General Terms and Conditions (“T&C”)

General Terms and Conditions of Holm & Laue GmbH & Co. KG (“Holm & Laue”), Westerrönfeld

Version of January 2010

Art. 1 - General

1. Any and all our deliveries, services, and offers are fulfilled exclusively under the Terms and Conditions of business exposed hereinafter. Other terms and conditions shall not be part of our contractual agreements, not even when we do not exclude them expressly. Terms and conditions differing from the provisions hereinafter shall be effective only if laid down in writing and confirmed by us expressly.

   If we perform a delivery or a service without raising any objection, such actions may in no circumstance be construed or interpreted as though we had accepted possibly existing terms and conditions of purchase on the part of the Purchaser. By accepting our delivery or service, the Purchaser shall be deemed having accepted our General Terms and Conditions.
2. These Terms and Conditions shall apply to any and all future business transactions, even if they were not agreed upon yet again for an individual transaction.

Art. 2 - Conclusion of Agreement, Prices

1. Any and all our offers are without engagement and are binding only subject to confirmation. Declarations of acceptance and orders on the part of the Purchaser, to be effective in law, need confirmation by us. An order confirmation may be performed, in particular, by electronic mail or be replaced by delivery of the goods as ordered.
2. We reserve any and all rights, in particular property rights and copyrights, to figures, drawings, calculations, and any and all other documents. The disclosure by Purchaser to third parties of documents identified as “confidential” prior to disclosing them to the Purchaser, shall be subject to our prior written consent.
3. Prices shall be those given in our written order confirmation. Unless otherwise agreed, prices shall be net prices, plus cost of wrapping and freight as well as value added tax. For deliveries abroad, the cost of freight, customs duties, clearance, and levies shall be borne by the Purchaser. Possible further incidental costs and freight insurance concluded at the customer’s discretion shall not be included.
4. Prices quoted as freight paid shall be valid only subject to normal, unobstructed traffic on direct rail, road, and water routes. In case of traffic obstructions, any all additional cost caused by such obstruction shall be borne by the Purchaser.

Art. 3 - Terms of Payment

1. Unless otherwise agreed, any and all our invoices are due upon receipt, without deductions, in euro. Unwarranted deductions of cash discounts shall not be accepted.
2. We shall be entitled to charge interests on arrears. The interest rate amounts to 5 %-points per year above the basic rate of the European Central Bank (basic rate). In the case of legal transactions to which a consumer is not a party the interest rate for claims for remuneration is 8 %-points above the basic rate. Interests shall accrue from the due date.
3. If after an Agreement was concluded, it becomes apparent that our claim to payment of the purchase price is at risk of default because of lack of economic performance (credit-unworthiness) on the part of the Purchaser, we shall be entitled to request immediately securities or cash payment without any deduction whatsoever for any and all delivered and unpaid goods, to request advance payment of any and all goods to be delivered, and to put goods to be delivered on hold. If the customer does not comply with the aforementioned obligations, we shall be entitled to refuse delivery and to withdraw from the Agreement as well as to claim damages.
4. Payments on the part of the debtor related to our claims shall be set off initially against the debt due for redemption, and amongst several due debts against the one offering the obligee the least security, and amongst several equally secure debts against the more onerous one, and under several equally onerous debts against the oldest debt, and where all are equally old against each debt proportionally.
5. Retention of payments based on counterclaims denied by us and not confirmed as legally binding and/or set-off against counterclaims denied by us and not confirmed as legally binding shall be inadmissible.

Art. 4 - Delivery, Term of Delivery

1. The term of delivery shall run from the date of order confirmation. If the performance of orders requires Purchaser's information, the earliest possible term of delivery shall run from the date the Purchaser provides us with this information.
2. Partial delivery shall be admissible. In case the performance of a delivery or a service is delayed by instances of force majeure or other unforeseeable events beyond our control making said performance difficult or impossible, including in particular, but not limited to strike, instructions by the authorities, admissible lock-out, said case or event shall entitle us to postpone said delivery or service for the duration that such obstacles are in effect plus a reasonable start-up delay and/or, if performance is impossible, to withdraw from the Agreement in whole or in part as regards the unfulfilled part thereof. We shall inform the Purchaser as early as possible of

the unavailability of said delivery or of the duration of the term. As far as beyond the above provisions the Purchaser is entitled to claim damages in the case that we are in fault, Art. 9 hereinafter shall apply.

