TERMS AND CONDITIONS FOR SALES AND DELIVERY OF GOODS AND SERVICES BY GETZNER WERKSTOFFE GMBH

§ 1 SCOPE OF APPLICATION

(1) All supplies of our goods and the provision of our services (e.g. calculations, measurements, the selection of materials, consultations/recommendations, installations (including graphic representations, planning etc), briefing on and acceptance of the supplied products) shall be governed by the following terms and conditions ("Terms"). These Terms are applicable also to future transactions, even if these were not explicitly incorporated by reference as part of the contract in a particular case. By acceptance or execution of our offer, the customer is deemed to have unrestrictedly acknowledged these Terms. Oral side agreements and deviations from our Terms shall be valid only if we have confirmed these in writing. If, in individual cases, expressly deviating agreements are made in writing (including by e-mail), such deviations shall apply exclusively to the specific transaction agreed upon.
(2) Terms and conditions of the customer or of third parties do not apply, unless we have explicitly approved these in writing. Even our reference to a letter containing or referring to the terms and conditions of the customer or of a third party shall not be construed as our consent to the application of those terms and conditions.

§ 2 OFFER, ACCEPTANCE, ACKNOWLEDGEMENT OF ORDER AND NO ASSIGNMENT

(1) Our offers are non-binding and subject to change. We accept orders by way of a written acknowledgement of order, which can be sent to the customer by post, fax or e-mail. We may refuse to accept an order without giving reasons. Any liability claims on this ground are explicitly excluded.
(2) Amendments and modifications of the agreements reached and of these Terms are valid only if made in writing.
(3) Quality, properties, form, design and functionality of samples may be different from the supplied goods/provided services.
(4) The customer may not assign its claim to the supply of goods or the provision of the subject-matter of the contract to others.

§ 3 PRICES

(1) Unless otherwise agreed, our prices on the date of the conclusion of the contract shall be net prices in Euros ex works, including customary packaging. The customer shall pay for special packaging (e.g. unit package, packing for sea shipment).
(2) If goods are supplied/services provided at a later point in time for reasons within the customer's sphere, we shall be entitled to compensate any resulting higher costs, taking into account the customary industry price level,, notwithstanding our right to compensation of any other damage we have suffered.
(3) The customer shall pay all taxes, customs duties and other levies payable by the customer when taking over the supplies/services, unless we have accepted an explicit obligation in writing to make payment.

§ 4 PLACE OF PERFORMANCE, DELIVERY, LATE DELIVERY, DEFAULT IN ACCEPTANCE, ACCEPTANCE

(1) Place of performance shall be our domicile at Bürs, even if it was agreed to supply the goods/provide the services elsewhere.
(2) Unless otherwise agreed, goods are dispatched and transported at the customer's expense and risk. Any risk will transfer to the customer as soon as the consignment is offered to the customer at the place of performance. If the customer does not accept the consignment, the customer shall be deemed to be in default of accepting such consignment. Furthermore, our consignment shall be deemed to have been made and we are entitled to store the goods at the customer's expense. The resulting storage costs shall be refunded to us without delay. The risk for services shall transfer to the customer on the day the services have been fully rendered, but in any case upon payment of the compensation, the use of services for their intended purpose or their use for any other follow-up work.
(3) We are entitled to make partial deliveries or provide partial services only if these are of interest to the customer given the purpose of the contract and if the customer does not incur any substantial extra efforts therefrom. All contractual provisions are also applicable to partial deliveries and partial services.
(4) If we are unable to make supplies or provide services at the agreed date due to unforeseeable temporary circumstances beyond our control (force majeure, delays in supplies from sub-suppliers, shortage of raw materials, substantial breakdown of machinery etc.), we will be entitled to make supplies or provide services at the next date which is possible for us, provided that the customer can reasonably be expected to accept the supplies/services at that date. To the extent that the customer cannot reasonably be expected to accept the supplies or services due to the delay caused by temporary circumstances, the customer may withdraw from the contract by giving written notice without delay. Should these events make it

