an order, regardless of the legal grounds. The limitations of liability in this provision shall not apply in the case of claims for injury or death or in the case of damages caused intentionally or through gross negligence, nor for damages for which the Contractor is liable in accordance with the German Product Liability Act (ProdHaftG).
- (7) Neither party shall be liable for delays or the non-fulfilment of its contractual obligations in the event of force majeure – such as war, civil disturbances, forces of nature or fire, sabotage, aviation crashes on data centres in which systems are operated on behalf of the Client, epidemics, quarantine, actions taken by the government, strikes, lock-outs or the like. Exceptions to this are payment obligations.
- (8) Any damage claims existing in accordance with this Section VII shall become statute-barred within 36 months. This shall not apply in the case of the Contractor's liability due to intent, gross negligence or in accordance with the German Product Liability Act (ProdHaftG).

VIII Secrecy

- (1) If the Client and the Contractor have concluded a separate confidentiality agreement or else individual obligations to maintain secrecy, then these shall take priority over subclause VIII (2) to (6) below.
- (2) The Contractor is obliged not to disclose any matters relating to the Client that come to the notice of the Contractor during or in the course of the execution of the contract, unless the Client releases it from this obligation in writing. The provisions relating to the protection of personal data shall be taken into account accordingly. This shall remain in effect until revoked in writing.
- (3) The obligation to maintain secrecy shall not apply where the disclosure of matters is strictly necessary to protect the legitimate interests of the Contractor.
- (4) The obligation to maintain secrecy shall continue to apply after the contractual relationship ends.
- (5) The obligation to maintain secrecy applies to the same extent to the Contractor's employees and support staff as to the Contractor itself. The Contractor shall ensure that secrecy is maintained.
- (6) If the Contractor draws on expert third parties/subcontractors and/or data-processing companies – with the prior written consent of the Client – then the Contractor shall ensure that they likewise maintain secrecy.

IX Granting of Rights of Use

- (1) Where the granting of rights of use of the Contractor's deliverables is agreed in accordance with the contract, the Contractor grants the Client all transferable rights, in particular copyrights, trademark rights and name rights to use the services provided under these GTCP, including all legal interests in ideas, drafts and designs free of rights of third parties at the time of their creation, at the latest their acquisition. This includes in particular, but not exclusively, reproduction, dissemination, exhibition, reporting, performance and screening rights, as well as online rights. The transfer includes the right of further transfer to third parties. The remuneration payable for this is already included in the remuneration the Contractor receives from the Client.
- (2) If the Contractor draws on third parties to fulfil the contract, it shall – where necessary – acquire their copyrights for the Client without any limitations of time, location, purpose or any other factor, and shall transfer them to the same extent to the Client.

X Compliance Requirements

- (1) Within the business relationship with the Client, the Contractor undertakes not to offer, grant, call for or accept any advantages in the course of trade or in dealing with public officials that violate applicable anti-corruption legislation. In particular, the Contractor undertakes to observe the requirements of anti-corruption legislation, especially the US-American FCPA, the UK Bribery Act 2010 of the United Kingdom and the anti-corruption legislation of the EU, the Federal Republic of Germany, Austria and all other national and international anti-corruption legislation to be taken into account. The Contractor also undertakes to require its suppliers and subcontractors to observe anti-corruption legislation and not to violate it.
- (2) Within the business relationship with the Client, the Contractor undertakes not to conclude any agreements or concerted practice with other companies which have as their object or effect the prevention, restriction or distortion of competition in accordance with applicable

antitrust rules. The Contractor also undertakes to observe competition law requirements under German, Austrian, European, English and US American law as well as under all other national and/or supranational legal regimes to be taken into account.

- (3) The Contractor assures that it shall comply with applicable legislation governing the general minimum wage and shall oblige any subcontractors its commissions to the same extent. The Contractor shall provide evidence of compliance with the aforementioned assurance on request. In the event of a breach of the aforementioned assurance, the Contractor shall indemnify the Client from claims of third parties and shall be obliged to reimburse any fines imposed on the Client in this connection.
- (4) The Contractor shall observe the relevant statutory regulations concerning the treatment of employees, environmental protection and occupational health and safety, and shall do its utmost to prevent its operations having adverse effects on people and the environment. For this purpose, the Contractor shall, within its possibilities, establish and further develop a management system in accordance with ISO 14001. In addition, the Contractor shall observe the principles of the UN Global Compact Initiative, which mainly concern the protection of international human rights, the abolition of forced and child labour, the elimination of discrimination in respect of employment and occupation, and responsibility for the environment. www.unglobalcompact.org
- (5) Where suspicion arises of a breach of the obligations arising from subclause X (1) to (4), the Contractor shall immediately clarify any possible breaches and shall notify the Client of the clarification measures taken. If suspicions prove to be founded, then the Contractor shall inform the Client within an appropriate period of the measures it has taken within the company to prevent future breaches.
- (6) In the event of serious infringements of the law by the Contractor and in the event of breaches of the provisions in subclauses X (1) to (4), the Client reserves the right to rescind existing contracts with the Contractor or to terminate such contracts without notice. In addition, the Contractor undertakes to indemnify the Client from any damages, including penalties and fines, as well as legal defence costs at an appropriate hourly rate.
- (7) The Contractor is obliged and guarantees that it shall observe and comply with all competition law regulations, including those under national, German, Austrian, European, UK and US American law within its business operations and declares, in particular, that all services offered indirectly or directly to third parties in relation to the Client's products, especially the determination of prices, are provided in accordance with the applicable antitrust and competition law. In the event of the establishment of an infringement by a final or legally enforceable decision of the national, supranational or international (competition) authority or a court or the European Commission in connection with the obligations to be performed under this contract, the Contractor is obliged to pay the Client lump sum damages amounting to 30% of the entire turnover generated with the Client for the duration of the breach, unless the Contractor provides evidence that the Client incurred less damage. The Client may also claim for actual damage. In this case, lump sum damages shall be offset against actual damage. The costs of internal or external examinations, including due diligence, if necessary, consultancy fees for internal and external consultants and attorneys at an appropriate fee rate, also count as damage.
- (8) The commitment to social responsibility, in particular with regard to working conditions, social and environmental compatibility, transparency, cooperation based on trust, and dialogue is the expression of collective core values. In this connection, application of the ZVEI* Code of Conduct is recommended. <http://www.zvei.org/Themen/GesellschaftUndUmwelt/Seiten/ZVEI-Code-of-Conduct.aspx>

XI Storage

- (1) The Contractor shall store all documents for a period of five years – unless a longer period of storage is required by law – and shall subsequently surrender them to the Client at its request. The Client is entitled at any time, even before the expiry of these five years, to request the surrender of all documents developed and/or produced in connection with the order if the contractual relationship ends beforehand, regardless of the grounds. The Contractor shall surrender the documents to the Client within ten days of the request.
- (2) All documents, drawings, models, ideas of any kind, expertise and suchlike provided to the Contractor by the Client shall remain the property of the Client. They shall be stored with care by the Contractor, protected against damage of any kind and used for the purpose of the contract only. The Client may request their return at any time without giving any reason.

XII Miscellaneous

- (1) German law shall apply exclusively to the business relationship between the Parties.
- (2) If the Contractor is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, then the exclusive – also international – place of jurisdiction for all disputes arising from the contractual relationship is Coesfeld, Germany. However, the Client is also entitled in all cases to bring action at the place of performance of the delivery obligation in accordance with these GTCP or an individual agreement of higher priority or at the general jurisdictional venue of the Contractor. Statutory provisions of higher priority, in particular concerning exclusive jurisdiction, remain unaffected.
- (3) If a provision of these GTCP is or becomes invalid in whole or in part, then this shall not affect the validity of the other provisions of these GTCP. The Parties are obliged to replace the invalid provision with an effective provision that most closely approximates the economic effect of the invalid provision.

