Terms of Sale of vhf camfacture AG

1. Scope
All and any of our quotations, deliveries or other services are exclusively subject to the terms and conditions stated below in the most current amended version. Our terms of sale shall also apply to all future business. Any general terms and conditions of contracting parties that have not been accepted by us expressly and in writing shall not be valid. Our terms of sale shall apply even if we make delivery to the contracting party without any reservation, although we had knowledge of terms of the contracting party standing contrary to or deviating from our own terms. Unless specifically stated otherwise, the legal provisions shall apply. Amendments or supplements to these terms and conditions must be made in writing. Any and all oral agreements shall be immediately confirmed in detail and in writing by the contracting parties. Our terms of sale shall only apply with respect to companies within the meaning of Section 310(1) of the German Civil Code [BGB].

2. Quotations
a. Our quotations shall be subject to change and non-binding for us. Inquiries from contracting parties that are not contained in an order or order confirmation shall not be binding upon us.

b. If any quotation or order confirmation is based on documents, such as images, drawings, etc., such documents shall be deemed non-binding. We reserve the right of ownership and copyright to any and all of these documents. These documents must not be made available nor disclosed to third parties without our prior written consent. Stated dimensions or weights shall be deemed approximate in line with the industry standards, unless we have expressly identified them as binding.

3. Conclusion of contract and scope of delivery
a. If a quotation on our part leads to an order on the part of the contracting party, the contract shall not come into effect until we have confirmed the order in writing. The scope and content of the performance owed shall be solely as specified in the order confirmation. If an order on the part of the contracting party does not lead to an order confirmation on our part, in the case of tools or consumables for example, the contract shall come into effect when we execute the order. In this case, the scope and content of the performance owed shall be as specified in the item description in the current vhf catalogue. If an item is not listed in the catalogue and a delivery is nonetheless made without an order confirmation, the scope and content of the performance owed shall be as specified in the written order.

b. We shall be entitled to technically change or modify the delivery items to the extent that this does not contradict the specifications in the order confirmation.

carton

4. Prices and terms of payment
a. Unless specifically agreed otherwise in the order confirmation, our prices shall be deemed ex-works, denominated in euros, excluding packaging, freight, transfer, postal charges, insurance, customs duties and any relevant statutory value added tax.

b. Insofar as no fixed price is agreed, the prices in our current price lists shall apply. The prices specified shall apply provided that our terms of sale are unconditionally accepted by the contracting party.

c. The minimum order value for deliveries within Germany shall be EUR 75; otherwise, we shall be entitled to make a surcharge for small quantities of EUR 7.50. In the case of deliveries in the EU and Switzerland, there shall be a minimum order value of EUR 150; outside these countries, the minimum order value shall be EUR 300, with the surcharge for small quantities amounting to EUR 15 (EU and Switzerland) and EUR 30 (worldwide). Unless otherwise agreed, deliveries abroad shall only be made against cash in advance or payment by credit card.

d. Unless otherwise agreed, invoices shall be payable within 30 days of the invoice date. Bills of exchange and cheques shall only be accepted by agreement and on condition that they can be discounted. Bill of exchange and discount charges shall be borne by the contracting party. Payments shall only be deemed effected when they are conclusively credited to our account.

e. If, after the conclusion of the contract, it becomes evident that our payment claim is jeopardised through the contracting party’s insufficient financial capacity, we can refuse performance and set the contracting party an appropriate period of time in which it has to pay one-for-one in return for delivery or to provide security. In the case of refusal by the contracting party or if the period of time expires, we shall be entitled to withdraw from the contract and demand compensation.

f. In case of insolvency of the contracting party, we shall be entitled to demand interest in the amount of 8 percentage points above the respective base rate. This does not affect our right to claim further damages for delay.

g. The contracting party may offset claims against amounts due and payable to us only if such claims are undisputed or are based on a final, non-appealable award by a court of law. The contracting party shall be entitled to exercise a right of retention to the extent that its counterclaim is based on the same contractual relationship. The contracting party shall have no right of retention for partial deliveries as provided under Section 320(2) of the German Civil Code [BGB].

