Agreement

between

Carl Zeiss Industrielle Messtechnik GmbH

Carl-Zeiss-Str. 22

73446 Oberkochen

- hereinafter referred to as "Client" -

And

Please insert name of the other party involved (including AG, GmbH, SAS…)

insert address of other party

insert address of other party

- hereinafter referred to as "Contractor" -

on the exchange of electronic data through EDI or Web EDI.

Preamble

The parties intend to exchange message-based documents electronically for simplifying/streamlining order placement and processing procedures using EDI (Electronic Data Interchange) or via Pool4Tool, the supplier portal of POOL4TOOL AG using Web EDI (Webbased Electronic Data Interchange).

§ 1 Substantial scope

This agreement between the Contractor and the Client governs the installation and operation of an electronic data interchange system using EDI or Web EDI (in the following both called "EDI") in connection with an existing supply relationship. This agreement does not govern any rights or obligations arising out of the delivery of the goods or services.

(2) "Data" within the meaning of this agreement is information of any nature sent and received in electronic form between the Client and the Contractor for purposes of streamlining communications within the supplier relationship both presently and in future.

(3) The Client and the Contractor jointly define which documents are to be transmitted through EDI, those are specified in Annexe 1 of this agreement. After electronic data transfer has been activated on the basis of §2 (2), the agreed documents shall be transmitted exclusively through EDI, unless the parties have explicitly agreed in writing otherwise or in the case of § 3(4). For data transmitted electronically by the Contractor that results in an order whose value exceeds the limit defined in Annexe 3, the procedure described in § 1(5) shall apply instead.

(4) If any data, which shall be transmitted through EDI according to this agreement are both transmitted through EDI and other channels of communication (e.g. letter, fax), the order documents transmitted through EDI and formatted as PDF files shall be exclusively binding.

(5) Electronic data transmitted by the Client that results in an order whose value exceeds the limit defined in Annexe 3 shall be legally binding only upon receipt of a signed document that has not been transmitted electronically and is therefore not covered under Paras. 3 and 4. If the Client does not define a limit in Annexe 3, this paragraph shall be inapplicable and all data electronically transmitted through EDI will be legally valid irrespective of the total order value.

§ 2 Installation, activation and maintenance of the EDI connection

(1) The time and manner of installation of the EDI connection as well as the parameters to be observed shall be coordinated by the parties and are defined in Annexe 1 of this agreement.

(2) The activation and transmission of the data according to § 1(3), 3 1(4) and § 1 (5) shall be effected at the date specified in Annexe 1..

(3) Each party shall bear its own costs for the supply, inspection and maintenance of the EDI connection and any future modifications to it as well as all network connection charges, usage-independent service charges and charges for its own devices and cabling incurred in respect of its communications system.

(4) The parties undertake to have their essential communication systems in place and functional by the agreed date and to maintain these systems operational till this agreement terminates.

(5) § 312 g (1) Cl. 1. Nos. 1 to 3 and Cl. 2 of the German Civil Code (*Bürgerliches Gesetzbuch*, *BGB*) (Duties in the Area of E-commerce) shall not be applicable within the scope of this agreement by mutual consent.

(6) If the parties have agreed on a test phase, terms and conditions regarding the test phase are specified in Annexe 4.

§ 3 Outages and Error Prevention

(1) The opposite party must be informed at least ten working days in advance by letter, fax, e-mail of any downtimes planned for electronic data exchange (e.g. planned maintenance etc.).

(2) A party detecting an outage in the communication system or having reasonable grounds to suspect the occurrence of an outage must inform the other party immediately by letter, fax, e-mail. The obligation to do so is independent of whether the origin of the outage detected or suspected lies within its sphere of responsibility.

(3) Irrespective of the duty to notify under Para. 2, each party in such cases must take all measures for error identification and prevention at its disposal to mitigate damages, provided the effort involved is reasonable in relation to the level of damage mitigation achievable.