■ General Terms and Conditions for Purchasing Machinery and Equipment

I General Information

- (1) The following General Terms and Conditions for Purchasing Machinery and Equipment – hereinafter referred to as GTCP – shall apply to all deliveries of machinery and machine systems, including other services required in this context, such as installation work – hereinafter referred to as deliveries and services – for which their applicability is expressly agreed upon, which are made with respect to the HUPFER® Group – hereinafter referred to as the Client – by its contracting parties – hereinafter referred to as the Contractor. Unless otherwise agreed, the version of the GTCP applicable at the time of the Client placing the purchase order, or in any case the version last communicated to the Contractor in text form, shall also apply as a framework agreement to similar future contracts without the Client having to refer to them again in each case.

The following companies belong to the HUPFER® Group:

- HUPFER® Metallwerke GmbH & Co.KG, 48653 Coesfeld GERMANY
- RÜTHER® Food-Präsentation & Ausgabetechnik GmbH, 59889 Eslohe GERMANY
- PKT Polkenberger Küchentechnik GmbH & Co. KG, 04703 Leisnig GERMANY
- TRAK Conveyor Systems Ltd, L34 9HX Liverpool GREAT BRITAIN

- (2) Where individual contractual provisions exist that deviate from or contradict the provisions of these GTCP, the individual contractual provisions shall take priority.
- (3) These GTCP shall apply exclusively. Any deviating, contradictory or supplementary general terms and conditions of the Contractor shall only become a part of the contract if and to the extent that the Client has expressly accepted their validity in text form. This requirement of consent shall apply in any case, even if, for example, the Client accepts deliveries from the Contractor without reservation or pays for said deliveries, being aware of the Contractor's General Terms and Conditions.
- (4) If a delivery clause is used in individual contracts, it shall refer to INCOTERMS® 2010. In this case, INCOTERMS® 2010 by the International Chamber of Commerce (ICC) in Paris shall become a part of the contract.
- (5) Legally relevant declarations and notifications that the Contractor shall make vis-à-vis the Client after conclusion of the contract (e.g. the setting of deadlines, reminders, notice of rescission) shall require the text form to take effect.

II Subject Matter of the Contract

- (1) The subject matter of the contract for the procurement of machinery and machine systems is:
- (1.1) The purchase order placed by the Client
 - (1.2) These GTCP
 - (1.3) The general and special (technical) provisions, directives and standards, such as TÜV, VDI, IEC/EN (International Electrical Commission/European standard), VDE, DIN, UUV, TRD, TA-Luft (Technical Instructions on Air Quality) and the EC Machinery Directive and all other applicable directives and regulations applicable to the stipulated services at the time of concluding the contract. It is incumbent upon the Contractor to procure the relevant documents.
- (2) All deliveries of materials by the Contractor shall comply with the relevant applicable European and national (German or English) laws, regulations and directives (e.g. the Machinery Directive, the REACH Regulation, the Restriction of Hazardous Substances (RoHS) Directive, the German Equipment and Product Safety Act (GPSG), the German Food and Feed Code (LFGB), etc.). If the Contractor is unable to comply with the regulations, it shall immediately notify the Client accordingly. The Client shall decide whether and to what extent the contractual relationship is to be continued. Non-compliance constitutes a breach of the Contractor's primary obligations.

III Scope of Services, Contracting Parties' Obligations

- (1) All quotations shall be consistent with the Client's enquiries. Quotations shall be provided to the Client free of charge, and are non-binding. In addition, the quotation shall contain the following information about the machinery or machine systems:
- (1.1) The quotation shall contain all information about energy consumption. In the context of these General Terms and Conditions, energy is deemed to be, in particular, electricity, Otto and diesel fuels, gas, water, compressed air, and suchlike. In particular, consumption data shall include information about the maximum connected load, the average full-load consumption and the average no-load consumption.
 - (1.2) The quotation shall contain information about any compatible external cooling and/or heating systems that may be required.
 - (1.3) The quotation shall contain information about maintenance intensity, regular maintenance intervals, usual material requirements for regular maintenance and the associated regular maintenance costs to be incurred (maintenance contract).
 - (1.4) In addition, the quotation shall also include information about the consumables required for daily operations, and quantities thereof, depending on the production material, the intervals for replacing these consumables, and the estimated costs for these particular consumables. Here, consumables are the components of the machinery or machine system required for the intended use to ensure the maintenance of functional ability in daily operations and that in daily operations typically have a shorter expected service life than the components of the machinery or machine system to be checked and possibly replaced within the maintenance intervals.
- (2) In connection with the energy management system operated by the Client, the Contractor is required to calculate economic efficiency for products that consume energy in the forms specified under subclause III (1.1) on the basis of a typical service life of ten years or on the basis of life cycle costs in accordance with VDI 2884 (Purchase, operating and maintenance of production equipment using Life Cycle Costing (LCC)). In the case of a total investment exceeding €10,000 per system, calculation based on LCC is mandatory.
- (3) Purchase orders, agreements and other declarations shall only be binding provided that the

Client has granted or confirmed them in text form. The Client's silence concerning quotations, including any quotations submitted electronically, shall not be deemed to be acceptance.

- (4) Services not included in the Client's purchase order shall not constitute Contractor's claims for payment.
- (5) Unless the place of delivery is outside Germany and unless expressly agreed otherwise, all documents, including documentation, shall be presented in German. If the place of delivery is outside Germany, all documents, including documentation, shall be presented in both German and English.
- (6) Amendments and corrections to the scope of services and to the method of execution, particularly those requested by the Client due to technical progress, shall be included in the price, where they can be carried out by the Contractor without incurring significant costs.
- (7) For the rest, amendments and additions to the ordered delivery or service, where they are connected to the assigned purpose of the contract item, shall be carried out at the Client's request under identical conditions and on the same price basis, unless a major change to the scope of the purchase order is made, making it necessary to determine a new price. This shall be executed in compliance with the principles of good faith. If such additional purchase orders or other amendments make a price reduction possible, then the Client shall be entitled to such a reduction. In the cases specified above, the delivery time shall also be agreed anew between the Parties.
- (8) Within the agreed periods of time, the Contractor shall deliver and assemble a whole machine/system and/or shall provide the other stipulated service such that it contains all parts required for problem-free operation, even if the single parts required to this end are not listed separately in the purchase order. Where not explicitly listed, on-site services for air, electricity or extraction are excluded from this. In this respect, however, the following belong to the scope of services:
- (8.1) The complete delivery of all equipment, including packaging and the disposal of packaging, as necessary.
 - (8.2) The installation and initial operation of the machinery/system, as well as the execution of trial operation in compliance with the requirements of the specifications provided by the Client, if available, as well as the requirements and framework conditions under IV of these GTCP.
 - (8.3) The organisation, supervision, provision and proper clearance of the construction/installation site in accordance with VI of these GTCP.
 - (8.4) The supply and provision of all devices, tools and operating materials, their delivery and removal free to construction/installation site, unloading and transport to the place of use, as well as their storage in accordance with V and VI of these GTCP.
 - (8.5) Theoretical and practical training of the operating and maintenance personnel with regard to the function and operation of all systems components required for independent and problem-free operation.
 - (8.6) Submission of all detailed drawings and technical documentation, such as operating manuals, circuit diagrams, spare parts lists, control documentation and layout/installation plans required in the context of the order. All documents shall be provided in German and, depending on the place of delivery, also in English.
- (9) If technically feasible, machine elements and parts shall be designed and arranged such that they can be serviced, inspected and replaced easily and quickly. If possible, the individual elements should be lubricated for life.
- (10) The Contractor warrants that it shall comply with statutory and other provisions applicable at the contractually stipulated site of operation. In particular, these include all safety and protective measures prescribed by law, regulatory bodies and employers' liability insurance associations;
- (10.1) compliance with laws and regulations concerning environmental protection.
 - (10.2) compliance with any existing DIN standards and company standards of the ordering party, giving precedence to company standards.
 - (10.3) the other general provisions, directives and engineering standards listed in subclause II (1.3) of these GTCP.
- If these are not complied with, the order shall be considered as not being fulfilled on the part of the Contractor.
- (11) The obligation in accordance with subclause III (10) includes the provision of all certification and supporting documents required at the respective installation site (e.g. CE mark, EC declaration of conformity).
- (12) In the event of any deviations to the scope of services that are necessary due to the aforementioned provisions and standards, the Contractor is obliged to notify the Client immediately and to agree upon how to proceed.
- (13) If technological advances occur during the course of the delivery time of the machinery, an advance that can offer a substantial improvement to the machinery to be delivered, then the Client shall be notified accordingly, enabling the Client to decide whether to extend the range of features analogously.
- (14) The Contractor shall provide the facilities and personnel required to provide the services, unless otherwise agreed in individual contracts. The involvement of vicarious agents and subcontractors beyond the scope defined in the order shall require the prior written consent of the Client. The Contractor shall act as general contractor.
- (15) If consent has been given to the transfer to other companies of parts of the service to be provided, then these companies shall be named at the Client's request within the meaning of Section 278 BGB.