considerably more difficult or impossible for us to supply the goods or provide the services and if the impediment is not only temporary, we may withdraw from the contract.
(5) The non-grant of an import license to the customer will not release the customer from its performance obligation.
(6) The time for the supply of goods and/or provision of services is based on the agreements between the parties. To comply with this deadline it is necessary that all commercial and technical issues are clarified between the parties and that the customer has fulfilled all its obligations, e.g. submission of the necessary public permit or approval and having made an advance payment. If this is not the case or in case of subsequent changes of any kind, the time for delivery will be reasonably extended. On request, we will inform the customer of the new delivery date or issue a new acknowledgment of order.
(7) Unless otherwise agreed, the deadline for delivery is complied with if the goods or services have left our factory or we have notified the customer that the goods are ready for dispatch until the expiry of the deadline. This applies also in case acceptance is necessary.
(8) If acceptance is necessary, the delivered goods/services shall be deemed to have been accepted if the consignment/service is complete and we have asked the customer to accept the goods/services in reliance on the provisions of this Section 4 (8), and if (i) 12 business days have lapsed since the delivery of the goods/service, (ii) the customer has started to use the purchased item and, in this event, 6 business days have lapsed since the delivery of the goods/service or if (iii) the customer has failed to accept the goods/services within these deadlines for any reason other than a defect notified to us which makes it impossible to use or substantially affects the use of the goods/service.

§ 5 WARRANTY

(1) We warrant that the subject-matter of the contract (supply of goods or service) corresponds to our product and service specifications. By inspecting these product and service specifications, the customer shall inform itself of our products and services and their properties, including but not limited to manufacturing tolerances, materials and the properties and functionality thereof. Moreover, the customer is, as a general rule, solely responsible for the design and the suitability of the products for the intended purpose.
(2) A condition for any warranty rights is the proper fulfilment by the customer of all obligations of inspection and the duty to notify defects in accordance with Section 377 of the Commercial Code (UGB). Unless the customer notifies us in writing of defects within ten business days after delivery of the goods, the customer shall be deemed to have approved the delivered goods in respect of apparent defects or other defects that a prompt and carful inspection would have revealed. As for other defects, the deliverables shall be deemed to have been approved by the customer, unless we have received a notification of defects within three business days from the point in time at which the defect was discovered; should the customer have discovered the defect earlier during normal use, that earlier date shall be relevant for the commencement of the notification period. It is always the customer's responsibility to prove the defectiveness of the delivered goods/service. The legal presumption according to Section 924 of the Civil Code (ABGB) is explicitly excluded.
(3) Incriminated goods may be returned only with our explicit prior consent at the customer's cost and risk. If goods are returned without our prior consent, we may refuse to accept the returned goods and send them back at the customer's costs.
(4) In case of defects in goods, the customer is entitled to subsequent performance in the form of rectification of the defects or delivery of a defect-free item. If subsequent performance is unsuccessful, the customer may reduce the purchase price or withdraw from the contract.
(5) We do not provide any warranty in particular in the following cases: inexpedient or improper use, improper transport or storage, defective assembly or commissioning by the customer or third parties, regular wear and tear, wear parts, incorrect or negligent treatment, improper maintenance, unsuitable operating materials, defective construction work, unsuitable foundation, chemical, electro-chemical or electric impact or use of unsuitable building materials.
(6) Furthermore, we do not provide any warranty if the customer changes or procures changes by third parties of the delivered goods without our consent, making the rectification of defects impossible or unreasonably difficult. In any event, any extra costs of having to rectify defects due to changes shall be borne by the customer.
(7) Should the customer become aware – in whatever way – of circumstances, which would make the delivered product defective within the meaning of the Product Liability Act, the customer shall notify us without delay.

§ 6 LIABILITY

(1) Outside the scope of the Product Liability Act, we are liable only in case of intent and gross negligence. We are not liable for property damage and financial loss caused by slight negligence.
(2) Furthermore, to the extent permitted by law, we are liable only for foreseeable typical damage up to the amount of the order value. We are therefore not liable for consequential damage, including but not limited to lost profit or costs of reclaiming the goods.
3) We are not liable for any defect that was caused by the supplies having been fitted into the products of the customer or those of his customers. Furthermore, we are not liable in case the supplied goods were improperly produced, stored or supplied based on the customer's instructions (e.g. design details, specifications, plans, models or storage or transport regulations).
(4) For the avoidance of doubt, our products are neither intended for nor tested or fit for use in passenger vehicles and/or in aviation (hereinafter collectively "Specialised

