

## **Terms and Conditions for the Purchase of Goods and Services by WELSER Profile Austria GmbH**

### **1. Scope of application**

- 1.1 Welsch Profile Austria GmbH ("WELSER") purchases all products, parts, input materials ("Parts") and related services of the supplier, as well as paid work, according to the following terms and conditions for the purchase of products and services ("Terms").
- 1.2 General terms and conditions for the sale and supply of products and services or other deviating terms of the supplier are not applicable, unless WELSER has explicitly acknowledged these terms in writing. These Terms are also applicable in all cases in which WELSER accepts the supplier's deliveries without objecting to terms of the supplier which are different from these Terms (whether or not WELSER is aware of those terms). WELSER hereby explicitly objects to any reference by the supplier to the application of its general terms and conditions for the sale and supply of products (e.g. in offers) or to other different terms. These Terms are also applicable to all future transactions with the supplier.
- 1.3 The provisions of these Terms are applicable in addition to all other agreements, if any, reached by the parties, such as framework supply agreements, quality assurance agreements.

### **2. Orders**

- 2.1 WELSER shall not be legally bound by any inquiries WELSER addresses to the supplier in respect of the latter's Parts and services as well as the terms of delivery thereof or any requests made by WELSER to submit offers.
- 2.2 Any order placed by WELSER (independently or under a framework agreement subject to these Terms) shall constitute an offer to the supplier to purchase or source Parts or services from the supplier. Orders placed by WELSER are binding only if made in writing. WELSER is not obliged to sign these orders. The written form requirement is met if orders are transmitted by fax, e-mail or by way of electronic communication. The supplier shall ensure at its own cost and expense that the conditions for electronic communication at any time are in place. (Transmission by electronic communication takes place according to the standards of the automotive industry.)
- 2.3 A binding contract on the supply of Parts or the provision of services by the supplier (hereinafter a "Supply Contract") on the basis of the order and subject to these Terms (and/or, if appropriate, on the basis of a framework agreement) is concluded once the supplier has received the order, unless the supplier objects to the order (or the execution of the Supply Contract) within 3 days after the supplier has received the order.

- 2.4 Oral orders or orders by telephone are not binding and do not create a contractual relationship under any circumstances. Oral agreements must be confirmed in writing. Also contract changes (subject to the detailed provisions set out in Section 7) as well as ancillary agreements are effective only if made in writing.
- 2.5 In the event of any conflict between the order (or Supply Contract), a framework agreement and these Terms, the documents shall be applicable in the following order:
- the order or the Supply Contract,
  - the framework agreement (if agreed),
  - a quality assurance agreement
  - these Terms (if included)

### **3. Prices and terms of payment, reservation of title**

- 3.1 The prices and terms of payment are determined in the framework agreement or Supply Contract and are binding. These are fixed prices and represent the total price for the production and supply of Parts and the provision of services. The price does not include legal value-added tax, which will be calculated separately.
- 3.2 The price includes especially also delivery to the place designated for delivery (see Section 4.1) as well as packaging, freight, insurance, and other expenses of this kind, unless otherwise agreed in the framework agreement or the Supply Contract. In as far as the parties agree on the applicability of Incoterms, in case of doubt, DDP (Incoterms 2010) including packaging, shall be deemed to have been agreed.
- 3.3 The invoice amount will be paid within 21 days subject to 3 % cash discount or within 30 days [net], unless otherwise agreed between the parties. The time for payment commences on the day on which WELSER receives the invoice, yet not prior to the supply of the Parts. If the payment date is a weekend or a public holiday, payment will be made on the next work day. Charges for international payment transactions will be borne by the supplier.
- 3.4 In as far as no credit / clearing procedure was agreed with the supplier, WELSER can process and check invoices only if they meet the legal requirements and contain the order number and item number stated in the order; the supplier is responsible for all consequences arising from non-compliance with this obligation, provided that he is at fault.
- 3.5 Except with the written consent of WELSER, the supplier may not assign or collect from third parties any entitlements due to him under the supply relationship with WELSER.
- 3.6 Except with the prior express written consent of WELSER, the supplier may not adjust prices or charge additional costs of any kind. WELSER may withhold payments in case of late delivery of Parts or invoices and the delivery of defective Parts.