IV Self-information

- (1) The Contractor is obliged to familiarise itself with the local conditions relevant to the service to be provided, including the localities and buildings, access routes, places for installing machinery, foundations and skeletons, climatic site factors and other equipment and objects concerned. The Contractor may not later invoke obstacles and impediments regarding

circumstances that were already recognisable at the time of concluding the contract, and shall not be entitled to additional remuneration in consideration of these circumstances.

- (2) Measurements and drawing control with regard to conformity with existing installations, equipment and buildings required to execute the order for the design stipulations and for installation and initial operation shall be taken by the Contractor at its own responsibility.
- (3) Where confirmed by the Client in text form, data requested from the Client by the Contractor for the purpose of self-information can be taken as a given.

V Delivery/Storage of Plant Components and Other Objects

- (1) Plant components and other objects required to fulfil the order shall be delivered in the course of installation in accordance with the agreement entered into.
- (2) The risk of conveyance shall be borne by the Contractor.
- (3) Packaging and transport costs shall be borne by the Contractor. The Contractor shall also bear the cost of transport insurance providing coverage for at least the purchase price of the machinery agreed between the Parties. The transport insurance shall include the unloading of the machinery and its transportation to the installation site / place of use.
- (4) The stipulated delivery times, dates and deadlines are binding. If serious circumstances for which neither the Contractor nor its subcontractors are responsible force the Contractor to exceed the delivery deadline, then it is obliged to immediately notify the Client in writing. If the Contractor fails to meet this obligation, it may not be able to invoke such circumstances at a later date. The delivery date shall be postponed to an extent reflecting the effects of the cause of delay, to be agreed upon between the Parties on a case-by-case basis.
- (5) Otherwise, changes to the delivery date shall only be permissible with the prior written consent of the Client.
- (6) If the agreed dates are not adhered to, the Client is entitled, without prejudice to further legal claims, to claim lump sum damages for delay amounting to 1% of the order value for each week of delay in delivery or part thereof from the first week of the delay in delivery onwards. However, lump sum damages may not exceed 5% of the stipulated net delivery price. The Contractor is not obliged to pay lump sum damages if the delay is not in its sphere of responsibility. The Client may also claim for actual damage. After a delay in delivery of ten weeks, the Client is entitled to rescind the purchase agreement without restriction.
- (7) Objects shall be stored at the Contractor's risk in storage areas determined by the Client. The Client is not obliged to provide covered or closed storage rooms. If the machinery/system should require a closed room and/or if the Client shall insure the machinery until it is brought to the place of destination and installed there, then this shall be agreed upon beforehand between the Parties.
- (8) In the event of the storage of materials, the Contractor shall comply with the statutory and official regulations concerning environmental protection. In particular, precautions shall be taken to prevent the leakage of stored materials such as dyes, fats, fuels, oils and chain grease or other substances that are likely to contaminate or adversely affect in any other way the soil or the water.

VI Erection Equipment and Building Site Equipment

- (1) Any erection equipment and building site equipment (e.g. equipment, tools, auxiliary machines, poles, scaffolding and such like, as well as, if necessary, site huts and residential barracks) required for the installation shall be provided by the Contractor. The Client's equipment may only be used with its permission. Such use shall take place at the Contractor's expense and risk and under the Contractor's responsibility.
- (2) The Contractor is obliged to submit an exact list of erection equipment that could disrupt the Client's internal processes. The list shall be submitted in such time that the Client is able to check the scope of disruption and adapt its plans to the circumstances.
- (3) Where permitted by law, the Client shall not be held liable for losses of or damage to erection equipment or building site equipment, unless caused by intent or gross negligence on the part of the Client.
- (4) The erection equipment or building site equipment shall be returned at the expense and under the responsibility of the Contractor.
- (5) No compensation shall be made for the wear and tear of the Contractor's erection equipment and building site equipment.

VII Acceptance

- (1) The Contractor's service requires formal acceptance. With all contracts governed by these GTCP, acceptance is the prerequisite for the Contractor's compensation demand becoming payable.
- (2) The Client shall accept the service at the place of performance as soon as the Contractor has submitted a written application following completion and once all requirements for acceptance have been met. Acceptance shall take place at a date to be agreed upon in text form between the Contractor and the Client. The Contractor's and the Client's interests shall be taken into consideration when arranging the date. Acceptance has only been given once the Client acknowledges in writing that the service is contractually compliant or if the Client fails to give such a declaration intentionally or owing to gross negligence, although it is obvious that the service has been fulfilled in compliance with the contract.
- (3) The service proves to be contractually compliant if all technical characteristics stipulated in the plant delivery contract can be fulfilled and the defined acceptance parts manufactured in the stipulated quality and cycle time.
- (4) Verbal acceptance is ruled out; initial operation shall not constitute implied acceptance.

VIII Transfer of Risk, Reservation of Proprietary Rights, and Ownership Protection

- (1) Regardless of pricing and mode of transport, the risk shall be transferred to the Client upon the acceptance of the machinery/system. At the Contractor's request, the machinery/system

can be insured against external influences such as fire, water penetration and theft until the machinery/system has been successfully approved.

- (2) The Contractor's reservation of proprietary rights shall apply only to the extent that it pertains to the Client's payment obligation regarding the relevant products upon which the Contractor reserves ownership. In particular, extended or prolonged retention of property rights is excluded.
- (3) Any reservation of proprietary rights made vis-à-vis the Client shall expire upon payment to the Contractor. The Contractor assures his ability to provide the Client with unrestricted ownership of the subject matter of the contract.
- (4) The Client reserves ownership and copyright to all purchase orders and orders submitted by the Client, and to drawings, illustrations, calculations, descriptions and other documentation provided to the Contractor. The Contractor may not make them accessible to third parties, nor publicise them or use or duplicated them, or have them used or duplicated by a third party, without the explicit consent of the Client. The Contractor shall return the documents in their entirety to the Client at the Client's request if they are no longer requisite to its usual business procedures, or should negotiations not result in the conclusion of a contract. In this case, any copies the Contractor may have made of the documents are to be destroyed; this excludes any data stored pursuant to statutory retention requirements and the storage of data for backup purposes in the context of usual backup routines.