5. Deliveries
a. Delivery dates and times shall always be estimated and non-binding for us, unless a delivery date is expressly agreed in writing. The conclusion of the contract shall be subject to punctual delivery to us by our suppliers. This shall not apply if we are responsible for non-delivery, in particular if we have failed to enter into a congruent covering transaction. We shall inform the contracting party immediately of the non-availability of the goods and reimburse the contracting party for any amounts already paid.

b. The date of delivery shall be calculated from the date of the order confirmation or, if advance payments have been agreed, when we have received these. Periods of delivery and delivery dates shall be deemed complied with if, by their expiry, the delivery item has left our plant or the contracting party has been notified of readiness for dispatch in writing.

c. The date of delivery or deadlines shall be extended accordingly if the contracting party delays, fails to take the required cooperative action. The same shall apply in the case of force majeure and all other obstacles over which we have no control and which have a significant effect on delivery or performance, especially strikes and lockouts at our premises or those of our suppliers or their subcontractors. If the aforementioned circumstances make delivery or performance impossible or unreasonable, we shall be discharged from our delivery obligation. If the date of delivery is extended or if we are discharged from our delivery obligation, the contracting party cannot derive any claims for damages from this.

d. Unless otherwise agreed, changes to the order shall render any agreed declared dates and periods null and void. If the contracting party demands changes or amendments to the order after conclusion of the contract, which make it impossible to meet the delivery deadline, the deadline shall be extended accordingly for a period that is appropriate for implementing such changes or amendments.

e. For additional deliveries, we shall have a right of retention until all and any prior deliveries are paid for.

f. We shall be entitled to make partial deliveries and to invoice them separately.

6. Dispatch and transfer of risk
a. In the absence of a special agreement, we shall select the method of shipment and the shipping route at our discretion. At the contracting party’s request, the delivery item will be insured for transport. The costs of shipment, standard packaging and transport insurance shall be borne by the contracting party.

g. Goods that have been declared ready for delivery shall be accepted immediately by the contracting party; otherwise, we shall be entitled to dispatch them and/or to store them at the cost and risk of the contracting party at our sole discretion.

c. Risk shall be transferred to the contracting party when the delivery item is passed to the railway, carrier, shipper or haulier and other miscellaneous dispatch agents, or on notification of readiness for dispatch, and at the latest when it leaves the factory or storage, including where we have assumed delivery. Dispatch shall always be executed on the instructions of the contracting party.

b. The contracting party shall also accept a delivery item if it exhibits insignificant deviations in quality or slight impairment of the usability.

c. If delivery is delayed at the purchaser’s request, the resulting storage costs can be charged to the contracting party.

d. Should we agree to take back an ordered and properly delivered item, we shall be entitled to charge a reasonable fee for returning the item to storage. We shall only take back items, such as tools or consumables, that are in a proper, salable condition. Specially manufactured items or special orders, including complete CNC milling machines, shall not be taken back. When the item has been taken back, the pur-
chase shall receive a credit note for the value of the item, after deduction of the re-storage fee. This cannot be redeemed in cash but will be offset against future purchases or orders.

7. Installation and assembly
a. Installation, assembly and commissioning shall only be performed by us on written agreement. Unless otherwise agreed, the purchaser shall be personally responsible for this.

b. Insofar as we are responsible for the installation, assembly and commissioning of complete CNC milling machines, in order to ensure trouble-free delivery and installation, we shall, in good time prior to delivery, an information memo setting out all necessary conditions (required floor space and passage width, requirements to be met by the installation location, the need for a fork lift for unloading, etc.). The purchaser must ensure that all named requirements are met in full prior to delivery. Unless otherwise agreed, the contracting party shall bear the costs of installation, assembly and commissioning, including freight costs in accordance with our valid rates and price lists.

c. Insofar as we are responsible for installation and assembly, the risk shall pass to the purchaser on the day of the handover at the purchaser’s premises or, if a test run has been agreed, after a successful test run.

8. Delay in delivery and impossibility
a. In the event of delay in delivery, withdrawal from the contract instead of performance shall also require that the contracting party has set a reasonable period of time for the performance of the contractually owed obligation accompanied by a threat of refusal to accept performance by letter. The period of time shall be at least 25 % of the agreed or specified delivery period, but shall not be less than 14 days. After the expiry of this period of time and following a request on our part, the contracting party shall declare whether it is their intention to continue to insist on the delivery or to withdraw from the contract. The contracting party shall not be entitled to refuse to take delivery or withdraw from the contract instead of performance, if we have set a reasonable deadline requesting a certain declaration. All rights to the software as well as to other objects which we provide or make available to the purchaser within the framework of the initiation and performance of the contract shall remain our exclusive property. If the rights belong to third parties, we shall have the corresponding exploitation rights.

b. The purchaser shall have a simple, spatially and temporally unlimited, non-exclusive right to use the software. Unless agreed otherwise, the software may only be used with the hardware supplied by us or, if the purchaser uses it with their own hardware, it must be used on a single computer.

c. In addition, as regards the rights of use, the compulsory provisions of the German Copyright Right (Section 69a (a) et seq. UrhG) shall also apply.

d. The purchaser shall receive the software, consisting of the machine program and the user manual. Unless agreed otherwise, programs and the manual shall be supplied on CD-ROM. The purchaser shall have no rights to the surrender or delivery of the source code.

