Section 1 General scope

1.1 The following terms and conditions of purchase apply to all business relations between ALAC Elektrik-Mechanik-Vertrieb GmbH (hereinafter “ALAC”) and its business partners and suppliers (hereinafter “Supplier”), provided the Supplier is an entrepreneur (Section 14 BGB), a legal person under public law or federal special funds.

1.2 The terms and conditions of purchase apply, in particular, to contracts regarding the sale and/or delivery of moveable (movable goods also: goods), without consideration given to whether or not the Supplier manufactures the goods or purchases them from suppliers (Sections 433, 651 BGB - German Civil Code). The terms and conditions also apply to orders as are entered – to the extent they are not stated and nothing to the contrary has been agreed upon, goods are to be delivered to ALAC’s principal place of business in Kirchhundem. The respective place of destination is also the place of performance (obligation to be performed at the creditor’s place of business).

1.3 These terms and condition of purchase apply on an exclusive basis. The Supplier’s general terms and conditions of business to the contrary or those that vary from or supplement ALAC’s conditions shall only become a part of the contract if ALAC accepts the Supplier’s conditions of business although it is aware of the Supplier’s general terms and conditions of business.

1.4 Individual agreements entered into with the Supplier in individual cases (including subsidiary agreements, supplementary information and amendments) shall in any case have preference over these conditions of purchase. A written contract or the written confirmation by ALAC shall be authoritative with regard to the content of such agreements.

1.5 Statements and notifications of legal relevance that are forwarded by the Seller to us after the contract has been entered into (e.g. setting periods, warnings or issuing a writ) are subject to the written form in order to be deemed valid.

1.6 References made to the validity of statutory requirements only provide clarification in terms of their significance. The statutory requirements transferable apply without such clarification provided they are not directly amended are expressly ruled out by these conditions of purchase.

Section 2 Entering into a contract

2.1 The order placed by ALAC shall acquire binding force at the earliest upon written submission or confirmation. The Supplier is to draw ALAC’s attention to obvious errors (e.g. typographical and calculation errors) and incomplete details in the order, including the order documents, for the purpose of correction or provision of supplementary information prior to acceptance. Otherwise the contract shall be deemed to have not been entered into.

2.2 The Supplier is required to accept ALAC's order in writing within a period of 5 days. A limited order acceptance shall be deemed a new offer that is deemed to have been accepted unless ALAC objects to this in writing within a reasonable time. However, within 14 days calculated from receipt of the offer.

Section 3 Prices / terms and conditions of payment

3.1 The price stated in the order has binding force. The prices apply as “delivered duties paid” (DDP) to the place of destination. All prices are to be understood to include statutory turnover tax if this is not stated otherwise.

3.2 In the absence of agreements to the contrary in an individual case, the price includes all services and ancillary performance on the part of the Supplier (e.g. assembly and installation) as well as all incidental costs (e.g. carriage, packaging, transport insurance, freight transport and third party liability insurance). At ALAC’s request, the Seller is to take back packaging material.

3.3 The agreed shall fall due for payment within 30 days from delivery and performance in full (including acceptance that may have been agreed as well as receipt of a proper invoice). If ALAC effects payment within 30 days, the Supplier shall grant a 4% trade discount, if ALAC effects payment within 45 days, the Supplier shall grant a 3% trade discount, on the net invoice amount. In the case of bank transfers, payment shall be deemed to have been received in good time if the transfer order is received by ALAC’s bank prior to expiry of the payment period. ALAC shall not be responsible for delays by the banks involved in the payment process.

3.4 ALAC is not required to pay interest after the due date. The annual default interest is 5 percentage points above the base lending rate. The statutory requirements apply to the occurrence of default on the part of the Supplier contrary to this, where applicable, in any case the Supplier shall be required to be issued a written warning.

3.5 ALAC is holding off and retention rights as well as the right to non-performance of the contract as specified by law. ALAC is entitled, in particular, to hold back due payments as long as it is entitled to claim against the Supplier resulting from incomplete or faulty services.

3.6 The Supplier shall only have a right to set-off or retain regarding res judicata or undisputed counter-claims.

Section 4 Delivery time / default in delivery

4.1 The price stated in the order by ALAC has binding force. Agreed dates and periods and times have binding force. Receipt of delivery shall be authoritative with regard to the agreed delivery dates, periods and times.

4.2 The Supplier undertakes to notify ALAC in writing without undue delay if it is likely that it cannot honour agreed delivery times – for whatever reasons.

4.3 If the Supplier fails to render its service or fails to render it within the agreed delivery period or defaults, the rights of ALAC shall be determined – in particular with regard to withdrawal and compensatory damages – in accordance with the statutory requirements. This does not affect the provisions set out in the following Section 4.4.

4.4 If the Supplier defaults, ALAC may – in addition to further-reaching statutory requirements – request flat-rate compensation of the damage it sustains as a result of default in the sum of 1% of the net price for each complete calendar week, in total however no more than 5% of the net price of the goods delivered later. ALAC is entitled to claim the further-reaching damage from the Supplier. The Supplier is entitled to prove that the damage claimed is not attributable to its fault.

4.5 Partial deliveries are only permitted if they have been expressly agreed upon in writing.

Section 5 Force majeure

In cases of force majeure and other unforeseeable, unavoidable and extraordinary circumstances for which responsibility is not held (including fires, floods, natural cataclysms, earthquakes, Acts of God, public enemies, government restrictions, prohibitions, expropriation or the imposition of quotas by government departments, war, armed conflict, covert or actual industrial action), the contracting parties are released from the obligations to perform for the duration of the disruption and to the extent of its effects. This also applies if the Supplier is not in a position to deliver as a result of force majeure. ALAC shall be entitled to reduce the delivery quotation or delivery or to withdraw the order without being under obligation to the Supplier and cover its requirements elsewhere.