IX Property Rights

- (1) The Contractor warrants and guarantees that the contractual use of the contract products will not infringe property rights of third parties. The Contractor is aware of the intended use of the contract products by the Client. As soon as the Contractor realises that the use of its deliveries and services results in the use of third-party (applications for) property rights, intellectual property rights or industrial property rights, it shall immediately inform the Client accordingly. In the case of infringement, the Contractor shall indemnify the Client from all claims and costs, including legal costs at an appropriate hourly rate, asserted by third parties as a result of the infringement of property rights. In the case of infringement, the Contractor is also obliged to either procure the right to the contractual use of the relevant contract products free of charge or to change the contract products to the extent that the infringement of property rights no longer exists, but that the contract products are in compliance with the contract nonetheless.
- (2) The Contractor shall provide notification of the use of (its own) published and unpublished (applications for) property rights for the subject matter of the contract.
- (3) The Contractor shall immediately report to the Client all inventions that may arise in the scope of or in the course of a contract concluded with it and/or its vicarious agents, present all the necessary documents for exploiting the invention, and provide all information about the inventions requested by the Client. The same applies accordingly to all expertise that the Contractor and/or its vicarious agents may acquire in the context of or in the course of executing the contract. The Contractor assigns to the Client the right to file applications for property rights for all inventions arising in the context of or in the course of contracts concluded with it and/or its vicarious agents involving these GTCP. The aforementioned granting and assignment of rights are covered by the stipulated prices of the contract products.

X Software

- (1) The Client is granted an unlimited, non-terminable and non-exclusive right to use the software provided by the Contractor in order to operate and maintain the system. The Client is entitled to copy the software delivered by the Contractor for internal purposes and to modify it within the warranty period. To this end, the Contractor shall provide the Client with the source codes of the software.
- (2) Standard software from third-party companies is subject to separate licence terms. The Contractor is obliged to notify the Client of the licence terms and to provide it with the licences and any necessary supporting documents. These licences shall be valid at least until the expiry of the warranty period and shall include the possibility for extension.
- (3) The Contractor shall indemnify the Client from any claims of third parties resulting from unsatisfactory licensing, incorrect evidence of licensing requirements or any similar legal ground. The right of indemnity also includes legal (defence) costs at an appropriate hourly rate. In the event of a legal dispute on the scope of (sub)licences, the Client shall be given internal authority to give instructions.

XI Customer Service, Maintenance, Spare Parts

- (1) The Contractor is obliged to provide the Client with spare parts lists, including price information, by the start of installation at the latest. Spare parts shall be easily available at short notice. In this connection, the Contractor assures that spare parts for equivalent/compatible software and hardware components will be available without restriction for the next ten years.
- (2) If the discontinuation of support/maintenance of the operating system used on the machine control results in a security risk to the Client's network, then the Contractor is obliged to update to a newer version of the operating system for the Client free of charge.
- (3) Without prejudice to warranty periods, the warranty for spare parts is 24 months from initial operation.
- (4) The scope of maintenance for the machinery shall be quantified by the Contractor. The Client expects a low-maintenance machinery/system. In the event of a disorder, the Contractor's customer service shall be accessible by telephone and, where appropriate, by modem at the customary local rates and during normal working hours. Remote maintenance should be offered as a matter of principle. The Contractor assures that customer service can be on location within 24h of the notification of any damage.

XII Prices and Conditions of Payment

- (1) Negotiated prices shall be fixed prices. In any case, it shall include everything the Contractor shall effect to fulfil its delivery and service obligations at the stipulated place of performance. In the absence of any agreement other than INCOTERMS® 2010 DAP, delivery shall be made to the place stipulated in the Client's purchase order.
- (2) A delivery note containing the date (issue and dispatch), content of the delivery, and order identification (date and number) shall be enclosed with each delivery. If the delivery note is missing completely or if the information is incomplete, then the Contractor shall not be responsible for any resulting delays in processing and payment.
- (3) The Client shall only make payment against an invoice in accordance with the provisions of value-added tax law. All payments made by the Client shall be listed in the final invoice.
- (4) Payments made by the Client do not constitute an acknowledgement of the accuracy of the invoice and/or of contractual compliance of services, but are made subject to subsequent verification.
- (5) In the absence of an agreement to the contrary, conditions of payment for machinery at a purchase price/works compensation in excess of €100,000.00 (net) shall be specified as follows:
 - (5.1) 30% at the time of placing the purchase order against an unlimited bank surety bond/bank guarantee amounting to 30% of the order value.
 - (5.2) A further 50% after preliminary acceptance at the manufacturer's works, or alternatively following delivery at the place of destination.
 - (5.3) A further 15% following initial operation and successful acceptance.
 - (5.4) A further 5% against an unlimited bank surety bond for warranty claims, amounting to 5% of the order value.
 - (5.5) Initial operation and training are excluded from these part payments, and shall be calculated according to services provided.
- (6) For invoices received up to the 15th day of the month, all payments shall be effected at the end of the month and for invoices received up to the end of the month, all payments shall be effected on the 15th day of the following month less 3% cash discount or within 45 days net cash. The bank's receipt of the Client's transfer order shall suffice for the payments owed to be deemed punctual.
- (7) The Client shall not owe any interest payable after due date. Statutory provisions apply to default in payment. The Client shall be liable to pay default interest amounting to five percentage points p.a. above the base lending rate.

XIII Warranty and Liability

- (1) Unless agreed otherwise in the following, the Contractor's warranty in the event of material defects and defects of title of the delivery or service (including incorrect and short deliveries, as well as incorrect installation, defective installation, operating or user manuals) and in the event of any other breaches of duty on the part of the Contractor, shall be based on statutory provisions.
- (2) In accordance with statutory provisions, the Contractor shall in particular be liable for deliveries and services having the agreed quality upon the transfer of risk to the Client. In any case, those product descriptions that are the subject matter of the relevant contract or are incorporated in the contract in the same way as these GTC – particularly by way of description, information in the quotation according to III (1) + (2) or reference in the Client's purchase order – shall be valid as an agreement on the quality, whereby it shall be immaterial whether the product description originates from the Client, the Contractor or the manufacturer.
- (3) The Contractor guarantees that all items delivered by it and all services provided by it conform to the latest state of the art, the relevant legal provisions and the provisions and directives of authorities, employers' liability insurance associations and trade associations, in particular concerning environmental protection and occupational health and safety. In addition, the Contractor guarantees compliance with the requirements documented in the specifications – if available.
- (4) The warranty period is 24 months. Time limits shall commence at the time of final acceptance and shall apply for the multi-shift operation of the system.
- (5) The Client's warranty claims in respect of the delivery item or services provided shall remain unaffected by the Client's approval of drawings, calculations and other technical documents, as shall any claims arising from a positive breach of contract.
- (6) The warranty claim shall consist of a choice between rectification or replacement delivery at the discretion of the Contractor in accordance with statutory service contract law in the case of contracts for services and at the discretion of the Client in the case of purchase agreements or contracts for work and materials. The Contractor shall bear all necessary expenses for the purpose of rectification or replacement delivery, including any dismantling and installation costs. If the Contractor fails to honour its obligation of supplementary performance within a reasonable period of time stipulated by the Client, then the Client may remedy the defect itself or have it remedied by a third party and request compensation for the expenses necessary for this or an appropriate advance payment from the Contractor. A deadline shall not be necessary in the event that supplementary performance by the Contractor shall be abortive or unacceptable for the Client (e.g. on account of special urgency, operating safety hazard or the imminent occurrence of disproportionate damages); the Contractor shall be notified immediately, if at all possible in advance.
- (7) For the rest, the Client shall be entitled to a reduction or to rescind the contract according to statutory provisions in the event of a material defect or defect of title. In addition, the Client shall be entitled to compensation for damages and reimbursement of expenses in accordance with statutory provisions.
- (8) The Contractor is obliged to take out employers' liability insurance and product liability insurance with coverage totalling a lump sum of at least €200,000 for personal injury, property damage and financial loss per event resulting in personal injury, property damage