(4) If required, the parties must agree on an alternative platform for data transmission for the duration of the outage/downtimes. Documents transmitted in this manner are binding, as against §1 (4).

(5) The names of contact persons for the parties both during the regular operation of the electronic data interchange system as well as during outages are listed in Annexe 2 of this agreement.

(6) The parties agree that the exchange of data through EDI is of significant importance to the supply relationship between the Client and the Contractor. The Client and the Contractor therefore agree in case of problems of the electronic data interchange to initiate talks promptly to address the root cause of problems.

§ 4 Receipt of data & incorrect/incomplete data transmission

(1) The parties to this agreement both undertake to check the receipt of data at least once every working day during normal business hours.

In the context of this agreement, a working day is defined as every day, with the exception of Saturdays, Sundays and applicable holidays at the place of receipt of the message, including holidays and off-duty days in the industry ascribed to the party. Normal business hours in the context of this agreement are defined as 8 AM to 6 PM each working day.

(2) The parties must each convert the data received into the data format used by it and ensure that data is processed within the framework of its delivery of goods and services.

(3) The parties must document all incoming and outgoing data in reproducible form.

(4) The parties must ensure that their EDP systems are enabled to send and receive data at all times. This means that the transmission and receipt of data should be possible outside of normal business hours as well.

(5) During normal business hours, data shall be considered received by the Contractor as soon as the Contractor receives an e-mail message stating that data is available on the Pool4Tool-portal or on the server for retrieval.

(6) Outside normal business hours, the data shall be considered received by the data recipient at the start of the normal business hours on the following working day.

(7) In keeping with the exercise of due care in business, the data recipient must immediately inform the other party of any incorrect or incomplete data transmitted or of any failure in data transmission detected.

§ 5 Safeguard obligations; Confidentiality

(1) The parties undertake to maintain secrecy regarding all data transmitted through EDI and not to pass it on to third parties, unless it is unavoidable for the parties in connection with the delivery of goods and services and the opposite party has given its consent to passing on the data.

(2) Irrespective of § 10 (1), the parties must comply with their respective data protection regulations and labor laws if messages contain personal data, as well as the provisions of applicable export control law.

 (3) The parties undertake to secure their communications systems against unauthorized access by third parties and unauthorized transmission of messages or similar misuse of their communications system, as well as against the loss of incoming or outgoing data after message transmission or retrieval. The parties shall exercise due diligence in doing so in keeping with the prevailing general state of technology.

(4) Both parties must save all messages completely, chronologically, identifiably, protected from manipulation, and in a form that cannot be modified, deleted or overwritten. The contents of the messages saved shall be capable of being converted into a legible format at any time within an appropriate period of time and sent to the other party upon request.

(5) The respective national laws of the parties shall apply mutatis mutandis to the storage periods for electronic data, the minimum period being six years.

§ 6 Liability

(1) Each party shall be liable for damage incurred due to outages or errors within its sphere of responsibility. In the event of occurrence of damage, the party that fails to comply with its safeguard obligations as laid down in § 5 will be irrefutably presumed to be the party responsible for the error or outage that caused the damage.

(2) The sphere of responsibility of the message sender shall include its communication system, its communications safeguards as well as the time span till the message is received (§ 4). The sphere of responsibility of the message recipient shall include its communication system, its communications safeguards as well as the period after the message is received (§ 4).

(3) The parties shall each bear the costs for the identification of errors lying within or originating in their respective sphere of responsibility. For errors that cannot be unambiguously assigned to a particular sphere of responsibility, the party who would have been in the position to prevent the error the earliest shall bear the entire costs of identification of the error. If this is not possible to determine , each party shall bear half the cost of identification of the error.

