

General Terms of Lease for Machines, Equipment and Accessories of BAUER Maschinen GmbH



Date: April 1, 2023

1. General Provisions

- 1.1. For the lease of machines, equipment and accessories (hereinafter referred to as "Leased Items") of BAUER Maschinen GmbH (hereinafter referred to as "BMA") to customers (hereinafter referred to as "Lessee") (BMA and Lessee jointly referred to as "Parties", also individually as "Party"), these General Terms of Lease (hereinafter "GTL") shall apply exclusively. Any deviating, contradictory or supplementary general terms of business of the Lessee shall apply only to the extent BMA has expressly approved them in writing. This requirement for approval shall also apply if BMA carries out the delivery or handover of the Leased Items to the Lessee or carrier (hereinafter referred to as "Handover") without reservation despite being aware of the Lessee's general terms of business.
- 1.2. Individual written agreements of the Parties made on a case-by-case basis (including side agreements, amendments and additions) shall have precedence over these GTL.
- 1.3. References to the applicability of statutory legal provisions are provided strictly for clarification purposes. Even without such clarification, statutory legal provisions shall apply unless modified or excluded by these GTL.

2. General Rights and Obligations of the Parties

- 2.1. BMA agrees to provide the Leased Items to the Lessee for use for the agreed term of lease. BMA is entitled to exchange the Leased Items during the term of lease for different, functionally equivalent Leased Items unless this is opposed by legitimate interests of the Lessee.
- 2.2. The Lessee agrees to use the Leased Items solely according to their intended purpose and to treat them carefully and properly, to comply with all applicable legal and administrative regulations, to pay the lease fee as agreed and to return the Leased Items to BMA at the end of the lease contract in accordance with these GTL.
- 2.3. The Lessee agrees to keep BMA informed, without undue delay, of the current location or place of use of the Leased Items. The use of the Leased Items outside a radius of 50 km from the place of use named in the contract requires the prior written agreement of BMA. If the Parties have not agreed on a place of use in the contract, the handover location is deemed as the agreed place of use.
- 2.4. Unless otherwise expressly described in the contract, particularly in the technical specifications, the Leased Items comply with the laws and regulations applicable in the country of use at the time of contract conclusion. BMA informs the Lessee that the Leased Items may not comply with mandatory requirements applicable outside the country of use, in particular the requirements in the United States and/or Canada. Therefore, BMA accepts no liability for damage or legal claims that result from or in connection with the fact that the Leased Items do not comply with laws and regulations outside the country of use. If the Lessee or a third party uses or transports the Leased Items outside the country of use, the Lessee shall release BMA from all claims, including legal enforcement costs, associated with the fact that the Leased Items may not comply with the laws and regulations applicable in this country. BMA offers to assist the Lessee in reviewing the compatibility of the Leased Items with the laws and regulations in a country outside the country of use.

3. Handover of Leased Items, Transfer of Risk, Lessee's Default of 'Acceptance

- 3.1. Unless otherwise agreed in writing by the Parties, on handover, BMA must keep the Leased Items ready during normal business hours to be picked up by the Lessee, and the Lessee must pick up the Leased Items at the agreed time. If

transport or removal by BMA is agreed, the Lessee must ensure unobstructed access to the loading point.

- 3.2. In order for BMA to comply with the handover time, the Lessee must promptly and fully observe its contractual obligations. In particular, if the Parties have agreed on the provision of securities (e.g. a security deposit or guarantee) or the payment of advance payments, BMA is entitled to make the handover of the Leased Items dependent on the Lessee's fulfilment of the corresponding obligations.
- 3.3. The handover time will be postponed by an appropriate period if unforeseen events occur that are outside BMA's sphere of influence, as long as such obstacles demonstrably have significant impacts on the deadline.
- 3.4. If BMA is in default with handover at the beginning of the term of lease pursuant to Section 1 (1) of the GTL, for reasons owing to the fault of BMA, the Lessee may demand compensation subject to the prerequisites outlined in Section 8 of the GTL. If BMA caused the default due to slight negligence, the amount of compensation is limited to the proportional net lease fee that would be incurred in the period of default; for this reason, the Lessee does not have to pay a lease fee during the delay for which BMA is responsible. If BMA culpably fails to rectify the default within an appropriate grace period set by the Lessee, the Lessee may withdraw from the contract.
- 3.5. Upon handover of the Leased Items to the Lessee, the risk of accidental destruction and accidental deterioration of the Leased Items is transferred to the Lessee; the Lessee bears this risk for the entire period until redelivery to BMA.
- 3.6. If the Lessee definitively refuses to accept the Leased Items, the Lessee must reimburse BMA for any costs incurred due to storage, insurance, transport preparations etc. Acceptance is deemed as definitively refused if the Lessee has not accepted the Leased Items within fourteen (14) calendar days after the agreed handover date without indicating reasons.
- 3.7. BMA is entitled to terminate the contract without notice in case the Lessee remains in default of acceptance after a reminder.