- 3.7 As soon WELSER has paid the purchase price in its entirety, the Parts will become the property of WELSER. The supplier may not prolong or extend the reservation of title to the goods.
- 3.8 The supplier may only set off claims against WELSER which are uncontested or finally established.
- 3.9 The supplier may exercise its right to retain the goods only if the supplier's counterclaim on the basis of which the supplier exercises that right is based on the same contract and is uncontested or finally established.

#### **4. Delivery and transfer of risk**

- 4.1 Deliveries (including the transfer of risk) are subject to the commerce clauses specified in the order (or the Supply Contract) and/or the framework agreement (especially Incoterms 2010) at the specified place of receipt or collection ("place designated for delivery"). In the absence of such a provision, the goods shall be delivered DDP (Incoterms 2010) to the place designated for delivery in the order or the framework agreement. All Parts must shipped in proper and environmentally friendly packaging, be labelled and handled with the care customary in the industry.
- 4.2 The supplier must attach the corresponding delivery notes to the shipments. The delivery notes must state the order number of WELSER, the part number, as well as the supplier number. Unless these conditions are met, the supplier shall be responsible for any resulting delays in processing.
- 4.3 The supplier shall label the Parts, packing materials and packaging according to the instructions given by WELSER or otherwise according to applicable laws. Labelling must be displayed as bar code and/or in any other form determined by WELSER or prescribed by law.
- 4.4 The supplier must provide a supplier's declaration according to Regulation (EC) No. 1207/2001 of 11 June 2001 (OJ 21 June 2001, L 165/1) with regard to the preferential rules of origin of the Parts. A certified annual supplier's declaration (long-term supplier's declaration) must be provided not later than at the time of delivery. That declaration must automatically be extended prior to the expiry of that time period. Any change in respect of the origin of the Parts must promptly be notified to WELSER. The supplier must immediately and properly provide WELSER with complete sets of all documents which are necessary according to applicable customs provisions (including but not limited to customs certificates and drawback documentation). In as far as additional official documents are necessary for the use of the Parts according to their specifications for the export or import of the Parts, the supplier undertakes to make available these documents to WELSER or to promptly procure these documents.

## **5. Dates of delivery and late delivery**

- 5.1 The goods must be delivered to the place designated for delivery (see Section 4.1) at the time specified in the Supply Contract or at any other time on which the parties have agreed in writing ("Date of Delivery").
- 5.2 If the supplier does not meet agreed dates or times of delivery, WELSER may withdraw from the Supply Contract by written notice, after expiry of a reasonable grace period. Furthermore, the supplier must compensate WELSER for any damage incurred due to the delay according to the legal provisions.
- 5.3 WELSER is not obliged to accept early deliveries, excess deliveries or non-agreed partial deliveries. The supplier shall bear the risk of loss of Parts shipped prior to the Date of Delivery. WELSER may send back excess deliveries at the supplier's cost and expense; all costs of packaging, processing, sorting, and transport shall be borne by the supplier. WELSER may store at the supplier's cost and risk any Parts delivered prior to the Date of Delivery according to Section 5.1 or excess deliveries until the applicable Date of Delivery.
- Should WELSER accept early deliveries or excess deliveries on this basis, WELSER is nevertheless not obliged to pay prior to the payment date which is applicable according to the scheduled Date of Delivery.
- 5.4 If the supplier anticipates that he will not be able to meet the Date of Delivery for any reason whatsoever, the supplier shall promptly inform WELSER in writing of the reason and the expected delay.

## **6. Force majeure**

- 6.1 If the supply relationship is disrupted by unexpected and unavoidable events beyond a party's control and responsibility, such as force majeure, labour disputes (strike and lockout), war, unrest, terrorist attacks and natural disasters, the parties shall be released from their obligations to the extent of the effects and duration of such disruption, and throughout a reasonable period of time thereafter.
- 6.2 If it is impossible to predict the end of any such disruption or if it persists for more than two (2) months, either party may withdraw from the relevant Supply Contract (or from its non-performed parts) or give notice of immediate termination.

## **7. Change management**

- 7.1 Changes of a Supply Contract, including changes of quantities, the form of shipment, packaging, date of delivery or place designated for delivery or any change of drawings or specifications, shall be consensually agreed by the parties and documented in writing; all

resulting changes in costs or time, which may be necessary to perform a contract, will be taken into account and documented.