- and financial loss, €2,000,000 for the sum of all damages occurring within a year, for any damage that it may cause, and to maintain this insurance at least until fulfilment of its services under the relevant order, which also includes the warranty period.
- (9) The Contractor shall provide suitable proof to the Client, on request (e.g. by presenting an insurance certificate or confirmation from the insurance company) of the existence of the necessary insurance cover at any time until such time as its services arising from the relevant order have been fulfilled.
 - (10) The Contractor shall immediately inform the Client in writing of any change in the insurance relationship and shall provide suitable proof as stated in the above subclause XI (9) at the Client's request.
 - (11) The Contractor shall be liable to the Client for all direct and indirect damages resulting within the framework of the relevant order in accordance with the following subclause:
 - (12) Under no circumstances shall the Contractor be liable in each damage event for more than €200,000 per event or more than €2,000,000 per year, in particular due to the breach of obligations arising from the relevant order, arising from strict liability and arising from liability in tort, asserted against it or its vicarious agents arising from or in connection with the execution of an order, regardless of the legal grounds. The limitations of liability in this provision shall not apply in the case of claims for injury or death or in the case of damages caused intentionally or through gross negligence, nor for damages for which the Contractor is liable in accordance with the German Product Liability Act (ProdHaftG).
 - (13) Neither party shall be liable for delays or the non-fulfilment of its contractual obligations in the event of force majeure – such as war, civil disturbances, forces of nature or fire, sabotage, aviation crashes on data centres in which systems are operated on behalf of the Client, epidemics, quarantine, actions taken by the government, strikes, lock-outs or the like. Exceptions to this are payment obligations.
 - (14) Any damage claims existing in accordance with this subclause XIII shall become statute-barred within 24 months. This shall not apply in the case of the Contractor's liability due to intent, gross negligence or in accordance with the German Product Liability Act (ProdHaftG).

XIV Secrecy

- (1) If the Client and the Contractor have concluded a separate confidentiality agreement or else individual obligations to maintain secrecy, then these shall take priority over subclause XIV (2) to (6) below.
- (2) The Contractor is obliged not to disclose any matters relating to the Client that come to the notice of the Contractor during or in the course of the execution of the contract, unless the Client releases it from this obligation in writing. The provisions relating to the protection of personal data shall be taken into account accordingly. This shall remain in effect until revoked in writing.
- (3) The obligation to maintain secrecy shall not apply where the disclosure of matters is strictly necessary to protect the legitimate interests of the Contractor.
- (4) The obligation to maintain secrecy shall continue to apply after the contractual relationship ends.
- (5) The obligation to maintain secrecy applies to the same extent to the Contractor's employees and support staff as to the Contractor itself. The Contractor shall ensure that secrecy is maintained.
- (6) If the Contractor draws on expert third parties/subcontractors and/or data-processing companies – with the prior written consent of the Client – then the Contractor shall ensure that they likewise maintain secrecy.

XV Compliance Requirements

- (1) Within the business relationship with the Client, the Contractor undertakes not to offer, grant, call for or accept any advantages in the course of trade or in dealing with public officials that violate applicable anti-corruption legislation. In particular, the Contractor undertakes to observe the requirements of anti-corruption legislation, especially the US-American FCPA, the UK Bribery Act 2010 of the United Kingdom and the anti-corruption legislation of the EU, the Federal Republic of Germany, Austria and all other national and international anti-corruption legislation to be taken into account. The Contractor also undertakes to require its suppliers and subcontractors to observe anti-corruption legislation and not to violate it.
- (2) Within the business relationship with the Client, the Contractor undertakes not to conclude any agreements or concerted practice with other companies which have as their object or effect the prevention, restriction or distortion of competition in accordance with applicable antitrust rules. The Contractor also undertakes to observe competition law requirements under German, Austrian, European, English and US American law as well as under all other national and/or supranational legal regimes to be taken into account.
- (3) The Contractor assures that it shall comply with applicable legislation governing the general minimum wage and shall oblige any subcontractors its commissions to the same extent. The Contractor shall provide evidence of compliance with the aforementioned assurance on request. In the event of a breach of the aforementioned assurance, the Contractor shall indemnify the Client from claims of third parties and shall be obliged to reimburse any fines imposed on the Client in this connection.
- (4) The Contractor shall observe the relevant statutory regulations concerning the treatment of employees, environmental protection and occupational health and safety, and shall do its utmost to prevent its operations having adverse effects on people and the environment. For this purpose, the Contractor shall, within its possibilities, establish and further develop a management system in accordance with ISO 14001. In addition, the Contractor shall observe the principles of the UN Global Compact Initiative, which mainly concern the protection of international human rights, the abolition of forced and child labour, the elimination of discrimination in respect of employment and occupation, and responsibility for the environment (www.unglobalcompact.org).
- (5) Where suspicion arises of a breach of the obligations arising from subclause XV (1) to (4),

the Contractor shall immediately clarify any possible breaches and shall notify the Client of the clarification measures taken. If suspicions prove to be founded, then the Contractor shall inform the Client within an appropriate period of the measures it has taken within the company to prevent future breaches.

- (6) In the event of serious infringements of the law by the Contractor and in the event of breaches of the provisions in subclauses XV (1) to (4), the Client reserves the right to rescind existing contracts with the Contractor or to terminate such contracts without notice. In addition, the Contractor undertakes to indemnify the Client from any damages, including penalties and fines, as well as legal defence costs at an appropriate hourly rate.
- (7) The Contractor is obliged and guarantees that it shall observe and comply with all competition law regulations, including those under national, German, Austrian, European, UK and US American law within its business operations and declares, in particular, that all services offered indirectly or directly to third parties in relation to the Client's products, especially the determination of prices, are provided in accordance with the applicable antitrust and competition law. In the event of the establishment of an infringement by a final or legally enforceable decision of the national, supranational or international (competition) authority or a court or the European Commission in connection with the obligations to be performed under this contract, the Contractor is obliged to pay the Client lump sum damage compensation amounting to 30% of the entire turnover generated with the Client for the duration of the breach, unless the Contractor provides evidence that the Client incurred less damage. The Client may also claim for actual damage. In this case, lump sum damages shall be offset against actual damage. The costs of internal or external examinations, including due diligence, if necessary, consultancy fees for internal and external consultants and attorneys at an appropriate fee rate, also count as damage.

XVI Storage

- (1) The Contractor shall store all documents for a period of five years – unless a longer period of storage is required by law – and shall subsequently surrender them to the Client at its request. The Client is entitled at any time, even before the expiry of these five years, to request the surrender of all documents developed and/or produced in connection with the order if the contractual relationship ends beforehand, regardless of the grounds. The Contractor shall surrender the documents to the Client within ten days of the request.
- (2) All documents, drawings, models, ideas of any kind, expertise and suchlike provided to the Contractor by the Client shall remain the property of the Client. They shall be stored with care by the Contractor, protected against damage of any kind and used for the purpose of the contract only. The Client may request their return at any time without giving any reason.