4. Lease Fee and Payment, Assignment as Security for the Lease Fee due

- 4.1. The lease fee is payable in advance without deduction immediately upon receipt of an invoice.
- 4.2. The agreed lease fee is based on the regular operating hours of the Leased Items agreed in the lease contract. Additional operating hours and more intensive use must be reported to BMA; these are invoiced additionally on a pro rata basis according to the agreed lease fee. Insofar as the Parties did not specify the regular operating hours, one-shift operation (8 hours per day) on five days per calendar week will be deemed as agreed (40 hours per week). Weekend work, additional working hours and more intensive use must be reported to BMA by the Lessee, these are additionally invoiced accordingly.
- 4.3. In the event that the Parties fail to determine, or determine an invalid lease fee, the normal market lease fee will be deemed as agreed.
- 4.4. Legal VAT must be paid by the Lessee in addition to the lease fee.
- 4.5. Insofar as BMA is obligated to pay duties, particularly import duties, and fees for export and/or import approvals, in connection with the handover of Leased Items, these costs and fees must be reimbursed by the Lessee in addition to the lease fee.

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- 4.6. The Lessee is only entitled to a right of retention and/or offsetting with counterclaims of the Lessee that are uncontested by BMA or legally established, not with contested counterclaims.
- 4.7. Due amounts are deposited into the current account for reservation of ownership until all liabilities are discharged, which may be agreed for deliveries between the Parties.
- 4.8. BMA is entitled, before handing over the Leased Items, to demand the provision of a security up to the amount of the anticipated total lease fees, which will be offset against the lease fee incurred during the duration of the lease contract.
- 4.9. The Lessee assigns BMA its claims against the client, on whose orders the Leased Items are used, in the amount of the agreed lease fees any security deposits or advance payments that were paid. BMA accepts this assignment. This assignment only occurs as conditional payment and to safeguard the claims of BMA from the business relationship with the Lessee.
- 4.10. If the Lessee is in default of payment or if circumstances exist of which BMA first becomes aware after contract conclusion and which indicate a deterioration of the Lessee's creditworthiness, all claims of BMA become due and payable immediately, regardless of the payment conditions granted, any deferments or the maturity periods of invoices. In this case, BMA is entitled to make the (further) provision for use of the Leased Items dependent on advance payments or other appropriate security payments. Nevertheless, BMA agrees to release the securities owed to it in the event that their value exceeds the open receivables being secured by more than 20%. In this context, BMA is free to choose which securities to release.

5. Shutdown Clause

The term of lease is not extended automatically if downtimes occur for the Lessee, e.g. caused by public holidays at the place of use or a site shutdown, loading or unloading, assembling or dismantling the Leased Items, , etc. nor is the amount of the lease fee affected by this. All costs incurred in this regard will be paid by the Lessee.

6. Lessee's Obligation of Maintenance, Upkeep, Repair and Inspection

- 6.1. The Lessee is obliged
- only to use the Leased Items according to their intended purpose, and to treat them properly and carefully and protect them from any kind of excessive strain;
 - to carry out proper and professional maintenance and care of the Leased Items, as described in the technical documentation accompanying the Leased Items, at its own cost, as well as to rectify damage to the Leased Items that are caused by contractual wear due to use by the Lessee or due to aging and weathering influences during use by the Lessee and damages to the Leased Items for which the Lessee is responsible, at its own cost (repair and maintenance);
 - to promptly inform BMA of required inspection, maintenance and repair work that is not already encompassed by Section 6 (1) b) of the GTL, or to promptly inform BMA and have these tasks carried out by BMA. In this case, the Lessee must provide personnel to assist free of charge, if necessary.
- 6.2. BMA is entitled to inspect the Leased Items at any time and, upon prior coordination, to examine the Leased Items itself with the Lessee or to engage a representative to carry out the examination. The Lessee is obliged to facilitate this inspection for BMA in any manner, in particular the Lessee must allow BMA to access the place of use or provide the necessary approval of third parties on request without undue delay. BMA will pay for the costs of inspection.
- 6.3. The Lessee is liable under the statutory regulations, in particular for willful intent and any kind of negligence. Liability cannot be

limited in terms of total amount. For damages to the Leased Items or the loss or destruction of the Leased Items occurring during the duration of the lease contract or until proper redelivery, the Lessee is liable for the amount of the repair costs less a potential impairment, however this is limited to the replacement value of the rental property. The Lessee is also liable for damage due to loss of lease fees as well as potential costs for expert opinions and legal fees.