Technical changes, including but not limited to changes of drawings or specifications of WELSER, shall additionally be governed by the provisions of this Section 7.

- 7.2 WELSER may request technical changes of Parts at any time, also during series production. Immediately after the supplier has received WELSER's change request, the supplier will give an estimate in respect of the possible increase or reduction of costs as well as information on changing deadlines and effects of the changes on weight, function, and quality. The supplier is obliged to minimize the costs arising due to WELSER's change requests.
- 7.3 The supplier will implement the change requests as soon as the parties have agreed on all cost increases or reductions, changes in deadlines and the effects of changes on weight, function, and quality.
- 7.4 If the supplier believes that technical changes or deviations are reasonable, for example because they would boost the efficiency of production methods or improve and increase the safety of the Parts or are necessary to adjust to technological progress, the supplier will suggest these changes to WELSER; simultaneously, information on the effects on the price, the dates of delivery etc. must be provided. WELSER will immediately check the suggested changes and may not arbitrarily refuse them.
- 7.5 The supplier will not implement technical changes until the supplier has received WELSER's written consent. The initial sample test procedure must be repeated in respect of all Parts which are subject to technical changes after the original product release.
- 7.6 Prior to processing or treatment or manufacture, the supplier must examine the completeness of and the absence of errors in the technical documents, drawings and plans of WELSER. If the supplier believes that these documents are incomplete or contain errors or defects, the supplier shall be obliged to promptly notify WELSER in writing (in any event prior to the start of processing, treatment or manufacture); the supplier must promptly ask in writing for the provision of all missing technical documents, drawings or plans. Technical documents, drawings and plans of WELSER must not be disclosed to third parties and must be returned to WELSER as soon as WELSER asks for these documents, but not later than after execution of the order.

## **8. Quality management, documentation**

- 8.1 The supplier shall develop and manufacture the Parts according to the state of the art in accordance with all quality standards and legal requirements applicable to the Parts.

In as far as the supplier has received drawings, samples or other provisions or documents from WELSER, the supplier will comply with these in terms of the workmanship and characteristics of the Parts. Changes of the Parts, of an already approved production process or its relocation require the prior written consent of WELSER.

- 8.2 The supplier maintains in particular for the present and the future a quality management system according to ISO/TS 16949. At the supplier's request, the parties may alternatively agree on a quality management system consistent with the ISO 9001 standard.

If the supplier does not fulfill the quality standards prescribed by such a quality management system and fails to correct these defects within a deadline agreed with WELSER, WELSER may immediately terminate the Supply Contract without incurring any other obligations towards the supplier, notwithstanding other rights of WELSER.

- 8.3 The Parts must correspond to the legal provisions of the countries in which they will be used.
- 8.4 Initial samples and serial deliveries are subject to the corresponding provisions of VDA Volume 2 submission level 2, as amended on the contract execution date.
- 8.5 WELSER may reasonably inspect the facilities the supplier uses to produce the Parts; these inspections must be conducted with reasonable prior notice during regular business hours at intervals WELSER considers necessary. The supplier ensures that WELSER may also conduct the same inspections with the supplier's sub-suppliers.
- 8.6 An inspection or examination pursuant to Section 8.5 shall neither be regarded as acceptance of the Parts or of a portion of the Parts, nor do they release the supplier from its obligation to fulfill any explicit or conclusive condition under the Supply Contract.

In case of development work or start of series production, the release by WELSER does not discharge the supplier from its product responsibility.

- 8.7 If the supplier intends to relocate its production facilities or premises, the supplier shall reasonably inform WELSER in advance; the supplier must observe a deadline of at least 6 months before the supplier is allowed to dismount or to relocate production equipment and must produce a sufficient quantity of Parts in advance. At the time of the relocation notice, the supplier shall send WELSER a timetable which shows the relocation scenario. In addition, the supplier shall discuss any impact on the production and supply of the Parts with WELSER on a continuous basis and shall especially organize the provision of new initial samples of the Parts after completion of that relocation.
- 8.8 All quality-relevant documents, including but not limited to release statements, must be preserved for a period of at least 15 years after the end of the production of the relevant series.