(4) Liability shall extend to all personal, property and pecuniary damage including costs of error identification, regardless of which party initially bore the costs under § 6 (3). Liability in case of intent and gross negligence is not limited. In case of slight negligence liability for direct damages shall be limited to a maximum of € 100,000 per instance for damages incurred by the opposite party by relying on the genuineness, correctness or integrity of the message. The liability for damages arises only if the opposite party does not acknowledge the defect in the genuineness, correctness or integrity of the message and could not have done so even with due diligence on its part. The maximum amount of compensation for indirect damages shall be € 20,000 per instance.

(5) Liability and warranty regarding the delivery of products and services are not within the scope of this agreement and shall be guided solely on the basis on the underlying contractual arrangements regarding the delivery of products and services.

§ 7 Legal validity of data exchanged electronically

(1) A party cannot invoke the legal invalidity of messages and documents on the sole basis that these were electronically generated and transmitted or retrieved via an electronic transfer of data.

(2) Electronic documents shall have the same probative value as written documents.

§ 8 Term of the agreement

This agreement shall come into effect upon its signature and shall be concluded for an indefinite period. It may be terminated with a notice period of 3 months to a calendar month. The validity of agreements existing regarding delivery of products and services, as for example existing framework or individual agreements shall not be affected by this provision.

(2) The provisions under § 5, 6, 7, 9, 10 shall remain in effect even after termination of this agreement.

(3) Any termination of this agreement or supplements/amendments to this agreement, including this provision, as well as collateral agreements to this agreement, shall require the written form.

§ 9 Invalidity clause

If any term of this agreement is or becomes invalid or void in whole or in part, the validity of the remaining provisions of this agreement shall not be affected. A valid term whose economic outcome corresponds to the objective of the invalid term or approaches it as closely as possible shall be arranged in place of the invalid provision.

(2) In case of a loophole in any provision of this agreement, another term that corresponds to the presumable intent of the parties or approaches it as closely as possible shall be arranged.

§ 10 Choice of law; Place of jurisdiction

This agreement shall be subject to German law to the exclusion of conflicting laws under international private law.

(2) Exclusive place of jurisdiction shall be the place of business of the Client.

Oberkochen, ……………………………..

Carl Zeiss Industrielle Messtechnik GmbH

………………………   ………………………

signature   signature

………………………   ………………………

name in capital letters   name in capital letters

<mark>Place, Date …</mark>……………………………

<mark>Name of Contractor</mark>

………………………   ………………………

signature   signature

………………………   ………………………

name in capital letters   name in capital letters

Annexe 1

1. Mode of transmission: ☐ **EDI**
(The Contractor shall bear any costs incurred)

☒ **Web-EDI**

2. Data/messages: ☒ **Orders / Order modifications**

☒ **Order confirmations**

☐ **Advance shipment note /delivery release**

☐ **Delivery notification**

☐ **Delivery note**

☐ **VMI-data**

☒ **Drawings**

☒ **Bill of materials**

☒ **Requests / Quotations**

☒ **8D-Reports**

☐ **Other:** _____

3. Date of installation of the EDI: after signature

Annexe 2   Contact persons

For general questions on operations of the supplier portal Pool4Tool and transmission issues:

Jaggaer
Wienerbergstraße 11
Vienna Twin Towers, Turm B
1100 Wien
Österreich

Telefon: +43 1 80 41050
Fax: +43 1 80 4908099

EMail: support@pool4tool.com
Internet: www.jaggaer.com

<u>Contact persons for the Client</u>

For notification of outages:

Name: _____

Phone Number: _____

E-mail adresse: _____

Fax number: _____

<u>Contact persons for the Contractor</u>

Name: _____

Phone Number: _____

E-mail adresse: _____

Fax number: _____

Annexe 3

Data transmitted electronically by the Client that results in an order of value greater than or equal to

<div align="center">

100.000 €

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shall be legally valid only if the Client sends the Contractor an appropriately signed document transmitted by some other channel of communications (letter, fax) in addition to the data transmitted electronically as confirmation of the data transmitted electronically.