Art. 5 - Transfer of Perils, Freight Costs

1. Unless otherwise agreed, deliveries shall be “Free Carrier” (FCA).
2. The risk of accidental destruction and accidental deterioration passes to the buyer upon delivery of the good sold. From the time of delivery the benefits related to the good accrue to the buyer and he bears the charges on it. In case of default through non-accepting delivery; the Purchaser bears damages. If, at the Purchaser’s request, we dispatches the good sold to a place other than the place of performance, the risk passes to the Purchaser when the good has been handed over to the forwarder, carrier or other person or body designated to dispatch the good. If the buyer has given specific instructions as to the method of dispatching the thing and, without congent reason, we fails to comply with these instructions, we are liable for damages arising from that failure.

Art. 6 - Retention of Title

1. The sold goods shall remain our property until all claims that arise for us to the customer in relation to the business transaction have been satisfied, including future claims as arise from Agreements concluded concurrently or at a later date. Furthermore, if said claims have been added separately or jointly to a running account, the clearance has been struck, and accepted.
2. Subject to cancellation, the customer shall be entitled to resell the goods in which title is being retained (“Retained Goods”) in the ordinary course of business. It shall be inadmissible, making the Retained Goods the object of any other transaction, in particular pledging them or ceding them by way of security.
3. As of now, the Purchaser is ceding to us by way of security any and all claims that will arise for the Purchaser from the resale of the Retained Goods to its clients or third parties. By concluding the Agreement, we accept said cession. If the Retained Goods are sold jointly with goods which are not in our possession, the Purchaser’s claim to its clients shall be deemed ceded in the amount of the price agreed upon by the Purchaser and us. Subject to cancellation, we authorize the Purchaser to collect said claims ceded to us on its own behalf and for its own account. Processing the Retained Goods, if any, shall be performed by the Purchaser on our behalf, while it shall not create any liability for us (extended retention of title).
4. The retention of title apply to any and all of our deliveries, even if those are fully paid (overall retention of title).

5. If the Retained Goods are processed jointly, are assembled, or are inseparably mixed with goods which are not in our possession, we acquire co-title in such new goods at a ratio corresponding to the value of the Retained Goods in relation to the value of the other processed, assembled, or mixed goods at the moment of processing, assembling, or mixing.
6. The Purchaser shall be required to store the Retained Goods appropriately and to maintain them in a satisfactory condition on our behalf. The same shall apply to aforesaid new goods created from processing, assembling, or mixing.
7. If the Retained Goods are at risk of being ceded to third parties, in case of pledge of securities in particular, the Purchaser shall indicate in an appropriate way that they are our property and shall give us all informations without any delay.
8. In case of breach of the Agreement by the Purchaser, in particular if the Purchaser is in default of payment, and in case of lack of economic performance (credit-unworthiness) on the part of the Purchaser, we shall be entitled to repossess the Retained Goods and to cancel the authorization to resell in the ordinary course of business (par. 2, sent. 1) and to collect claims (par. 3, sent. 3) or to withdraw from the Agreement. If the Purchaser is a entrepreneur, repossession of the Retained Goods shall be interpreted as our withdrawal from the Agreement only by written consent. After repossession of the Retained Goods, we shall be entitled in any and all cases to make commercial use of said Retained Goods while setting off the proceeds thereof, after deduction of a reasonable compensation for commercialization, against the Purchaser's liabilities.
9. If the value of existing securities exceeds the claims to be secured by more than 10 %, we shall release securities to that extent upon written request made by the Purchaser. The choice of the security or securities to be released is subject to our discretion.

Art. 7 - Remedy of Defects

1. The Purchaser shall examine the deliveries and services without any delay after receipt and shall notify us in writing of eventual defects immediately. Does he omit to do so, the deliveries and services are deemed to be accepted. We warrant that the deliveries and services during 12 months after delivery shall possess the characteristics expressly warranted in the contract, and shall not have any defects which eliminate or substantially reduce their value or fitness for the contractually defined use. General or oral assurances are not binding. In case of inappropriate storage, handling, or processing of the goods by the Purchaser, requests to remedy defects shall be excluded, unless the Purchaser provides conclusive evidence, obtained at its cost that the defect or defects is or are under our responsibility.
2. The warranties contain according to our discretion replacement or improvement. If the Purchaser is a consumer, the choice of improvement or replacement shall be at the Purchaser's

discretion. If warranty performances do not accomplish the Purchaser may withdraw from the Agreement; all potential claims to damages shall be treated with pursuant to Art. 9 hereinafter. The same rules shall apply to the reimbursement of expenses. In case of improvements, all cost needed to perform said improvement shall be borne by us as far as said cost arise because said goods have been transferred to a place other than the place of fulfillment.