- 6.4. Defective components or parts remain the property of BMA even in the event of replacement or removal by the Lessee and must be delivered back to BMA.

7. Defects upon Handover of the Leased Items

- 7.1. The Lessee is entitled to inspect the Leased Items in good time before handover and examine it for potential defects. The Lessee will pay the costs of any such examination.
- 7.2. Upon handover, a handover certificate will be prepared at BMA's request that must be signed by the Lessee and BMA. This will specify any identified defects.
- 7.3. The Lessee must inform BMA in writing without undue delay concerning defects that are evident upon handover, otherwise complaints can no longer be submitted and the Lessee is not entitled to the rights in Section 7 of these GTL in this regard.
- 7.4. Nevertheless, the Lessee must promptly inform BMA of defects that were not reported in good time, as well as defects that only became evident later or that only occurred later; this applies in particular for defects, faults or damages that could entail further damage to the Leased Items or other legal goods.
- 7.5. BMA must eliminate defects that are reported or identified in good time pursuant to Section 7 (1) to (3) of these GTL at its own cost, insofar as these defects impede or restrict the suitability of the Leased Items for proper contractual use. This also applies for defects that did not yet exist upon handover, but for which BMA is responsible. BMA is also entitled to provide the Lessee with functionally equivalent rental property. If the Leased Items have a defect that impedes or restricts their suitability for proper contractual use, the Lessee is only obliged to pay an appropriately discounted rental rate for the time during which the suitability is impaired. More extensive claims are excluded.
- 7.6. If BMA culpably allows a suitable grace period that is provided for BMA's rectification of a defect to lapse fruitlessly, the Lessee's right of termination, if any, after the unsuccessful expiry of an appropriate time limit shall remain unaffected.
- 7.7. Any claims Beyond this more extensive shall be excluded.

8. Limitation of Liability for BMA

- 8.1. Claims for damages against BMA, regardless of the legal reason, can only be asserted by the Lessee in the event of:
- Intent or gross negligence on the part of BMA, its legal representatives or vicarious agents;
 - Culpable breach of essential contractual obligations, the fulfilment of which is necessary for proper performance of the contract and on which the Lessee regularly and reasonably relies on and may rely on (essential contractual obligations), insofar as the achievement of the contractual purpose is jeopardized as a result; in this case, however, the amount of BMA's liability is limited to damage typical for this type of contract that was reasonably foreseeable upon contract conclusion. Liability for unforeseeable damage is excluded.
 - Claims for damages due to injury of life, body or health that are owing to a culpable breach of duty by BMA or one of BMA's legal representatives or vicarious agents;
 - If BMA is liable according to the Product Liability Act for personal injury and/or material damage.

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8.2. If BMA issues technical information or acts in an advisory capacity, this occurs free of charge to the exclusion of any liability. Otherwise, BMA takes on advisory duties – particularly concerning the dimensioning, equipment and suitability of the Leased Items – only to the extent that an express written consultancy agreement was arranged in return for payment. Any consulting from BMA does not release the Lessee in any case from its obligation to review the suitability of the Leased Items for its intended purpose and to define the selection and dimensioning of the Leased Items with regard to the purpose of use.

8.3. If the Leased Items cannot be used for its intended purpose due to the culpable breach of instruction, consulting or other duties by BMA, the regulations of Section 7 (4) and (5) as well as Section 8 (1) and (2) of the GTLs apply accordingly to the exclusion of further claims.

8.4. The present limitations of liability also apply for damage claims against executive bodies, salaried staff, employees, workers, representatives and aides of BMA.

9. Lease with Operating Personnel

9.1. If the Leased Items are rented including the provision of operating personnel, the operating personnel may only be used for the operation of the Leased Items and not for other work. In the event of damage caused by the operating personnel, BMA is only liable if it did not select the operating personnel properly. Otherwise, the Lessee is responsible for the actions of the operating personnel. The Lessee must properly and sufficiently insure the operating personnel.

