

Terms and Conditions (15.08.2022)

The following annexes shall be attached to the final contract and shall form an integral part of the Contract between the parties:

Annex 1 – Scope of supply and Technical Specifications

Annex 2 – General Service Conditions

Annex 3 – Warranty Terms

1. General

- (1) General terms and conditions of the Parties shall not apply.
- (2) Any variation of the Conditions being stipulated in this contract shall have no effect unless expressly agreed in writing by the Parties.
- (3) Supplier enters into Purchase Contract subject to the granting of an export license if an export license is required under applicable law. Supplier will use his reasonable efforts to obtain such export license. Upon request, Customer shall make available all necessary information and documentation, such as end user certificate.
- (4) The Contract shall become effective upon order confirmation in writing (via mail, e-mail, or telefax) by Supplier.
- (5) Any legal declarations by the Parties after signing of the Contract (e.g. setting of deadlines, change request, notification of defects, withdraw from the contract, adjustment of purchase price) require written form.

2. Specifications

- (1) The final scope of supply and technical specifications of the Products are set forth in the related annexes and shall form an integral part of the Contract.
- (2) All specifications, drawings and particulars of weights and dimensions and other information submitted relating to Products with Supplier's quotation or bid are approximate only, unless accuracy is required by the use presupposed under the Contract.
- (3) Supplier reserves the right to make any changes in the specifications of Products which are required to conform with any applicable legislation and which are reasonable upon Customer, that do not materially affect the quality of the Products.

3. Basis of price

The quoted prices and sums due to Supplier shall be net prices in Euro and shall be exclusive of any value added tax or similar sales tax, any import tax or other tax payable in the country of Customer and of any costs for mechanical and/or electrical installations and any costs for starting up or any costs for authority acceptance and all costs or charges in relation to storage, all of which amounts Customer shall pay in addition to the quoted price when it is due to pay for the Products and Services supplied.

4. Payment terms

- (1) Payment schedule:
100% net cash of the total contract price by telegraphic transfer remittance (hereinafter „**TT remittance**“) at the date of the Contract becoming

effective pursuant to 1. (4), unless otherwise stated in the quotation.

- (2) All payments shall be made in the quoted currency by TT remittance, the costs of which shall be borne by Customer, into the designated account of Supplier.
- (3) No payments have to be made by Supplier to any Third Party.

5. Country of Origin

Products supplied under the Contract shall have their origin in the Federal Republic of Germany or another country of the European Union. Products are meant to have their origin in the Federal Republic of Germany and/or another country of the European Union, when, through manufacturing, processing, or assembly of components, a commercially recognized new product results.

6. Change Request

In case the Customer is changing the specifications of the system after the signing of the Contract, i.e. during the execution of the order, the following process shall apply:

- (1) Customer submits a change request in writing to Supplier.
- (2) Supplier submits a quote for the change order including the information related to the new delivery time.
- (3) Customer places a binding change order in writing.
- (4) Supplier confirms the binding change order including the new delivery time.
- (5) At the date of the change order confirmation by Supplier, Customer shall pay the price for such change order 100% net cash by TT remittance.
- (6) Based on the payment of the change order, Supplier will start the execution of the order change.
- (7) If Customer does not place a binding change order within four weeks of issuance of quotation by Supplier, Supplier will deliver the system with the specifications as agreed in writing before the change order request and Supplier shall have the right to extend the delivery time by four weeks.

7. Delivery terms

- (1) EXW Hamburg, interpreted in accordance with Incoterms 2010, unless otherwise stated in the quotation.
- (2) Delivery date as stated in the quotation.
- (3) The date of the Bill of Lading / Waybill shall be considered as the actual date of delivery of the Goods.
- (4) The delivery time may be extended in case of changes to scope of supply and/or specifications.
- (5) The delivery time may be extended in case of free-issued items not arriving in time.
- (6) Supplier shall have the right to select freight forwarder, and select insurance carrier and coverage at its sole discretion.
- (7) If the customer is not picking up the goods in a reasonable period of time the Supplier shall be entitled on behalf of Customer to put the goods

into storage at Customer's expense and risk. The delivery to storage shall constitute the pick-up by the Customer. All other rights and claims of Supplier resulting from a delay by Customer shall remain unaffected.

- (8) Any opening of packages is only permitted by Customer personnel who are sufficiently trained, and following strictly unpacking and installation instructions provided by Supplier. If Products are mishandled, or if any Third Party does not comply with this regulation, any warranty by the Supplier shall expire with immediate effect.