3. The rights of the Purchaser are excluded, if the Purchaser knows the defect at the time of the conclusion of the contract. If the defect is remained unknown to the Purchaser as a result of gross negligence, the Purchaser can assert this rights only if we have deceitfully withheld the defect.
4. We may in no circumstance be held liable for defects in the delivered goods or for possible damage consequential thereto as far as said defects or damage were caused by inappropriate handling or care, in particular by deviating from user's manuals or other product information materials. The same shall apply in cases where delivered goods were not maintained and not calibrated according to our recommendations.
5. Furthermore, we may in no circumstance be held liable for damage caused by the Purchaser's non-compliance in his operation with proper agricultural practices, applicable rules of hygiene, and any and all other laws, regulations, and directives of the Purchaser's country pertaining thereto.
6. Warranty claims shall be excluded, moreover, in case of improper modifications or maintenance work and of improper installation of the goods by the Purchaser or its agents.
7. If the Purchaser is a entrepreneur, warranty claims for defects shall be limited in time and become unenforceable after one year for new goods and after three months from delivery of the goods for wear and tear parts. Warranty claims for used goods shall be excluded.
8. If the Purchaser is a consumer, warranty claims shall be limited in time and become unenforceable after two years from delivery of the goods for new goods, after one year for used goods.
9. We do not warrant to the Purchaser the characteristics of the goods. Possible warranties granted by third parties remain unaffected thereby and have to be claimed with said third parties.

Art. 8 - Obligations in Relation to Disposal Pursuant to ElektroG

1. As far as the delivered goods are electrical or electronic devices under the terms of German Electrical and Electronic Devices Commercialization, Withdrawal, and Environmentally Responsible Disposal Act (ElektroG) of 16th of March 2005 (German Official Gazette BGBl. I 2005, 762) as amended on 31th of July 2009 (German Official Gazette BGBl. I 2009, 2585), any Purchaser that is a entrepreneur shall engage to properly dispose of the delivered goods at its

own cost after their end of use and to comply with any and all legal requirements pertaining thereto. The Purchaser shall indemnify us from possible obligations arising from § 10 Abs. 2 ElektroG (obligation for the manufacturer to withdraw used goods) as well as claims of third parties related thereto. The Purchaser shall oblige commercial resellers to bind their purchasers to properly dispose of the goods at their own cost after their end of use and to comply with any and all legal requirements pertaining thereto, or to require contractually said third parties. If the Purchaser neglects to require contractually these rules in commercial buyers, then the Purchaser shall be required to withdraw said goods after their end of use and to dispose of them properly and in compliance with the law. Our title in the Purchaser's engagement and indemnification, insofar as it is limited in time, shall in no circumstance become unenforceable in the course of the two years subsequent to the final end of use of the device (suspension of expiration). The earliest date from which said two-year delay during which expiry is stopped shall run, is the date of receipt of a notification by the Purchaser declaring that use of the good has finally ended. For individual cases, we reserve the right to agree with the Purchaser upon specific provisions pertaining to the withdrawal of used devices that differ from the foregoing.

Art. 9 - Limited Liability

1. We shall not be held liable for damage in relation to the Agreement, unless said damage can be proved as done with intent or gross negligence and unless cases of culpable injury of life, body or health. If we failed to comply with an obligation essential to the Agreement, exept acting intentially or gross negligence, our obligation to remedy shall be limited to the damage that can typically be expected.
2. Claims to damages to which the Purchaser is entitled shall be limited in time and become unenforceable after one year from delivery of the goods, regardless of the cause in law that may warrant such claims, unless legally binding provisions require the period of limitation to be longer.
3. As far as our liability is excluded or limited pursuant to the foregoing provisions, the same shall apply for the personal liability of employees, representatives, or agents.

Art. 10 - Protection of Data Privacy

We shall be entitled to collect and process the data pertaining to the business transactions or received in relation thereto pursuant to German Data Protection Act.

Art. 11 - Place of Performance, Place of Jurisdiction, Applicable Law

1. Unless the order confirmation does provide otherwise, the place of performance for any and all rights and obligations arising hereunder is our residence.
2. If the Purchaser is a entrepreneur, the exclusive place of jurisdiction for any and all litigation arising from this Agreement is the courts that are competent at our residence or, at our discretion, the courts that are competent at the Purchaser's residence.
3. The rights arising under this Agreement for the Purchaser shall not be transferable.
4. The applicable law shall be that of the Federal Republic of Germany; including the rules of the United Nations Convention on Contracts for the international Sale of Goods (CISG).