9.2. The provision of operating personnel by BMA does not release the Lessee from its contractual obligations arising from the lease contract with BMA or its obligations to its client or customer.

10. Commencement and End of the Term of Lease, Commissioning, Redelivery of the Leased Items

10.1. The lease commences with the agreed date for handover of the Leased Items and ceases upon expiry of the agreed term of lease or upon effective termination of the lease contract. The day of handover is considered a lease day.

10.2. For reasons of safety, when leasing machines and equipment, the commissioning and briefing on operation of the Leased Items – at the choice of BMA – must be carried out by specialists provided or trained by BMA at the Lessee's cost.

10.3. The Lessee is obliged to inform BMA in writing of the intended redelivery of the Leased Items or – insofar as this is agreed by the Parties or requested by BMA – the return of the Leased Items by pickup on the part of BMA (both referred to as "Redelivery" in the following) at least three (3) working days before the end of the term of lease (notification of availability). The Lessee must then agree with BMA on a date for Redelivery of the Leased Items at the end of the term of lease so that BMA is able to inspect the Leased Items during BMA's typical business hours on the same day of Redelivery. The examination and inspection of the Leased Items will be carried out at the Lessee's cost.

10.4. The Lessee is obliged to deliver the Leased Items back to BMA fully, cleaned, with the same fuel level as on handover, in proper and contractual working order together with the fully completed lease redelivery form, at the agreed time, to BMA's storage area or another return location agreed with BMA. BMA is also entitled, but not obliged, to pick up or arrange to have the Leased Items picked up by announcement at the Lessee's cost; the Lessee must allow access to the Leased Items and removal.

10.5. If the Lessee continues to use the Leased Items after the expiry of the agreed term of lease or after termination of the lease contract, the lease contract is not deemed as extended.

10.6. Insofar as maintenance and care activities need to be carried out pursuant to Section 6 (1) b) of the GTL, these activities must be

carried out by the Lessee at its own cost before Redelivery. Necessary inspection and repair work pursuant to Section 6 (1) c) of the GTL must be reported to BMA in writing by the Lessee before Redelivery.

10.7. Upon Redelivery at the latest, the Lessee must inform BMA concerning the use and application of the Leased Items as well as any resulting contamination with harmful substances or toxic substances.

11. Breach of Redelivery Obligation

11.1. If, after the end of the lease contract, the Redelivery of the Leased Items does not occur, or is carried out improperly or incompletely pursuant to Section 10 of the GTL, BMA is entitled to demand liquidated damages for the period between the expiry of the term of lease and the full and proper Redelivery of the Leased Items from the Lessee, amounting to the proportional net rent that would have incurred in this period. The Lessee is entitled to demonstrate that no damages, or a lesser amount of damages were actually incurred. More extensive compensation claims of BMA against the Lessee remain unaffected by this, but the liquidated damages claim must be offset against such claims. The contractual obligations of the Lessee, particularly arising from Sections 2, 6, 9, 10 and 12 of these GTL, remain in place until actual Redelivery of the rental property.

11.2. After Redelivery, BMA will inspect the Leased Items. The extent of the defects and damage to the Leased Items for which the Lessee is responsible is reported to the Lessee, and the Lessee is granted the opportunity of subsequent inspection. The costs for repair work required for the rectification of defects or damages are reported to the Lessee in their estimated amount before the beginning of the repair work carried out at the Lessee's cost, where possible. If repair or maintenance of the Leased Items is impossible or economically unreasonable, the Lessee is obliged to reimburse BMA for the replacement value.

11.3. BMA can invoice the Lessee for damaged or unreturned accessories to the Leased Items at their new list price.

12. Further Obligations of the Lessee, Insurance, Confidentiality, Prohibition of Reverse Engineering

12.1. Without the prior written approval of BMA, the Lessee may not hand over the Leased Items to a third party nor assign the contract or individual rights or claims resulting from the contract, nor grant rights of any kind to the Leased Items or pass such rights on. This also applies for all future rights and claims. Section 354a of the HGB (German Commercial Code, Handelsgesetzbuch) remains unaffected by this.

12.2. All public law regulations (in particular the Road Traffic Act and traffic regulations, all occupational safety, accident prevention and safety regulations etc.) as well as the provisions in the technical documentation handed over by BMA (in particular the provisions of the operating instructions) that are associated with the possession, use or receipt of the Leased Items, must be strictly observed by the Lessee.