## **9. Incoming goods inspection**

Unless otherwise agreed between WELSER and supplier within the relevant quality assurance agreement concerning the incoming goods inspection, the following applies:

Unless it was agreed for goods to be shipped directly to customers of WELSER, WELSER will inspect the Parts delivered by the supplier as to whether there are discrepancies in terms

of the identity and quantity of the goods and whether there is any apparent damage, to the extent and as soon as this is reasonable according to the ordinary course of business. WELSER will promptly notify any defects discovered during that inspection to the supplier. The supplier waives any extended incoming goods inspection at WELSER. Other defects which WELSER discovers only when the delivered Parts are processed or used according to their intended purpose will be notified by WELSER to the supplier immediately after the defects were discovered. The supplier will not plead late notice of defects in this respect.

## **10. Liability for defects**

### **10.1 The supplier warrants that all Parts supplied by him**

- (i) correspond to the specifications, samples, drawings and other requirements prescribed by WELSER,
- (ii) are free of defects (especially in terms of design, manufacture and material),
- (iii) are fit for the purposes for which they are purchased, to the extent that the supplier is aware of those purposes.

### **10.2 If WELSER discovers Parts which do not meet the requirements according to Section 10.1 prior to production (processing / treatment, installation) ("Defective Parts"), the following shall apply:**

At WELSER's election, the supplier must either immediately supply defect-free Parts (exchange parts) or take corrective action to remove the defects in /repair the Defective Parts (collectively "Subsequent Performance"). The supplier will carry out any sorting work or other improvement which may be necessary in agreement with WELSER at WELSER's business premises.

All costs incurred by the supplier or by WELSER due to the delivery of Defective Parts (including but not limited to costs of sorting, assembly and disassembly, transport, examining the reason for the defects etc [including research and development expenses]) shall be borne by the supplier.

### **10.3 If defects are discovered after the start of production, Section 10.2 and the following provisions shall apply:**

- (i) If a defect is discovered before WELSER delivers the products to its customer, the supplier shall additionally pay the costs for all rectifications (cost of labour and material, assembly and disassembly and of additional necessary tools).
- (ii) If a defect is discovered only after WELSER has already delivered the products to its customer or even to its end consumer (consumer), the supplier shall also pay a share of costs incurred for taking back the products and/or for taking field measures which is proportionate to the supplier's contributory responsibility or fault. As soon as such



defects are discovered WELSER will inform the supplier and advise the supplier on the further course of action and the measures to be taken.

- 10.4 If Subsequent Performance is unsuccessful, unreasonable for WELSER or not immediately initiated by the supplier, WELSER may withdraw from the Supply Contract without further notice and return the Parts at the supplier's cost and risk.

WELSER may procure corrective action either itself or by third parties at the supplier's cost and expense in these and in other urgent cases, especially in order to avert acute hazards or to avoid major damage, and if it is impossible to inform the supplier of the defect and grant the supplier an - albeit - short deadline for corrective action.

- 10.5 In addition, the legal provisions (especially in respect of WELSER's right to a reduction of the purchase price, compensation for damage and compensation for expenses) shall apply.
- 10.6 The warranty period for the Parts is thirty-six (36) months after delivery to WELSER.

## **11. Recalls and other field actions**

If recalls, an owner notification programme or any other field action are necessary to comply with a law, a regulation, an order, or any other government requirement, or as a safety measure to avoid personal injury or death, or if a field or service action takes place based on a decision of the customer of WELSER, WELSER will notify the supplier - if possible and reasonable - of the content and scope of the recall, owner notification programme or other field action to be taken and will allow the supplier to state its views. All other legal entitlements shall thereby not be affected.

## **12. Liability, product liability and insurance**

- 12.1 If the supplier has culpably reached an agreement or assumed any other practice in respect of the Parts or supplies which constitute an unlawful restriction of competition according to applicable anti-trust legislation, the supplier shall pay to WELSER damages equal to 8% of the net sum due for the supplies affected by the infringement, unless the supplier can prove that WELSER has suffered no or only insignificant damage. This obligation survives also in case of termination or performance of the Supply Contract and/or framework agreement. Other or additional contractual or legal entitlements of WELSER shall thereby not be affected; WELSER may particularly prove and assert that it has suffered a higher damage.
- 12.2 Should services of the supplier also include work on the business premises of WELSER or of a customer of WELSER, the supplier will take all necessary precautions to prevent personal injury and property damage in the course of such work. The supplier compensates and holds harmless and indemnifies WELSER for and against any damage caused by the supplier's work on the business premises, unless the supplier is not at fault.



