

1. General Terms and Conditions of Purchase

- 1.1 These General Terms and Conditions (“**CONDITIONS**”) by Dornier MedTech Systems GmbH, having its place of business at Argelsrieder Feld 7, D-82234 Wessling, (“**DMTS**”) shall apply solely to business entities within the meaning of sec. 14 BGB (“German Civil Code”) and to legal entities under public law and special funds under public law [öffentlich-rechtliche Sondervermögen].
- 1.2 These **CONDITIONS** shall apply exclusively and to all future transactions between **DMTS** and **SUPPLIER** even where not expressly included in future transactions; any terms and conditions of the **SUPPLIER** conflicting with or deviating from these **CONDITIONS** shall not be acknowledged except where **DMTS** has expressly consented in writing to their application. These **CONDITIONS** shall also apply where **DMTS** orders or pays products or services without reservation, with knowledge of **SUPPLIER**'S terms and conditions which conflict with or deviate from these **CONDITIONS**.

2. Offer and Formation of Contract

- 2.1 The order and the acceptance as well as any modification or supplement thereto shall be valid only if in writing.
- 2.2 Unless expressly stated otherwise in **DMTS**' order, a binding contract is only concluded where **SUPPLIER** accepts such order within five (5) **WORKING DAYS** after the date such order has been received by **SUPPLIER**. **WORKING DAY** shall mean any day on which banks are opened at **DMTS**' place of business.
- 2.3 **DMTS** reserves its rights of ownership and copyright to its proposal, order and contracting documents (including illustrations, drawings, technical specifications, calculations and other documentation), irrespective of whether the documents in question are in electronic or physical form. Additionally, **DMTS**' Standard Terms of Confidentiality apply.

3. Date of Delivery and Place of Performance

- 3.1 The agreed date of delivery and/or the agreed period of delivery shall be binding. No advance or partial delivery or delivery of more than the agreed quantities shall be permissible, except where expressly pre-approved in writing by **DMTS**. In the case of delivery without mounting or installation, receipt of the product by **DMTS** as stated in the order shall be decisive in terms of observance of the time limit. In the case of delivery with installation or mounting and in the case of services, provision thereof in a manner ready for acceptance shall be decisive in terms of observance of the time limit as stated in the order.
- 3.2 Each party's obligations to deliver, render or accept products or services are suspended for the duration of force majeure. Each party shall inform the other of such event in its sphere and its expected duration. **DMTS** shall be entitled to cancel orders placed with **SUPPLIER** in case of force majeure in order to prevent impending disproportionately great damage to **DMTS** or its customers. Similarly, each party shall inform the other of any circumstances which may endanger performance of the relevant duties entered into by the respective party.
- 3.3 In the case of delay or default of **SUPPLIER** not attributable to force majeure, **DMTS** shall be entitled to claim payment of an amount equal to 0.5 % of the order value of products or services delayed for each week or part of a week, but not more than 5 % of the order value per incident. **DMTS**' rights to claim further damages based on statutory provisions remains unaffected.
- 3.4 Place of performance for **SUPPLIER**'S deliveries or services shall be DDP (INCOTERMS 2010) at **DMTS**' registered offices in Wessling, Germany.

4. Shipment and Pricing

- 4.1 Shipping documents such as delivery notes and packing lists must accompany the shipments. The order numbers and other information contained in the **DMTS** order must be indicated in all documents. Any additional costs incurred by **DMTS** as a result of **Supplier**'s culpable failure to comply with the preceding provisions shall be borne by **SUPPLIER**.
- 4.2 The prices are net-prices plus VAT, where applicable and shall apply free place of performance. Packing shall be included in the price except where **SUPPLIER** charges a deposit for returnable packaging. In such case deposited returnable packaging shall be invoiced separately and counted against returned deposited returnable packaging. **DMTS** may return any deposited returnable packaging at the end of the business relationship in return for the deposit provided such returnable packaging is not substantially damaged.

- 4.3 Where no returnable packaging is used, **SUPPLIER** shall only use packaging material that can be disposed of using the public recycling systems in Germany and shall use licensing symbols of such recycling systems unless instructed otherwise by **DMTS**. Where plastic packaging is used, this material shall be marked in conformity with DIN 6120.

5. Invoice and Payment, Prohibition of Assignment

- 5.1 Invoices shall be made in Euro, issued in duplicate and shall, for each delivery or incident, contain order number, quantity, exact definition of the products or service, manner of dispatch and VAT identification number. Any delay and cost caused by missing details shall be at the **SUPPLIER**'S expense and shall extend the date of payment accordingly.
- 5.2 Payment shall be made following acceptance and/or delivery and after receipt of the invoice in accordance with Sec. 5.1 within fourteen (14) days with 3% discount or within sixty (60) days net. Discount may be deducted also in case of setoff or retention because of defects.
- 5.3 **SUPPLIER** shall not assign its claim against **DMTS** or to have it collected by third parties without the prior written consent of **DMTS**. Section 354 a) HGB (“German Commercial Code”) shall remain unaffected. **SUPPLIER** shall provide the products free of any third party liens, rights and encumbrances.