12.3. The Lessee must take the necessary measures to protect persons and goods at the place of use and instruct its personnel as well as any personnel provided by BMA in this regard. These measures must at least correspond to the requirements described in the documentation as well as the safety standard of BMA (BAUER HSE Standard), published at ([BAUER Group / About us / Organization / Health, Safety & Environment](#)).

12.4. If a third party asserts rights to the Leased Items through seizure, attachment or the like, the Lessee is obliged to inform BMA promptly of this fact in writing and to instruct the third party of BMA's property right – also promptly in writing.

12.5. The Lessee must take suitable measures to safeguard the Leased Items against theft and damage.

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- 12.6. In the event of an accident, the Lessee must promptly inform BMA of this fact by phone and in writing and await BMA's instructions; in particular, the Lessee must take all necessary measures for mitigation of damage and preservation of evidence. In the event of traffic accidents and theft or damage by third parties, the police must also be involved and a report must be filed. The Lessee must promptly report any other defects and damages to the Leased Items in writing to BMA.
- 12.7. If the Lessee culpably violates the provisions of these GTL, in particular Sections 6, 9, 10 and 12 of the GTL, the Lessee is obliged to reimburse BMA for the full damage incurred as a result. If the Lessee culpably fails to report a defect or damage to the Leased Items to BMA in good time and (more extensive) damage occurs to the Leased Items as a result, the Lessee is also obliged in particular to compensate this damage.
- 12.8. During the term of lease, the Lessee has a legal duty to maintain safety and is liable for the operational hazard arising from the Leased Items unless this can be attributed to a defect in the Leased Items for which BMA is responsible. Insofar as third parties assert compensation claims against BMA due to damages for which the Lessee is responsible, the Lessee must indemnify BMA fully on first request.
- 12.9. The Lessee assures that the Leased Items will only be operated and maintained by qualified specialists or by personnel instructed by BMA.
- 12.10. The Lessee must apply for any official authorizations or approvals required for the operation of the Leased Items at its own cost. Furthermore, the Lessee must pay all costs for consumables, operating materials and fuel during term of lease. The costs for assembly and dismantling as well as the commissioning of the Leased Items must be paid by the Lessee.
- 12.11. Without the prior written approval of BMA, the Lessee may not modify the Leased Items, in particular make extensions, installations or conversions of any kind. The Lessee may not remove or cover the proprietary notices, logos and advertisements on the rental property. BMA reserves the right to reverse unpermitted changes to the Leased Items at the Lessee's cost.
- 12.12. For the entire duration of the lease contract, the Lessee will take out a liability insurance policy at its own cost with an appropriate coverage amount and maintain this or extend its existing insurance accordingly in order to cover the risk arising from the Leased Items, in particular operational hazards as well as accident damage, personal injury and material damage.
- 12.13. Furthermore, the Lessee must maintain an equipment and vehicle insurance at its own cost for the Leased Items during the entire duration of the lease contract (including damage, destruction, theft, transport risks and damage from natural hazards) at replacement value. The Lessee must issue the insurer irrevocable instructions to notify BMA directly if the insurance coverage does not exist or ceases to exist, in particular if the owed premium is not paid. The Lessee must provide evidence that these instructions have been issued no more than ten (10) working days after contract conclusion. The Lessee must also provide BMA with a coverage confirmation from the equipment and vehicle insurer within ten (10) working days after conclusion of the lease contract; otherwise, BMA is entitled to take out the necessary