XVII Miscellaneous

- (1) This contract shall be governed by the laws of the Federal Republic of Germany, unless otherwise agreed. In this case, these GTCP shall also be subject to the applicable law that has been chosen.
- (2) If the Contractor is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, then the exclusive – also international – place of jurisdiction for all disputes arising from the contractual relationship is Coesfeld, Germany. However, the Client is also entitled in all cases to bring action at the place of performance of the delivery obligation in accordance with these GTCP or an individual agreement of higher priority or at the general jurisdictional venue of the Contractor. Statutory provisions of higher priority, in particular concerning exclusive jurisdiction, remain unaffected.
- (3) If a provision of these GTCP is or becomes invalid in whole or in part, then this shall not affect the validity of the other provisions of these GTCP. The Parties are obliged to replace the invalid provision with an effective provision that most closely approximates the economic effect of the invalid provision.

■ General Terms and Conditions for Purchasing Software and Related Services

I General Information

- (1) The following General Terms and Conditions for Purchasing Software and Related Services – hereinafter referred to as GTC – shall apply to all software deliveries and related services provided with respect to the HUPFER® Group – hereinafter referred to as the Client – by its contracting parties – hereinafter referred to as the Contractor. Unless otherwise agreed, the version of the GTC applicable at the time of the Client placing the purchase order, or in any case the version last communicated to the Contractor in text form, shall also apply as a framework agreement to similar future contracts without the Client having to refer to them again in each case.

The following companies belong to the HUPFER® Group:

- HUPFER® Metallwerke GmbH & Co. KG, 48653 Coesfeld GERMANY
- RÜTHER® Food-Präsentation & Ausgabetechnik GmbH, 59889 Eslohe GERMANY
- PKT Polkenberger Küchentechnik GmbH & Co. KG, 04703 Leisnig GERMANY
- TRAK Conveyor Systems Ltd, L34 9HX Liverpool GREAT BRITAIN

The GTC shall only apply if the Contractor is a company (Section 14 of the German Civil Code, BGB), a legal entity under public law or a special fund under public law.

- (2) Where individual contractual provisions exist that deviate from or contradict the provisions of these GTC, the individual contractual provisions shall take priority over those of the GTC.
- (3) These GTC shall apply exclusively. Any deviating, contradictory or supplementary general terms and conditions of the Contractor shall only become a part of the contract if and to the extent that the Client has expressly accepted their validity in text form. This requirement of consent shall apply in any case, even if, for example, the Client accepts deliveries from the Contractor without reservation or pays for said deliveries, being aware of the Contractor's General Terms and Conditions.

II Subject Matter of the Contract

- (1) The subject matter of the contract or the exact designation of tasks shall be described in the Contractor's quotation in verbal or text form.
- (2) Within the meaning of these GTC, software purchases are all types of acquisition of ownership of software, as well as services – regardless of whether they are to be classified in legal terms as industrial services, services or agency businesses – that are to be provided in the context of a purchase order, or in the context of a framework contract.
- (3) The contracting parties agree to cooperate in accordance with specific and/or individual contractual agreements. The Parties do not want an employment contract, nor is an employment contract substantiated.
- (4) Verbal agreements of whatever kind – including subsequent amendments and additions to these GTC – shall require confirmation by the Client in the text form to take effect, unless a more stringent form has been agreed. The same applies to the cancellation of this form requirement.

III Formation of a Contract

- (1) The contractual relationship for the delivery of software and services shall be formed by the Contractor submitting a quotation and the Client accepting the offer or placing a purchase order.
- (2) The Contractor shall be bound to its quotation for three months. The Client shall send the declaration of acceptance to the Contractor in text form. The time at which the Client's declaration of acceptance is sent shall be the determining factor for timely acceptance.

IV Scope of Services, Contracting Parties' Obligations

- (1) As a rule, the services to be provided by the Contractor shall include the tasks listed in accordance with the order placed by the Client.
- (2) The Contractor shall inform the Client of the result of its activity at periodic intervals if the contract period is longer than one month. At the Client's request, the Contractor shall provide information on the current state of progress at any time and free of charge.
- (3) The contracting parties may agree on a timetable for service provision and a planned completion date for the installation/adaptation of software and the completion of services in the contract. If a timetable or a completion date are agreed upon for the completion of services, then these shall be binding. Any amendment shall require the prior consent of the Client in at least text form. If the Parties have not agreed on a timetable, then the Client's individual order releases/purchase orders are binding.
- (4) If the Contractor is in fact unable to perform a contractually owed service, then it shall notify the Client immediately.
- (5) The Contractor shall provide the facilities and personnel required to provide the services, unless otherwise agreed in individual contracts. The involvement of vicarious agents and subcontractors beyond the scope defined in the order shall require the prior consent of the Client at least in text form. The Contractor shall act as general contractor.
- (6) The Parties shall endeavour, to the best of their knowledge and belief, to support the contracting party in the performance of their respective obligations by providing data, information or experience in order to ensure smooth and efficient working procedures for both Parties.
- (7) Either contracting party may apply at least in text form to the other Party for amendments to be made to the stipulated scope of services. Following the receipt of the application for amendment, the recipient shall examine whether and on what terms the amendment can be implemented and shall immediately notify the applicant of its approval or rejection at least in text form and, if necessary, justify its decision. If an application for amendment submitted by the Client requires an extensive examination, the Contractor may, if announced beforehand, charge for the expenses incurred for examining the application if the Client insists on an examination of the application for amendment nonetheless. If necessary, the contractual adaptations of the stipulated terms and services required for the examination and/or amendment shall be specified in writing in an amendment agreement and shall be formed in

accordance with these GTC.

- (8) The Contractor shall owe the Client user documentation and a system manual in German and English. The user documentation includes the adaptation of standard documentation taking into account the extensions carried out for the Client, if such extensions are included in the scope of the project. Customer-specific documentation shall also be provided in the form of online help in both German and English.
- (9) The Client is responsible for provision of a sufficiently powerful hardware environment for the software to be installed. The Contractor shall be liable for the accuracy of the information given to the Client with regard to the minimum requirements applying to the hardware to be provided for the software. In this respect, the Contractor is required to provide the Client with all relevant information without prior request.
- (10) At the beginning of a test phase, the Contractor shall ensure that the latest version of the software available at the time is installed at the Client's premises.
- (11) If the Contractor is behind schedule for the service provision, then the Client may request a contractual penalty amounting to 1% of the net price of the individual contract for each complete calendar week, but no more than 5% of the total net price. The Client is entitled to request the contractual penalty in addition to fulfillment and as a minimum amount of damages owed by the Contractor in accordance with statutory provisions; the assertion of further damage remains unaffected. If the Client accepts the belated service, it shall claim the contractual penalty with the final payment at the latest.

V Licences, Operating Times and Updates

- (1) Basic/module licences shall be offered such that they are purchased once within the HUPFER® Group and may then be used for all of the plants mentioned. This shall not apply to user licences.
- (2) Software shall be designed for continuous operation for 24 hours on 7 consecutive calendar days per week. The Parties agree that maintenance intervals are required, which may make it necessary to interrupt operations. The maintenance intervals shall be agreed upon by mutual consent.
- (3) Standard maintenance of the software includes not only updates to new release versions and the correction of errors, but also any adaptations to a new operating system of the same manufacturer that may be necessary due to a security-relevant change in operating system, such as in the event of the discontinuation of maintenance on the part of the manufacturer.