In addition, the supplier must observe the house rules of WELSER which will be provided to the supplier at its request.

- 12.3 If the supplier has caused and/or is responsible for a product defect (depending on the underlying cause of action), the supplier is obliged to compensate the damage on first demand of WELSER or to hold harmless and indemnify WELSER for and against all claims of third parties, provided that the cause of the claim is within the supplier's control and organization and the supplier would itself be liable towards third parties. To the extent that WELSER has contributed to causing or has contributory responsibility for a defect, the supplier may assert this towards WELSER. The share of damages payable by WELSER and the supplier depends on their respective contributory fault/responsibility for the defect.

The supplier is also obliged to pay the expenses WELSER has incurred for having to retain legal assistance or otherwise in connection with defending product liability claims. If WELSER is subject to special rules concerning the burden of proof towards the injured party, these rules are applicable also to the relationship between WELSER and the supplier, unless the circumstances to be proven are attributable to WELSER's responsibility.

- 12.4 The supplier undertakes to procure adequate insurance (including but not limited to business liability, product liability, and recall insurance) for its obligations under the Supply Contract. The supplier shall provide appropriate documentary evidence of the insurer to WELSER.
- 12.5 The supplier is liable for its representatives or subcontractors to the same extent as for its own conduct.

### **13. Production resources, materials provided**

- 13.1 All parts, raw materials and materials provided by WELSER or sourced by the supplier at the expense of WELSER (whose costs of acquisition were reimbursed by WELSER or which were included in the prices payable for the parts and were fully paid) ("Production Resources") remain and will become the sole property of WELSER. WELSER will also retain all rights to any information and documents ("Documents") provided by WELSER. The supplier will not use the Production Resources and Documents to produce or design parts for third customers without the prior written consent of WELSER.
- 13.2 The supplier holds the Production Resources and Documents as borrower, will keep them separately from any property of others, and will clearly mark them as property of WELSER. The supplier assumes the risk associated with the Production Resources and Documents as long as these are in the possession or under the control of the supplier. They will not be removed from the supplier's business premises without WELSER's written instructions, except for the purpose of performing the contract. The supplier will carry out, at its expense, necessary maintenance work at customary intervals. The supplier shall promptly notify any damage or malfunction to WELSER.
- 13.3 To the extent that WELSER provides products, raw material or other materials to the supplier for the production of Parts by the supplier, WELSER reserves title to those goods. The

supplier will process, treat, convert, install or reshape goods to which title remains vested in WELSER on behalf of WELSER. Whenever goods to which title remains vested in WELSER are processed together with items not owned by WELSER, WELSER will acquire joint ownership of the new product on a proportional basis which corresponds to the value of the reserved goods (purchase price plus value added tax) compared to the other processed items at the time of processing.

- 13.4 Whenever goods to which title remains vested in WELSER are inseparably combined or mixed with items not owned by WELSER, WELSER will acquire joint ownership of the new product on a proportional basis which corresponds to the value of the reserved goods (purchase price plus value added tax) compared to the other combined or mixed items at the time of combining or mixing. If items are mixed or combined in such a manner that the supplier's items must be regarded as main item, it is agreed that the supplier will transfer a proportionate share of co-ownership to WELSER; the supplier will store and keep the goods solely owned by WELSER or the goods co-owned by WELSER in the name of WELSER.

#### **14. Property rights**

- 14.1 The supplier warrants that the purchase, possession, offering, use, processing or resale of Parts by WELSER or customers of WELSER does not infringe any intellectual property rights of third parties, including but not limited to rights of third parties to trademarks, company names, designations, patents, designs, utility models, get-up, design or copyrights (including corresponding applications to register property rights ("Property Rights) in the supplier's country of origin and in the Federal Republic of Germany, Austria, and in the European Union. If the supplier culpably breaches this obligation, the supplier will hold harmless and indemnify WELSER and its customers on WELSER's first demand for and against any claims of third parties that are based on such actual or purported infringements of Property Rights, and will pay all costs and expenses which WELSER incurs in this connection, including but not limited to legal costs and costs of defence, on the one part, and the costs resulting from observing a possible duty to refrain, on the other.
- 14.2 Section 14.1 does not apply if the Parts were produced based on drawings, models or other details provided by WELSER and if the supplier was neither aware nor must have been aware that this would infringe Property Rights of third parties.
- 14.3 The parties are obliged to inform each other immediately of any risks of infringements which may come to their notice as well as of purported infringements and will use reasonable efforts to consensually counteract any claims based on infringements.
- 14.4 Any claims pursuant to this Section 14 become statute-barred 3 years after the conclusion of the corresponding contract.