equipment and vehicle insurance for the Leased Items at the Lessee's cost. As a security for BMA's claims from the lease contract, the Lessee hereby assigns to BMA all rights and claims from the equipment and vehicle insurance against the insurer as well as any claims against a third party causing damage and its insurer. BMA hereby accepts this assignment. Regardless of the assignment, the Lessee is revocably authorized and obligated to assert the assigned claims against the insurer and damaging party at its own cost and to settle the damage case. In any case, the Lessee must request payment directly to BMA and provide ongoing reports to BMA about the damage case and its settlement.
- 12.14. BMA is entitled at any time to demand proof of the insurance policies named in Sections 12 (12) and (13) of the GTL.
- 12.15. The Lessee is obliged to indemnify and hold harmless BMA as well as its executive bodies, salaried staff, employees, representatives and vicarious agents regarding all losses, costs, damage claims, expenses, liability obligations or other claims due to personal injuries or material damage that were caused by intent or negligence or breach of due diligence obligations on the part of the customer or due to non-compliance with safety regulations, insufficient maintenance of the Leased Items or insufficient or improper operation or use of the Leased Items by the Lessee, to defend against such claims and to release BMA from such claims at first request. This applies, in particular, for any breach of the Lessee against the provisions in Section 12 (2), (3), (6) and (8) of the GTL. The Lessee is also liable for its executive bodies, salaried staff, employees, representatives and vicarious agents.
- 12.16. If the technical documentation for tools (e.g. Kelly bars, etc.) has not already been provided to the Lessee together with the technical documentation for equipment and its accessories (e.g. process equipment), it is available for the Lessee for download in the Customer Center (<https://customercenter.bauer.de>). Before installation or usage of tools, the Lessee shall make sure that the technical documentation for the tools, the equipment and its accessories (e.g. process equipment) is available in order to ensure a safe operation including that of the tools. If necessary, the Buyer must request the technical documentation from the corresponding related manufacturer in advance.
- 12.17. The Lessee undertakes to treat as strictly confidential all commercial and technical information which are not in the public domain and which BMA, a company associated with BMA or a third party appointed by BMA discloses to the Lessee in the course of the business relationship or makes accessible to him in any other way.
- 12.18. Any kind of observation, examination, dismantling or testing of the Leased Items or of parts thereof or, respectively, any kind of tracking the source code of an included software, if any, (Reverse Engineering) for the purpose of reconstruction of the development or production process and/or for the purpose of replication or copying of the Leased Items and/or to gain knowledge of trade secrets, in particular the acquisition of knowledge concerning the design, technical functionality and/or other characteristics of the Leased Items or of parts thereof, shall be strictly prohibited for the Lessee.
- 12.19. The obligations in this section 12 shall survive termination of the business relationship between BMA and the Lessee, where applicable.
- ## 13. Termination of the Lease Contract
- 13.1. a) A lease contract concluded for a specific term of lease cannot be ordinarily terminated by either party.
- b) The same applies for any minimum term of lease agreed upon in a lease contract which has been concluded for an indefinite period. Only once the minimum term of lease has elapsed, either Party shall be entitled to ordinarily terminate the contract concluded for an indefinite period with a noticed period of one (1) week.
- c) For lease contracts for an indefinite period without a minimum term of lease, the mutual notice period for regular termination is:
- one (1) calendar day if the rental price is agreed per day
 - two (2) calendar days if the rental price is agreed per week