VI Term of Contract and Termination

- (1) The contract shall commence and end at the point in time agreed upon individually in the order.
- (2) If the service contract concluded between the Parties is a contract for services within the meaning of Sections 631 ff. of the German Civil Code (BGB), then the Client shall have an ordinary right to terminate the contract at any time in accordance with the first sentence of Section 649 BGB. The Contractor is entitled to a corresponding compensation demand in accordance with the second and third sentences of Section 649 BGB. In the event of the applicability of Sections 631 ff. BGB, the Contractor shall only be entitled to terminate the contract in cases established by law.
- (3) For the rest, the ordinary term of notice for contracts with a duration of at least one year and for open-ended contracts shall be three months for either contracting party. Otherwise, the ordinary term of notice is one month. Any notices of termination must be made in writing. Notice may be given to the end of the month. In the event of an ordinary termination, the Contractor is merely entitled to remuneration for the services provided up until the time when the notification of termination enters into force. There shall be no further claims for remuneration.
- (4) Termination without notice for good cause remains unaffected.

VII Prices and Conditions of Payment

- (1) Software shall be invoiced by arrangement at the price stipulated in the individual order.
- (2) A maintenance flat-rate charge shall only be paid if expressly stipulated in the individual contract. Otherwise, maintenance services are covered by the stipulated prices as services.
- (3) Unless other invoicing procedures have been agreed upon in individual contracts, services shall be invoiced at the fixed price or fee payable upon successful outcome stated in the order following completion or monthly if remuneration on a time and material basis has been agreed upon for a duration of more than three months, otherwise likewise upon completion of the order.
- (4) In the absence of a written agreement to the contrary, the price shall include all expenses, travel expenses, etc. incurred by the Contractor.
- (5) If the reimbursement of expenses is agreed upon in the order, but without stipulating an amount, in addition to requesting its remuneration the Contractor may:
- (5.1) Request a lump sum of €20 only per quarter for postal and telecommunications expenses as well as stationery costs.
- (5.2) Request travel expenses for business travel as follows:
- (5.2.1) In the event of the use of its own motor vehicle, the Revenue Office's currently valid flat-rate for travel for every kilometre driven for payment in lieu of purchase, maintenance and operating costs as well as of the wear and tear of the motor vehicle plus regular cash expenses incurred following the use of the motor vehicle by reason of business travel, in particular parking fees.
- (5.2.2) In the event of the use of other modes of transport, actual expenditure, where appropriate. In the case of air and rail services, only second class tickets are deemed to be appropriate.
- (5.3) Necessary and appropriate expenses for overnight accommodation, up to €100.00 per night.
- (5.4) Travel is deemed to be a business trip when the destination is located outside the

municipality where the Client has its business premises. There shall be no reimbursement of travel expenses for trips to the Contractor.

- (6) Estimated prices for services on a time and material basis specified by the Contractor, particularly those in cost estimates, shall be binding (shall be understood as meaning the maximum expense for the service described). Quantities based on estimates shall be based on an assessment of the scope of services carried out to the Contractor's best knowledge and belief.
- (7) The validity of prices for recurring licences and services is agreed to be from the day of the price negotiation through to 31 March of the third following year, but at least for 36 months.
- (8) The validity of the stipulated conditions shall be automatically extended for another year if neither the Contractor nor the Client notifies the need for amendment in writing at least three months before the expiry of the period of validity. Until an agreement has been reached on new conditions, the previously agreed conditions shall continue to apply. Unless otherwise agreed in individual contracts, the Contractor is entitled to end the cooperation following the expiry of the price validity agreed upon.
- (9) The settlement period for maintenance flat-rate charges runs from 1 April of the current year to 31 March of the subsequent year.
- (10) Value-added tax shall be invoiced at the rate applicable locally at the time of providing the service.
- (11) For invoices received up to the 15th day of the month, payments shall be effected at the end of the month and for invoices received up to the end of the month, payments shall be effected on the 15th day of the following month less 3% cash discount or within 45 days net cash. The bank's receipt of the Client's transfer order shall suffice for the payments owed to be deemed punctual.
- (12) The Client shall not owe any interest payable after due date. Statutory provisions apply to default in payment. The Client shall be liable to pay default interest amounting to five percentage points p.a. above the base lending rate.
- (13) The Contractor shall only have a right of retention as a result of counterclaims that have been established as final and conclusive or that are undisputed.

VIII Warranty and Liability

- (1) If warranty claims exist according to the type of contract concerned, then statutory warranty provisions apply on the understanding that warranty claims become statute-barred after 36 months, unless there is a statutory entitlement to a longer limitation period in individual cases, in particular in the case of the Contractor's liability due to intent, gross negligence or in accordance with the German Product Liability Act (ProdHaftG), or unless otherwise agreed in individual contracts. In addition, claims arising from defects of title shall not become statute-barred under any circumstances, as long as the third party may still assert its right – in particular in the absence of limitation – against the Client.
- (2) The starting point of each period is determined by statutory regulations.
- (3) The Contractor is obliged to take out employers' liability insurance and product liability insurance with coverage totalling a lump sum of at least €200,000 for personal injury, property damage and financial loss per event resulting in personal injury, property damage and financial loss, €2,000,000 for the sum of all damages occurring within a year, for any damage that it may cause, and to maintain this insurance at least until fulfilment of its services under the relevant order, which also includes the warranty period.
- (4) The Contractor shall provide suitable proof to the Client, on request (e.g. by presenting an insurance certificate or confirmation from the insurance company) of the existence of the necessary insurance cover at any time until such time as its services arising from the relevant order have been fulfilled.
- (5) The Contractor shall immediately inform the Client in writing of any change in the insurance relationship and shall provide suitable proof as stated in the above subclause VIII (4) at the Client's request. If the Contractor is unable to furnish such proof, then the Client has an extraordinary right to terminate the contract.
- (6) The Contractor shall be liable to the Client for all direct and indirect damages resulting within the framework of the relevant order.
- (7) Neither party shall be liable for delays or the non-fulfilment of its contractual obligations in the event of force majeure – such as war, civil disturbances, forces of nature or fire, sabotage, aviation crashes on data centres in which systems are operated on behalf of the Client, epidemics, quarantine, actions taken by the government, strikes, lock-outs or the like. Exceptions to this are payment obligations.

IX Secrecy

- (1) If the Client and the Contractor have concluded a separate confidentiality agreement or else individual obligations to maintain secrecy, then these shall take priority over subclause IX (2) to (6) below.
- (2) The Contractor is obliged not to disclose any matters relating to the Client that come to the notice of the Contractor during or in the course of the execution of the contract, unless the Client releases it from this obligation in writing. The provisions relating to the protection of personal data shall be taken into account accordingly. This shall remain in effect until revoked in writing.
- (3) The obligation to maintain secrecy shall not apply where the disclosure of matters is strictly necessary to protect the legitimate interests of the Contractor.
- (4) The obligation to maintain secrecy shall continue to apply after the contractual relationship ends.
- (5) The obligation to maintain secrecy applies to the same extent to the Contractor's employees and support staff as to the Contractor itself. The Contractor shall ensure that secrecy is maintained.
- (6) If the Contractor draws on expert third parties/subcontractors and/or data-processing companies – with the prior written consent of the Client – then the Contractor shall ensure

that they likewise maintain secrecy.