Applications"). Except with our express written consent, it is strictly prohibited to use our products for Specialised Applications, and we will not assume any risk in this context. The exclusive risk and responsibility for using our products for Specialised Applications lies with our customer who will fully hold harmless and indemnify us in this respect. If we agree with a Specialised Application in writing, Section 6 (2) will apply by analogy, provided, however, that our liability for the compensation of damage shall not exceed EUR 500,000, to the extent permitted by law.
(5) This shall not affect our liability for intent or fraudulent conduct, culpable injury to life, body or health in connection with expressly guaranteed characteristics, as well as liability according to the Product Liability Act.
(6) If we are in default and the customer suffers any damage due to that default, the customer may demand a flat-rate compensation equal to 3% of the value of that part of the entire delivery and/or entire service which the customer cannot timely or contractually use due to the delay. Should the customer allow us to provide the services within a reasonable deadline – in consideration of the legal exemptions – and if we do not meet the deadline, the customer may withdraw from the contract in accordance with the legal provisions.
(7) We do not assume any liability, unless the preceding paragraphs explicitly provide otherwise.

§ 7 RESERVATION OF PROPRIETARY RIGHTS

(1) We retain the proprietary rights to the delivered goods until such time vas the customer has fulfilled all its obligations, including but not limited to the payment of the full purchase price (goods being under reservation of proprietary rights). We may reclaim the goods if the customer infringes the contract and is in default with payment.
(2) We may insure the delivered goods at the customer's cost and expense against theft, damage caused by breakage, fire, water as well as any other damage, unless the customer has demonstrably purchased such insurance.
(3) Unless the customer has paid the purchase price in full, the customer may not resell, pledge or assign the delivered goods as security without prior written consent. The customer shall notify us without delay in writing if the goods are pledged, seized or otherwise disposed of by third parties.
(4) If the customer resells goods being under reservation of proprietary rights, customer already assigns to us all claims arising from such resale or any other realization up to the amount of our purchase price (including VAT). The customer undertakes to record the assignment in its books. Until further notice, the customer may collect these assigned claims in its own name but for our account. The customer is obliged to reserve for itself the proprietary rights to the goods even if goods being under reservation of proprietary rights are resold on credit.
(5) The delivered goods are always installed or processed by the customer on our behalf. Where the delivered goods are installed or processed together with other items not owned by us, we will become the joint owner of the new item in proportion of the value of the delivered goods compared to the other items. Moreover, the item created via processing is governed by the same provisions as the goods delivered under reservation of proprietary rights.
(6) The customer assigns to us its insurance benefits or claims for compensation of damage arising from the destruction of or damage to the goods being under reservation of proprietary rights.
(7) Goods being under reservation of proprietary rights may not be pledged or assigned for security.
(8) If we assert our proprietary rights by reclaiming the goods, we may dispose of the goods by private sale or auction. The goods are reclaimed at the generated proceeds, yet not exceeding the originally agreed price. We reserve the right to claim compensation for damage.

§ 8 PAYMENT, DEFAULT, RETENTION

(1) Place of performance for payments shall be our registered office at Bürs.
(2) The purchase price is payable without any deduction, free and clear of costs and charges, within 30 days of the invoice date.
(3) If the purchase price is not paid when due, we will be entitled (the claims in the following five sub-items can be enforced individually or in connection with each other):

- to postpone the fulfilment of our obligations until the arrears were paid,
- to reasonably extend the time for the delivery of goods or the provision of services,
- to demand immediate payment of the entire outstanding purchase price,
- to charge all dunning and collection expenses as well as legal default interest or
- to withdraw from the contract if the customer does not make payment

within a reasonable grace period; even if the contractual performance is severable, we may withdraw from the contract in its entirety and lodge claims for the compensation of lost profit.
(4) If execution proceedings are conducted in respect of the customer's assets or if there are concrete circumstances giving rise to serious doubts about the customer's ability to pay, we are entitled:

- to demand immediate payment of all receivables, regardless of due dates,
- to withhold all deliveries and services under still non-performed contracts and to provide these only against advance payment. Should the customer refuse to pay in advance, we may withdraw from the contract after granting a reasonable grace period and lodge claims for the compensation of lost profit.