6. Warranty

- 6.1 **SUPPLIER** warrants that its products are in accordance with the specifications agreed with **DMTS** or – in the absence of such – the standard quality required by **DMTS** for the intended use **SUPPLIER** has been previously informed about. **SUPPLIER** will check the products prior to shipment.
- 6.2 The warranty period shall be two years from delivery to **DMTS**' customer, but no later than twenty-seven (27) months after delivery to **DMTS**. As far as the subject of the contract are deliveries with installation or mounting or services, the warranty period shall be two years after signature of report of acceptance or, where mere services without a report of acceptance is rendered, after rendering of such services.
- 6.3 With respect to Sec. 377 German Commercial Code, **DMTS** shall examine the products immediately after delivery as far as this is reasonably possible according to an ordinary business procedure. Recognizable defects and deviations in quantity have to be notified by **DMTS** in written form within a period of ten (10) **WORKING DAYS** after receipt of the products.
If a defect, which has not been recognizable at the time of examination for **DMTS**, is found at a later time, **DMTS** shall inform **SUPPLIER** in writing within ten (10) **WORKING DAYS** after the later discovery of the defect.
If the defect is recognizable only at a time at which the product is already at **DMTS**' customer, the information is prompt, if **DMTS**' customer informs **DMTS** within ten (10) **WORKING DAYS** after discovery of the defect and **DMTS** sends this information to **SUPPLIER** without delay.
Hidden defects entitle **DMTS** to demand a compensation for futile and proven expenditures (i. e. labour costs and material).
- 6.4 In the case of defects, **DMTS** may choose if the right to claim removal of defects shall be effected by repair or replacement. **SUPPLIER** is entitled to refuse the kind of removal of defects (repair or replacement) chosen by **DMTS**, if such removal is possible only for **SUPPLIER** with excessively high costs and if the other kind of removal of defects (repair or replacement) is without significant disadvantages for **DMTS**. **SUPPLIER** has to bear the necessary expenses for removal of defect, especially expenses for transport, travelling, work and material. **DMTS** is entitled to return defective products to **SUPPLIER** at **SUPPLIER**'S cost. Any such defective products thus returned shall remain **DMTS**' unencumbered property until replacement or refund is provided by **SUPPLIER** for such defective products.
Where **SUPPLIER** refuses or fails to remove the defect within a reasonable period set by **DMTS**, **DMTS** shall be entitled to remove the defect itself or by third parties. **DMTS** may claim compensation for its necessary expenditures from the **SUPPLIER**.
- 6.5 **DMTS** may remove or may have removed the defect, without fixing a specific period, at **SUPPLIER**'S cost and expense if
(a) delivery has been delayed and **DMTS** has an interest in immediate removal of the defect in order to avoid delay or default on its own part;
(b) minor defects are involved;
(c) it is necessary to immediately remove the defect in order to prevent impending disproportionately great damage.
Where removal of defects by **SUPPLIER** is without effect, **DMTS** may choose reduction in price (“Minderung”) or rescission of the contract (“Rücktritt”) and damages in place of delivery according to

§ 437 German Civil Code. Instead of damages DMTS may also claim reimbursement of expenses, which have been in vain. In case of insignificant breach of duty, especially in case of insignificant defects, DMTS has no right to rescission.

- 6.6 DMTS may assign its claims against the SUPPLIER, existing or arising in the future, in total or partly to entities of the DMTS GROUP.

SUPPLIER hereby assigns its warranty claims against its sub-contractors regarding the products and services supplied to DMTS as far as these exist or will arise in the future. This assignment is subject to the condition precedent that SUPPLIER does not fulfil DMTS' warranty claims. DMTS accepts this assignment. Any such assignment leaves DMTS' warranty claims against SUPPLIER unaffected. SUPPLIER shall reasonably assist DMTS in exerting such assigned rights upon DMTS' request.

7. Duty to Inform and Duty of Care

- 7.1 Where DMTS notified SUPPLIER of the purpose of use of the product or service or such purpose of use is noticeable by SUPPLIER without express information, SUPPLIER shall immediately notify DMTS if the delivery or service of supplier may not comply with such purpose of use and if this is recognizable for SUPPLIER.

- 7.2 SUPPLIER shall immediately notify DMTS in writing of any changes in the manner of composition of the processed material or the constructional design of products or material changes to any tools. Any such changes shall be SUPPLIER'S sole responsibility and shall require DMTS' prior written consent unless any such changes do not materially alter the product.

- 7.3 SUPPLIER shall ensure that the products and services will comply with all legal requirements applicable in the Federal Republic of Germany.

8. Items Made Available

- 8.1 Items made available by DMTS to the SUPPLIER or paid for by DMTS shall remain the property of DMTS. SUPPLIER shall (i) use them solely for products and services ordered by DMTS (ii) clearly mark them as DMTS' property, (iii) keep them separate from other goods not belonging to DMTS, (iv) inform DMTS immediately where third parties claim rights in and to the items and (v) inform DMTS immediately of any material deterioration of the items.