X Granting of Rights of Use

- (1) Where the granting of rights of use of the Contractor's deliverables is agreed in accordance with the contract, the Contractor grants the Client all transferable rights, in particular copyrights, trademark rights and name rights to use the services provided under these GTCP, including all legal interests in ideas, drafts and designs free of rights of third parties at the time of their creation, at the latest their acquisition. This includes in particular, but not exclusively, reproduction, dissemination, exhibition, reporting, performance and screening rights, as well as online rights. The transfer includes the right of further transfer to third parties.
- (2) If the Contractor draws on third parties to fulfil the contract, it shall – where necessary – acquire their copyrights for the Client without any limitations of time, location, purpose or any other factor, and shall transfer them to the same extent to the Client.
- (3) The Parties shall notify each other immediately in writing if they intend to assert claims of third parties due to the infringement of property rights.
- (4) The Contractor shall fully indemnify the Client from the assertion of all costs, fines and fees incurred by the Client in this connection in accordance with subclause X (1). These costs also include legal costs based on an appropriate fee. The Parties shall consult each other with regard to the procedure. The Contractor shall have internal authority to give instructions. The Client undertakes not to make any acknowledgements or reach any settlements if the Contractor has not given its consent to them in text form. Where the claimant reimburses the Client for costs, these shall be returned to the Contractor.
- (5) The Contractor shall, at its sole discretion, modify or replace the delivery and/or service such that it no longer infringes the rights of third parties, but continues to comply with the stipulated quality, or procure the Client's right to continue using the product by concluding an agreement with the right holder or – as a last resort – withdraw the product. The Client shall be paid damages in full for the procurement/implementation of the new comparable software. Such costs shall also include removal costs as well as any operational damage occurring at the Client's plant. The Contractor is not entitled to any remuneration for the use of the withdrawn software. In the event of withdrawal, the Contractor shall offer the Client an alternative solution – to the extent technically feasible and economically reasonable.
- (6) The above claims on the part of the Client shall not exist:
 - (6.1) If and to the extent that the Client is responsible for the infringement of property rights.
 - (6.2) If and to the extent that the infringement of property rights is due to the fact that the service was amended by the Client or used in combination with products that were not approved by the Contractor.
 - (6.3) If and to the extent that the infringement of property rights is due to the fact that the service was used by the Client in a manner that was not compliant with the contract.
- (7) Following the successful go-live of the software and prior written authorisation by the Client, the Contractor is entitled to include the relevant company of the HUPFER® Group in its list of references and, where applicable, to publish a reference report.

XI Compliance Requirements

- (1) Within the business relationship with the Client, the Contractor undertakes not to offer, grant, call for or accept any advantages in the course of trade or in dealing with public officials that violate applicable anti-corruption legislation. In particular, the Contractor undertakes to observe the requirements of anti-corruption legislation, especially the US-American FCPA, the UK Bribery Act 2010 of the United Kingdom and the anti-corruption legislation of the EU, the Federal Republic of Germany, Austria and all other national and international anti-corruption legislation to be taken into account. The Contractor also undertakes to require its suppliers and subcontractors to observe anti-corruption legislation and not to violate it.
- (2) Within the business relationship with the Client, the Contractor undertakes not to conclude any agreements or concerted practice with other companies which have as their object or effect the prevention, restriction or distortion of competition in accordance with applicable antitrust rules. The Contractor also undertakes to observe competition law requirements under German, Austrian, European, English and US American law as well as under all other national and/or supranational legal regimes to be taken into account.
- (3) The Contractor assures that it shall comply with applicable legislation governing the general minimum wage and shall oblige any subcontractors to the same extent. The Contractor shall provide evidence of compliance with the aforementioned assurance on request. In the event of a breach of the aforementioned assurance, the Contractor shall indemnify the Client from claims of third parties and shall be obliged to reimburse any fines imposed on the Client in this connection.
- (4) The Contractor shall observe the relevant statutory regulations concerning the treatment of employees, environmental protection and occupational health and safety, and shall do its utmost to prevent its operations having adverse effects on people and the environment. For this purpose, the Contractor shall, within its possibilities, establish and further develop a management system in accordance with ISO 14001. In addition, the Contractor shall observe the principles of the UN Global Compact Initiative, which mainly concern the protection of international human rights, the abolition of forced and child labour, the elimination of discrimination in respect of employment and occupation, and responsibility for the environment. (www.unglobalcompact.org).
- (5) Where suspicion arises of a breach of the obligations arising from subclause XI (1) to (4), the Contractor shall immediately clarify any possible breaches and shall notify the Client of the clarification measures taken. If suspicions prove to be founded, then the Contractor shall inform the Client within an appropriate period of the measures it has taken within the company to prevent future breaches.
- (6) In the event of serious infringements of the law by the Contractor and in the event of breaches of the provisions in subclauses XI (1) to (4), the Client reserves the right to rescind

existing contracts with the Contractor or to terminate such contracts without notice. In addition, the Contractor undertakes to indemnify the Client from any damages, including penalties and fines, as well as legal defence costs at an appropriate hourly rate.

- (7) The Contractor is obliged and guarantees that it shall observe and comply with all applicable competition law regulations, including those under national, German, European, UK and US American law within its business operations and declares, in particular, that all services offered indirectly or directly to third parties in relation to the Client's products, especially the determination of prices, are provided in accordance with the applicable antitrust and competition law. In the event of the establishment of an infringement by a final or legally enforceable decision of the national, supranational or international (competition) authority or a court or the European Commission in connection with the obligations to be performed under this contract, the Contractor is obliged to pay the Client lump sum damages amounting to 30% of the entire turnover generated with the Client for the duration of the breach, unless the Contractor provides evidence that the Client incurred less damage. The Client may also claim for actual damage. In this case, lump sum damages shall be offset against actual damage. The costs of internal or external examinations, including due diligence, if necessary, consultancy fees for internal and external consultants and attorneys at an appropriate fee rate, also count as damage.
- (8) The commitment to social responsibility, in particular with regard to working conditions, social and environmental compatibility, transparency, cooperation based on trust, and dialogue is the expression of collective core values. In this connection, application of the ZVEI* Code of Conduct is recommended.
<http://www.zvei.org/Themen/GesellschaftUndUmwelt/Seiten/ZVEI-Code-of-Conduct.aspx>

XII Storage

- (1) The Contractor shall store all documents for a period of five years – unless a longer period of storage is required by law – and shall subsequently surrender them to the Client at its request. The Client is entitled at any time, even before the expiry of these five years, to request the surrender of all documents developed and/or produced in connection with the order if the contractual relationship ends beforehand, regardless of the grounds. The Contractor shall surrender the documents to the Client within ten days of the request.
- (2) All documents, drawings, models, ideas of any kind, expertise and suchlike provided to the Contractor by the Client shall remain the property of the Client. The Client shall expressly retain copyright and rights of use. They shall be stored with care by the Contractor, protected against damage of any kind and used for the purpose of the contract only. The Client may request their return at any time without giving any reason. After completion of the purpose of the contract, the Contractor shall return them to the Client without having to be asked.

XIII Miscellaneous

- (1) This contract shall be governed by the laws of the Federal Republic of Germany, unless otherwise agreed. In this case, these GTCP shall also be subject to the applicable law that has been chosen.
- (2) If the Contractor is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, then the exclusive – also international – place of jurisdiction for all disputes arising from the contractual relationship is Coesfeld, Germany. However, the Client is also entitled in all cases to bring action at the place of performance of the delivery obligation in accordance with these GTCP or an individual agreement of higher priority or at the general jurisdictional venue of the Contractor. Statutory provisions of higher priority, in particular concerning exclusive jurisdiction, remain unaffected.
- (3) If a provision of these GTCP is or becomes invalid in whole or in part, then this shall not affect the validity of the other provisions of these GTCP. The Parties are obliged to replace the invalid provision with an effective provision that most closely approximates the economic effect of the invalid provision.