10. Defects
a. The properties of the delivery items shall be exclusively as specified in the order confirmation or, in the event that delivery is made without order confirmation, in the description in the current vhf catalogues. If a delivery item is not listed in the catalogues and a delivery is nonetheless made without an order confirmation, the scope and content of the performance owed shall be as specified in the order confirmation or, if the contracting party shall be entitled to withdraw from the contract instead of performance shall be as specified in the order confirmation or, if the contracting party shall be entitled to withdraw from the contract instead of performance shall be as specified in the order confirmation.

b. We shall, in particular, not be liable for any malfunction and/or damage caused by inappropriate or improper use or operation, defective assembly and/or commissioning by the contracting party or a third party, incompatibility with other systems or modules, custom wear and tear, faulty or negligent handling, or for the consequences of incorrect changes or repairs carried out by the contracting party or third parties without our authorisation. The contracting party shall not be responsible for data security.

c. Legal defects in the contract shall be remedied by us without a reasonable period of time for the performance of the contract and/or assert claims for compensation in accordance with Section 11 below.

11. Warranty for CNC milling machines
We shall issue our contracting parties with a warranty for the sale of complete CNC milling machines in accordance with a separate agreement. The details shall be contained in the warranty. However, there shall be no entitlement to the issuance of a warranty.

12. Liability
a. We shall be liable without limitation in accordance with the law for intent and gross negligence and also in the case of breaches of major contractual obligations of the German Product Liability Act.

b. We shall be liable without limitation in the event of intent, gross negligence, the absence of a guaranteed characteristic, for personal injury and in accordance with the German Product Liability Act. In the event of slightly negligent breach of material contractual obligations (including punctual and defect-free delivery), our liability shall be limited to the foreseeable damage typically occurring under this type of contract. Our liability for slightly negligent breach
The rights to use the software supplied by us shall be deemed revoked with the exercise of the reservation of ownership.

g. We shall undertake to release goods under retention of title as well as assigned claims insofar as the security value of the goods under retention of title and the assigned claims exceeds our claims. The security value shall correspond to the amount of the purchase price minus 10 per cent for any resale losses and costs. Release shall be effected by transfer of ownership and/or re-assignment.

14. Infringement of intellectual property rights

The purchaser shall inform us immediately in writing should a third party assert protective rights to the delivery items against them. In this case, the purchaser shall authorise us to conduct any and all disputes with the third party alone. For as long as we make use of this authorisation, the purchaser shall be prohibited from acknowledging the claims of the third party without our consent; we shall mount a defence against such third-party claims at our own cost and indemnify the purchaser against all costs associated with the defence of these claims, provided they are not caused by a breach of duty on the part of the purchaser (e.g. improper use).

15. Confidentiality

a. The contracting party shall undertake to keep the information, documents, software, etc. it has received prior to or during the performance of the contract in the strictest confidence as business and trade secrets and not to make them accessible to third parties.

b. We shall process the necessary data of the contracting party that is relevant for business transactions with due consideration of the data protection regulations.

16. Delivery abroad

a. If the products are exported, the contracting party shall comply with the German export regulations and shall make its customers aware that, in the event of export, the German export regulations shall apply.

b. If, at the request of the contracting party, deliveries are exported duty free, they shall be liable towards us for any subsequent demands by the customs administration and shall indemnify us against such claims.

17. Place of performance | Place of jurisdiction | Applicable law | Severability clause

a. The place of performance and place of jurisdiction for all obligations directly or indirectly arising from the contractual relationship shall be our registered place of business in 72119 Ammerbuch, Germany. We shall also be entitled to sue the contracting party at its registered place of business.


c. Rights arising under this contract may only be transferred to a third party by the purchaser and the contracting party shall only have a temporary, contractual, revocable right of use. The rights of use and conditions is or becomes invalid, this shall not affect the validity of the remaining provisions hereof. The contracting parties shall then replace the invalid provision with one whose economic effect is as close as possible to that of the invalid one.

18. Language

These terms of sale are issued in German and in English. In cases of doubt, the German wording shall prevail.