- 8.2 SUPPLIER shall, at its own cost and expense, perform any necessary maintenance and inspection work, insure the items sufficiently and evidence such insurance to DMTS upon DMTS' written request. SUPPLIER shall return any such items immediately to DMTS at the end of the contractual relationship and / or at DMTS' written request. SUPPLIER'S right to retention is excluded.

- 8.3 If and to the extent that SUPPLIER processes or transforms items made available by DMTS into a new movable good, DMTS shall be deemed to be the producer. The process or transformation is carried out on behalf of DMTS. In the case of combination or inseparable mixing with other items, DMTS shall acquire co-ownership rights in and to the new good in the proportion of the value of the items at the time of combination or mixing. If and when such combination or mixing is made in such a manner that the items of SUPPLIER are to be considered as the main thing, then in such case SUPPLIER transfers to DMTS already now co-ownership rights in respect of the new item on a pro rata basis in the relation of the values, the items had before the combination or mixing to each other. DMTS accepts this transfer of co-ownership rights. SUPPLIER shall hold the co-ownership rights in custody for DMTS.

9. Confidentiality, Documents, Proprietary Rights

- 9.1 The parties shall treat confidential all documents and information in accordance with DMTS' Standard Terms of Confidentiality. Any documents, models, tools, drawings or additional material provided by DMTS to SUPPLIER for the production of the goods remain the sole property of DMTS. Products created on the basis of these materials shall not be provided to third parties. SUPPLIER shall return those materials to DMTS free of charge and without DMTS' request necessary where they are no longer needed for fulfilment of DMTS' order. SUPPLIER'S right of retention is excluded.

- 9.2 SUPPLIER warrants that products supplied to DMTS hereunder do not infringe any third party intellectual or industrial property rights, including, but not limited to patents and design rights. SUPPLIER shall indemnify and hold harmless DMTS, its representatives, employees and agents from any claim arising out of infringement or alleged infringement, direct or indirect, of any such third party right, including but not limited to reasonable court expenses and attorney's fees.

- 9.3 In case that DMTS orders standardized products (DIN-products) or modified standardized products, SUPPLIER transfers to DMTS a non-exclusive, non-assignable royalty free right of use in and to the

products supplied to DMTS for distribution, marketing and sale in perpetuity.

10. Spare Parts and Readiness for Delivery

- 10.1 SUPPLIER shall supply spare parts for the period of usual technical use, but at least for ten (10) years from the last delivery, on reasonable terms and conditions.

- 10.2 In the event that SUPPLIER discontinues supplying spare parts, DMTS shall be duly informed in writing and a timely manner and shall be given the opportunity of placing a final order under reasonable conditions.

11. Cancellation

DMTS may cancel contracts at any time in whole or part in accordance with statutory provisions under German law.

12. Release

SUPPLIER shall release DMTS, its representatives, employees and agents from and indemnify DMTS against any and all claims asserted against DMTS on the ground that damage has been caused by the use of the DMTS product for the intended purpose or by the foreseeable use thereof if and when such damage is due to a defect in the design and/or manufacture of SUPPLIER or a breach of SUPPLIER'S duties to control or monitor the products supplied. Under the same conditions, SUPPLIER shall also be liable for any damage or costs caused by reasonable precautionary measures taken against product liability claims (for example, by recall campaigns). SUPPLIER shall conclude and hold in full force a general liability and product liability insurance which ensures sufficient insurance coverage for the product's relevant risks to DMTS. SUPPLIER shall provide DMTS with proof of such insurance policies at DMTS' request.

13. Miscellaneous

- 13.1 There are no oral ancillary agreements. All agreements between DMTS and SUPPLIER shall be drawn up in writing. The foregoing shall also apply to any amendment or supplementation of this written form requirement. The required written form may also be satisfied by transmission by facsimile or electronic media.

- 13.2 These CONDITIONS and the entire legal relations between DMTS and the SUPPLIER shall be exclusively governed by and interpreted in accordance with the laws of the Federal Republic of Germany. If such laws should refer to foreign legal systems, such reference is ineffective. The Convention on Contracts for the International Sale of Goods (CISG) shall be excluded for these CONDITIONS and any contracts and agreements entered into on the basis of these CONDITIONS.

- 13.3 Where SUPPLIER is a trader ("Kaufmann"), a legal entity under public law or a public law special fund or has its registered office outside the Federal Republic of Germany, exclusive jurisdiction and venue shall lie with the courts of Munich, Federal Republic of Germany. However, DMTS shall also be entitled to issue proceedings in the courts at the location of the SUPPLIER'S registered office.

- 13.4 Should one or more provisions of these CONDITIONS be or become as whole or partly invalid, this shall not affect the validity of the remaining provisions which shall remain valid and in full force.