**15. Supply of spare parts**

- 15.1 The supplier undertakes to guarantee the supply of spare parts throughout the intended lifetime of the products for which the Parts shall be used. The minimum period is 15 years after the end of series production of the Parts.
- 15.2 The price for the spare parts is the current prices fixed in the Supply Contract during the existence of the Supply Contract. During the first 3 years of that 15-year period, the price must not be higher than the price of the last series production. As of the fourth year, the price will be agreed separately by the parties on the basis of the prices applicable at the end of series production, in consideration of additional costs which the supplier may incur for the production of the spare parts.
- 15.3 The supplier will allow WELSER to place a final order of its all-time requirement in due time prior to the expiry of the minimum period.
- 15.4 As for deliverables which are not intended for a product for a vehicle, the supplier guarantees a smooth supply of spare parts at market prices over a period of at least ten (10) years from the delivery date.

**16. Compliance with laws, safety, environmental protection, dangerous substances**

- 16.1 The supplier must observe all relevant federal, provincial or municipal laws, regulations, provisions or directives as well as industry standards in respect of the Parts and services and in connection with the implementation of the Supply Contract. When fulfilling its contractual obligations, the supplier must comply with all legal and regulatory provisions regarding environmental protection, product safety, and employment regulations. The supplier will maintain an ISO 14001 environmental management system and undertakes to fulfill the requirement according to ISO 14001.
- 16.2 The supplier shall fulfill the legal provisions of the country of production and the country of distribution in respect of Parts and materials as well as processes that require special treatment, inter alia, in respect of transport, packaging, labelling, storage, handling, production and disposal, due to their composition or impact on the environment.
- 16.3 The supplier is responsible to ensure compliance with the corresponding provisions for dangerous goods. The supplier will also ensure that dangerous goods and substances are handled only by staff that is specially trained for these tasks and that only auxiliary materials, containers and facilities approved for the transport of dangerous goods and substance on public roads are used. The supplier must provide a list of all dangerous goods and substances which he uses in respect of the implementation of Supply Contracts and make available the corresponding safety data sheets.
- 16.4 The supplier will ensure compliance with the requirements of EU Regulation REACH (Regulation (EC) No. 1907/2006, OJ EU of 30 December 2006) – hereinafter "REACH" – ,

and especially timely pre-registration and registration. WELSER is not obliged under any circumstances to carry out (pre-)registration.

The supplier is aware that Parts cannot be used unless the conditions of REACH are fully and properly fulfilled.

- 16.5 The supplier must enter, at its own expense, the components relevant according to the EU car wrecks Directive (*ELV - End of Life Vehicles*) (heavy metals) into the IMDS data base, and these shall then be deemed to have been declared.
- 16.6 The supplier will observe the provisions on conflict minerals according to the Dodd-Frank Act. If conflict minerals are necessary for the production/functionality of the delivered products, their source must be disclosed. Upon request, the supplier shall make available without delay the documentation necessary according to the Dodd-Frank Act on the use and origin of conflict minerals.
- 16.7 The supplier will fully hold harmless and indemnify WELSER for and against all consequences, including but not limited to damage incurred by WELSER and claims lodged by third parties against WELSER, resulting from the fact that the supplier has culpably failed to observe or fulfill, has not completely fulfilled or not timely fulfilled the above provisions of this Section 16.