In the event the Supplier’s means or production of methods are required to the exclusion of ALAC’s requirements, the Supplier is then also released from its obligations to perform for the duration of the disruption and to the extent of its effects. This also applies if the Supplier is not in a position to deliver as a result of force majeure. ALAC shall be entitled to reduce the delivery quotation or delivery or to withdraw the order without being under obligation to the Supplier and cover its requirements elsewhere. In the event the Supplier’s means or production of methods are required to the exclusion of ALAC’s requirements, the Supplier is then also released from its obligations to perform for the duration of the disruption and to the extent of its effects. This also applies if the Supplier is not in a position to deliver as a result of force majeure. ALAC shall be entitled to reduce the delivery quotation or delivery or to withdraw the order without being under obligation to the Supplier and cover its requirements elsewhere.

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The Surety's obligation to render ALAC exempt applies to all expenses that the ALAC incurs as a result of or in conjunction with the action brought by a third party.

13.4 The statutory period of limitation applies.

Section 14 Reservation of title / pre-emption

14.1 The transfer of ownership of the goods to ALAC is to occur unconditionally and without consideration given to the price. However, if ALAC accepts in an individual case conditional conveyance following an offer of the Supplier by way of payment of a purchase price, the Supplier shall be deemed to have sold the goods at the latest upon payment of the purchase price of the supplied goods. ALAC shall remain authorised in the initial stage of business, including prior to payment of the purchase price, to sell on the goods by way of advance assignment of the resulting claim (alternatively applicability of the basic reservation of title and extended reservation of title applicable to the selling third party). In any case all other forms of the reservation of title, in particular the extended form, and the extended form that applies to further processing, are excluded.

14.2 Insolvent as ALAC processes from the Supplier, it reserves ownership to such items. Processing or transformation thereof by the Supplier shall be deemed to have been performed on behalf of ALAC. If the reserved goods are processed using other items that ALAC does not own, ALAC shall acquire co-ownership of the new item in proportion of the value of its item (purchase price plus turnover tax) to that of the other processed items at the time of processing.

14.3 If the item made available by ALAC is insurably mixed with items not owned by ALAC, ALAC shall acquire co-ownership of the new item in proportion of the value of the reserved item (purchase price plus VAT) to that of the other mixed items at the time of mixing. If the mixing occurs such that the Supplier's item is to be regarded as the principal item, it shall be deemed agreed upon that the Supplier assigns to ALAC proportional co-ownership – ALAC hereby accepts the transfer of ownership. The Supplier shall store the exclusive property or the co-owned property on behalf of ALAC.

14.4 ALAC reserves ownership of tools. The Supplier undertakes to use the tools exclusively for the purposes of the goods ordered by ALAC and in accordance with the instructions provided to the Supplier. The tools owned by ALAC, and to insure these with appropriate cover against destruction and loss. At the same time, the Supplier assigns to ALAC at this point in time all damage claims resulting from such insurance. ALAC hereby accepts the assignment. The Supplier undertakes to perform servicing and inspection work that may be required with regard to ALAC's tools, and perform all maintenance and repair work at its own cost in good time. It is to notify ALAC immediately of potential cases of disposal. If it fails to so do, this shall not affect claims for damages.

14.5 Insolvent as the security rights to which ALAC is entitled in accordance with Section 14.2 and/or Section 14.3 exceed the purchase price of all of ALAC's unpaid reserved goods by more than 10 %, ALAC undertakes, at the Supplier's request, to release the security rights at its own discretion.

Section 15 Social responsibility / environmental protection

15.1 ALAC reserves ownership and copyrights to diagrams, plans, calculations, implementation instructions, software models, templates, samples, data sheets, software and similar items. Such documents are to be used exclusively for the contractual performance, and are to be returned to ALAC once the contract has been executed, together with such such documents. The copyright is to be released, in particular in the context of or in connection with the use of ALAC's tools, and to insure these with appropriate cover against destruction and loss. At the same time, the Supplier assigns to ALAC at this point in time all damage claims resulting from such insurance. ALAC hereby accepts the assignment. The Supplier undertakes to perform servicing and inspection work that may be required with regard to ALAC's tools, and perform all maintenance and repair work at its own cost in good time. It is to notify ALAC immediately of potential cases of disposal. If it fails to so do, this shall not affect claims for damages.

15.2 The above provision applies accordingly to substances and materials (e.g. software, finished and semi-finished products) and to tools, templates, samples and other items that ALAC makes available to the Supplier.

15.3 Employees and subcontractors are to be placed under obligation accordingly.

15.4 The contracting parties may only use their business association for advertising purposes following prior, written approval.

Section 16 Social responsibility / environmental protection

16.1 The Supplier undertakes to comply with the respective statutory regulations on dealing with employees, environmental protection and occupational safety, and to work towards reducing negative effects on humans and the environment during its activity. To that end the Supplier shall endeavor as part of its available options to set up and further develop a management process in accordance with ISO 14001. Furthermore, the Supplier shall comply with the principles of the UN Global Compact Initiative. These largely apply to the protection of international human rights, the right to collectively agree negotiations, the abolition of slave and child labor, the abolition of discrimination with regard to appointments and employment, responsibility for the environment and preventing corruption.

16.2 The Supplier confirms that the products and materials supplied to ALAC do not contain any conflict materials within the meaning of Section 1502 of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act.

Section 17 Court of jurisdiction, choice of law, written form, final provisio