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- one (1) week if the rental price is agreed per month.
- 13.2. BMA is entitled to terminate the lease contract for good cause without observing a notice period; this applies in particular
- a) If the Lessee is in default with the payment of a lease fee that is due;
 - b) If it becomes evident after concluding the contract that the claim to payment of lease fees is jeopardized by the Lessee's lack of solvency;
 - c) If the Lessee uses the Leased Items or a part thereof improperly, or moves it to another location or hands it over to a third party without the consent of BMA;
 - d) If the Lessee violates Section 6 (1) of the GTL to the extent that the Leased Items is endangered;
 - e) If the Lessee fails to pick up the Leased Items according to the contract as defined by Section 3 (1) of the GTL.

In case of Section 13 (2) a), c), d) and e) of the GTL, termination is only permitted after a grace period for rectification has elapsed unsuccessfully or after an unsuccessful warning notice.

- 13.3. The Lessee can terminate the lease contract extraordinarily for good cause without notice after an appropriate grace period has lapsed unsuccessfully if the use of the Leased Items is not granted to the Lessee in good time, or is withdrawn again, due to reasons for which BMA is responsible.

14. Foreign Trade Law, Export Controls

- 14.1. The fulfillment of the contract by BMA shall be subject to the provisional condition that the fulfillment is not prevented by national or international regulations of foreign trade law particularly EC Dual-Use Regulation, German Foreign Trade Law [Außenwirtschaftsgesetz] and German Foreign Trade Regulations [Außenwirtschaftsverordnung], US Export Control Law, embargoes, import restrictions and/or other sanctions, and particularly for armaments and dual-use goods hereinafter referred to as **"Foreign Trade Law"**. Since Foreign Trade Law is subject to constant amendments and adjustments, it shall be applied to the contract and its execution as amended.
- 14.2. The Lessee undertakes to provide all information and documents required for export or shipment under the applicable Foreign Trade Laws and comply with restrictions imposed by governmental authorities on import or export licenses, e.g. re-export stipulations. Furthermore, the Lessee shall not sell, export, re-export, deliver, transfer or otherwise make products available to persons, companies, institutions, organizations or countries, insofar as such actions are contrary to applicable Foreign Trade Law. The Lessee shall provide on request adequate and complete information on the end use of products and services; in particular, the Lessee shall issue end-use certificates and send them to BMA as proof for the relevant government authorities.
- 14.3. If BMA is hindered in the timely delivery or performance due to the duration of the proper execution of an application, approval or examination procedure under customs laws or Foreign Trade Laws, the beginning of the term of lease shall be extended by the duration of the delay caused by this official procedure.
- 14.4. If the authorizations or approvals required for the fulfillment of the contract are not issued or revoked by the competent authorities in accordance with the Foreign Trade Law, or if other legal obstacles under Foreign Trade Law permanently prevent the fulfillment of the contract, BMA shall be entitled to withdraw from the contract in full or in part. This shall also apply if such an impediment to performance occurs only after conclusion of the contract. Under the same conditions, the Lessee is entitled to withdraw from the contract. In the event that only a partial performance is affected by the impediment to performance, the Lessee can withdraw from the entire contract only if the Lessee is not reasonably able to accept the possible partial performance. The Lessee may

not assert claims for damages after the contract has been withdrawn.

- 14.5. For the case that the Lessee culpably violates foreign trade law, the Lessee is obliged to compensate BMA for the damages incurred and to release BMA from damage claims and necessary expenses that result.
- 14.6. Insofar as BMA is responsible for the required export and/or import documents, BMA assures that it will provide these for the Lessee to the best of its knowledge and ability. In this process, BMA determines the relevant customs tariff numbers. Insofar as there are (country-)specific particularities concerning the dispatch papers, these must be notified in writing by the Lessee beforehand. Unless otherwise expressly agreed in writing, however, the Lessee bears sole responsibility for the accuracy of the customs tariff numbers. The Lessee may not assert any claims against BMA due to customs tariff numbers stated by BMA to the best of its knowledge.

15. Choice of Law, Arbitration Clause / Place of Jurisdiction, Final Provisions

- 15.1. These GTL and any individual agreements concluded between the Lessee and BMA are exclusively subject to the material laws of the Federal Republic of Germany, to the exclusion of international conflict of law agreements and the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention).
- 15.2. All disputes, differences of opinion or claims arising from or in connection with this contract, including its validity, lack of validity, infringement, interpretation or termination (hereinafter referred to as "Dispute"), will be decided by arbitration proceedings according to the Swiss Rules of International Arbitration of the Swiss Chambers' Arbitration Institution. The version of the arbitration rules in force at the time the notice of arbitration is issued shall apply. Up to a dispute value of EUR 1 million the court of arbitration should comprise one member, and for a dispute value of more than EUR 1 million the court of arbitration should comprise three members. The seat of arbitration is in Zurich, Switzerland. The language of arbitration is English. The decision of the arbitration court is binding and final.
- 15.3. If the Lessee is a merchant, legal entity under public law or special fund under public law, BMA may determine before the time of a pending dispute which jurisdiction shall apply for this dispute by way of derogation from Section 15 (2) of the GTL, excluding the ordinary jurisdiction. In this case, the exclusive place of jurisdiction can be chosen as either that of BMA Schrobhausen (Germany) or the Lessee's general place of jurisdiction. Section 15 (2) of the GTL does not apply in this case. This Section 15 (3) of the GTLs also applies for documentary procedure and claims arising out of a bill of exchange.
- 15.4. Should individual clauses of these GTL or any individually concluded agreements be or become invalid in part or in whole, this does not affect the validity of the remaining clauses. The invalid clause must be replaced by a valid provision that the Parties would have chosen when properly weighing their mutual interests if they had been aware of the invalidity of the invalid clauses. If this is not possible, the respective clause is governed by the relevant statutory provisions.
- 15.5. If these GTL and/or the contractual agreements between the Parties were issued in German and a foreign language, the German version takes priority in the event of discrepancies.
- 15.6. The place of fulfillment is Schrobhausen.
- 15.7. No verbal ancillary agreements have been made. Amendments or additions to the contract or rescission of the same shall only be valid when in writing. The same applies for the termination of the contract as well as the written form requirement.