## **17. Cancelling /annulling orders/contracts**

In as far as the parties have concluded a framework agreement or other long-term Supply Contract under which WELSER orders the delivery of Parts or the provision of services by the supplier, term and termination of these contracts are governed by the following provisions:

- 17.1 The parties may terminate these contracts with 9 months' written notice.
- 17.2 If a customer of WELSER cancels an order without any reason or on an extraordinary basis, WELSER and the supplier may agree on another arrangement which reflects these circumstances, notwithstanding WELSER's right of termination pursuant to Section 17.1.
- 17.3 Each party may terminate a contract at any time without notice for good cause. Good cause shall be deemed to exist in particular if:
  - (i) either party stops payments, if insolvency proceedings are initiated in respect of a party's assets or if a petition to initiate insolvency proceedings is rejected because a party does not have sufficient assets or undergoes liquidation;
  - (ii) a breach of material contractual obligations occurs; if a breach is capable of being cured, a contract may be terminated not until after the non-infringing party has requested the other party in writing to cure the breach, threatened the impending

termination for good cause and has granted a reasonable grace period of at least four weeks which has expired without the infringing party having cured the breach;

- (iii) a party, due to a change of control or a change of shareholders, comes under the dominant control of a competitor of the respective other party.

17.4 In case of cancellation or other termination of the Supply Contract, the supplier shall return all items made available by WELSER, including but not limited to any drawings and other documents, equipment and tools.

## **18. Confidentiality**

Unless the parties have reached separate non-disclosure agreements, the following shall apply:

18.1 The parties undertake to keep confidential any confidential information directly or indirectly received from the respective other party. Also orders and all related commercial and technical details constitute and shall be treated as confidential information. Especially all illustrations, drawings, calculations, quality policies, samples and similar items must be kept confidential. Confidential information may be reproduced and disclosed only within the framework of operational requirements. Confidential information may be disclosed to third parties in writing only when a prior agreement has been obtained.

18.2 The aforementioned obligations are not applicable if the recipient can prove that confidential information

- (i) has already been in the public domain at the time of disclosure or came into the public domain thereafter without its fault;
- (ii) has already been in its possession at the time of disclosure;
- (iii) has been provided to it by a third party that is not subject to an obligation of confidentiality and non-use, always provided that those third parties have not directly or indirectly received that information from the other party;
- (iv) must be disclosed according to legal provisions.

18.3 The supplier undertakes to subject sub-suppliers to the same scope of confidentiality. The supplier may use confidential information provided by WELSER only for their intended purpose.

18.4 The confidentiality obligation survives also after termination of the supply relationship for a period of 5 years. The supplier undertakes to surrender to WELSER after termination of the supply relationship any confidential information received, whether in printed form or on electronic storage media. At WELSER's request, the supplier shall confirm in writing that it has fulfilled the obligations laid down in the last two sentences.

## **19. Other Provisions**

- 19.1 Should any provision of these Terms be invalid, illegal or unenforceable, such provision shall be deemed to have been changed or restricted to the extent necessary to make it valid, legal and enforceable. If any such provision cannot be so changed or restricted, the invalidity of one or several of these provisions will not affect the validity of the remaining provisions or the validity of the contract as such.
- 19.2 Except with WELSER's prior written consent, the supplier may not assign all or any rights or obligations under the Supply Contract.
- 19.3 Except with WELSER's prior written consent, the supplier may not appoint one or several subcontractors to perform the Supply Contract or any part thereof. The supplier will subject subcontractors to the obligations prescribed in these Terms.
- 19.4 If and to the extent supplier deploys sub-suppliers for the provision of its supply and service obligations or purchases Parts and/or services from such sub-supplier for the provision of its supply and service obligations towards WELSER, supplier has to take care in an appropriate manner that [(i) these Terms will be part of its contractual relationship with the sub-supplier, (ii)] the sub-supplier acknowledges and [(iii)] complies with the relevant duties resulting from these Terms.

## **20. Applicable law, venue, place of performance**

- 20.1 The contractual relationships between WELSER and the supplier shall be governed by and construed in accordance with the law applicable at WELSER's registered offices, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (UN Sales Convention/ CISG).
- 20.2 Exclusive jurisdiction shall lie with the court having exclusive jurisdiction at WELSER's registered offices. WELSER may also sue the supplier or otherwise lodge judicial claims against the supplier before any other court.
- 20.3 Place of performance in respect of all obligations arising from a contract shall be the place of WELSER to which the Parts were supplied or the services provided as specified in the order.
- 20.4 The supplier undertakes to observe regional, national and international laws and regulations. The supplier confirms to have received and will acknowledge the code of conduct for Welser Profile business partners. The applicable Code of Conduct is available on the Welser website at [www.welser.com](http://www.welser.com) in the "Info-Center" > "Downloads" section.