8. Free-Issued Items (OMO, OL-MDL's)

If the end-user desires to free issue critical components such as slave lasers, optical-master-oscillators (OMO), out-of-loop delay lines (OL-MDL), the following regulations shall apply:

- (1) Purchaser and/or End-user shall be fully responsible for the purchase of the free issued item(s).
- (2) If the free issued item(s) are needed for system integration at Supplier's site, installation, commissioning and/or start-up with regards to e.g. testing of the entire system or FAT, Purchaser and/or End-user shall bear all costs, including but not limited to, packaging and transport from the manufacturer of such free issued item(s) to and from Supplier's site, all insurance(s) needed, documentation fees, storage and any other fees charged by third parties, security deposits, customs clearance entering and leaving Supplier's country, all costs related to customs clearance, all tax-related costs, and any kind of support that is needed to get the free issued item(s) up and running at Supplier's site.
- (3) It is clearly understood that Supplier shall not be involved in any of the above-mentioned transactions and/or payments and/or charges.
- (4) Purchaser and/or End-user shall be fully responsible that the scope of supply as well as the specifications prescribed by Supplier are met by the manufacturer of the free issued item(s). Any kind of claim must be handled by Purchaser and/or End-user without involvement of Supplier.
- (5) All warranty related issues shall be handled directly by Purchaser and/or End-user without involvement by Supplier.
- (6) The free-issued item OMO shall arrive at Supplier's factory in Hamburg, Germany no later than 3 months after Purchase Contract becomes effective, and shall remain at Supplier's site until FAT or shipment of the order. If availability of the free-issued OMO is changed, Supplier reserves the right to extend the delivery time by the same amount of time that the free-issued laser is unavailable, and request outstanding payments to be made with immediate effect.
- (7) The dimensions, weight, fiber and cable routing, powering requirements of the free-issued item OL-MDL shall be finalized no later than 2 months after Purchase Contract becomes effective. If such information is not available, Supplier reserves the

right to extend delivery time by the same amount of time that the decision is delayed, and request outstanding payments to be made with immediate effect.

- (8) All technical questions should be answered and the layout of the product as well as the final technical design review (TDR), if needed, must be finalized and approved by customer by 2 weeks ARO. If such approval is not granted, Supplier reserves the right to extend delivery time by the same amount of time that the decision is delayed and request outstanding payments to be made with immediate effect.

9. Transfer of Title and Risk:

Legal title to the Products (excluding software) shall only pass to Customer upon receipt by Supplier of all payments due from Customer to Supplier under the Contract.

10. Warranty:

The warranty is offered to the Customer only and is set forth in **Annex - "Warranty"** of the Contract and shall form an integral part of the Contract. Customer shall not be entitled to any further rights or remedies apart from the warranty set forth in such Annex.

11. Intellectual Property:

- (1) No title to any of Supplier's intellectual property or to intellectual property of third parties in the Products supplied and Services provided is transferred to Customer under the Contract. No designs, drawings or goods supplied by Supplier shall be reproduced, disclosed, copied or reverse engineered without Supplier's prior written permission.
- (2) Any software or firmware incorporated into Products is supplied under license only, and title thereto is retained by Supplier. Supplier grants to Customer a license to use such software or firmware only in connection with those Products and only to the extent required to use the Products for their intended purposes at the Project Site.
- (3) The Customer is held responsible to keep all information supplied by Supplier confidential and must not disclose to any Third Party without prior written approval by Supplier.

12. Limitation of liability and exclusion of indirect and consequential damages:

- (1) Supplier shall not in any circumstances be liable for any loss of use, production, products, profit, business, contracts, revenues or anticipated savings, any increase in operating costs, any product recall or corrective action costs or any other financial or economic loss or any indirect or consequential loss or damage whatsoever whether suffered by Customer or by any Third Party.
- (2) The total liability of Supplier for all other claims of any kind for any loss or damage resulting from its performances or lack of performance under the Purchase Contract shall not in any event exceed an amount of 50,000EUR (fifty-thousand Euro).

- (3) The Customer shall give immediate notice of all damages and losses which are to be covered by the Supplier.
- (4) Payments related to damages and losses are only due to the Customer. Any Third Party is expressly not entitled to any such payments.
- (5) For any advice, consultation or other activities conducted by Supplier free of charge and which are not part of its obligations under the Contract, Supplier shall only be liable in the case of gross negligence and intent, except in case of culpable injury to life, body and health.
- (6) The liability of the Supplier for gross negligence as well as negligent breaches of essential contractual obligations shall be limited to the foreseeable damage which is typical for this type of contract but shall not in any event exceed an amount equal to the net price of Products. Consequential damages and consequential losses are expressly excluded.

13. Export Restrictions

Customer acknowledges that the Products may be subject to export restrictions of Germany, the European Union and/or the United States of America and undertakes to comply with all such applicable laws and regulations.

14. Miscellaneous

Should any provision of this Contract be or become invalid or unenforceable, the validity or enforceability of the other

provisions of this Contract shall not be affected. The invalid or unenforceable provision shall be deemed to be substituted by a suitable and equitable provision which, to the extent legally permissible, comes as close as possible to the economic intent and purpose of the invalid or unenforceable provision.

15. Applicable Law, Venue

- (1) This Contract shall be governed by German law. The United Nations Convention on Contracts for the International Sale of Products shall not apply.
- (2) If any dispute arising out of or in connection with the Contract would remain unsettled after a "good faith" attempt to reach a negotiated resolution, all disputes between Supplier and Customer arising out of or in connection with the Contract, including any question regarding the validity, existence or termination of the Contract and/or this arbitration clause, shall be referred to and finally resolved in Hamburg, Germany conducted in the English language by a sole arbitrator pursuant to the Arbitration Rules of the German Institution of Arbitration (DIS) which are deemed to be incorporated by reference into this clause; or at the sole option of Supplier, by proceedings in any court of competent jurisdiction. Customer irrevocably waives any objection to, and agrees to submit to, the jurisdiction of any such other courts. This sub clause is for the benefit of Supplier alone.