(5) The purchase price is due for payment without delay if the customer is in default of acceptance.
(6) Regardless of any other dedicated purpose, payments are always credited to cover the earliest debt and the resulting interest and cost.

§ 9 SETOFF AND CUSTOMER'S RETENTION RIGHT

The customer may set off counterclaims and assert a retention right only if its counterclaims are uncontested or were finally established.

§ 10 STATUTE OF LIMITATION

The time for the limitation of claims of the customer – regardless of the legal grounds – shall be 12 months. The deadlines prescribed by law shall apply in case of intent or fraudulent conduct and in case of claims governed by the Product Liability Act.

§ 11 PROPERTY RIGHTS

(1) We are proprietors of all intellectual property rights (inter alia patents, trademarks, designs, copyrights etc), whether registered, applied for registration, registrable or non-registrable, in respect of plans, drafts, cost estimates, technical documentation, samples, catalogues, prospectuses, illustrations, tools, software and similar materials and data which were provided to the customer ("Materials"). Any use, including but not limited to the reproduction, dissemination, publication, communication to the public and demonstration of Materials beyond the use contractually agreed between the parties shall require our explicit consent. To the extent that the delivered goods contain property rights, the customer is awarded the non-exclusive right to use the delivered goods, including their documentation, for their intended purpose.
(2) Should the customer apply for registration of an industrial property right, of which our supplied Getzner products are a component, the customer shall obtain our prior written consent. We explicitly prohibit any unauthorized application for registration of a property right by the customer without our consent. After grant of the property right, we shall have, in any event, a free and non-exclusive right to use the entire property right applied for. The customer undertakes to transfer and assign that obligation to its legal successors.
(3) The use and display of products and services in public (for example as reference) requires our express written consent.
(4) Any documents or information about us, our products, distributors or other customers made available to the customer or which come otherwise to the customer's attention may not be passed on or otherwise made available to third parties, including but not limited to our competitors. This shall also apply to documents such as samples, drawings, drafts, cost estimates or advertising materials made available to the customer or which come to the customer's attention in any other way. We are entitled to all rights to these documents.
(5) The customer guarantees that the drawings, sketches, models etc. made available by it are not encumbered by rights of third parties. The customer will hold harmless and indemnify us for and against all claims brought by third parties against us due to an infringement of rights to any of the above items. If such rights are asserted, we may withdraw from the contract without notice and immediately discontinue our supplies/services without examination of the legal situation and without the customer being entitled to assert any claims vis-à-vis us.

§ 12 COMPLIANCE

The customer confirms having taken note of the currently applicable Getzner Code of Conduct and undertakes to comply with its principles within the scope of the business relationship. The Code of Conduct, as amended from time to time, is available at www.getzner.com/coc. Any breach of the Getzner Code of Conduct constitutes a violation of the contract.

§ 13 JURISDICTION AND APPLICABLE LAW

(1) This contract shall be governed by and construed in accordance with the laws of the Republic of Austria (without giving effect to the provisions of International Private Law and the UN Sales Convention).
(2) All disputes arising out of or in connection with this contract shall exclusively be referred to the court having local and subject-matter jurisdiction at our registered office in Bürs within the scope of application of Council Regulation (EC) no 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters and the Lugano Convention. This provision shall not affect mandatory legal provisions on exclusive venues.
(3) It is agreed that all cases outside this scope of application shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (ICC) by one or more arbitrators appointed in accordance with those Rules. The language to be used in arbitral proceedings shall be German. If the contract is drawn up in a language other than German, the language to be used in arbitral proceedings shall be English.
(4) However, we may bring claims against the customer before any other court having jurisdiction.

§ 14 FINAL PROVISIONS

(1) A contract may not be challenged on the ground of error or shortfall exceeding fifty percent.

(2) Should any term hereof be invalid or unenforceable or become invalid or unenforceable after conclusion of the contract, the remaining terms of the contract shall not be affected. An invalid or unenforceable term shall be replaced, by way of supplementary interpretation of the contract, by a valid and enforceable term, which closest reflects the economic purpose the parties have intended to pursue with the invalid or unenforceable term. This applies also in case the contract should have any gap.

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