1. Scope, Contractors

1.1 The following General Terms and Conditions ("Terms") shall apply to all offers and legal transactions of Amann Girrbach AG ("AG") to / with its contractors ("Customers"), purchasing any products and/or obtaining services ("Products") from AG.

1.2 AG delivers its goods and provides its services only based on these Terms. Any deviations from the Terms, including but not limited to the application of any general terms and conditions of Customer, require written acceptance and acknowledgement by AG in order to be effective.

1.3 If Customer has concluded an agreement with AG, the terms of the respective agreement shall prevail in case of a contradiction between the Terms and the terms of the agreement. The Customer's commercial terms and conditions, including but not limited to terms and conditions of purchase, shall not apply. AG is not required to object to these terms.

2. Conclusion of Contract

2.1 The scope of performance is regulated by the agreement concluded between AG and Customer ("Contract").

2.2 Offers, information and cost estimates, issued by AG, shall not be binding unless agreed otherwise.

2.3 Any orders placed by Customer are subject to confirmation by AG.

3. Price and Payment

3.1 All prices are ex works (Incoterms 2010) and do not include any statutory value added tax (VAT).

3.2 Prices shall be payable free of any deduction, unless agreed otherwise.

3.3 Unless agreed otherwise, payments shall be made by a prepayment to secure irrevocable and confirmed commercial letter of credit, issued by a major reputable bank.

3.4 If Customer fails to meet the payment terms or any other obligation arising from any transaction, AG may without prejudice to its other rights:

a) suspend performance of its own obligations until payments have been made or other obligations fulfilled, and exercise its right to extend the period of delivery to a reasonable extent,

b) call in debts arisen from this or any other transactions as well as to charge default interest of 1.25 % per month plus value added tax for these amounts.

3.5 Customer shall have no right to set off, retention or reduction unless the underlying counterclaims have been conclusively determined by a court or expressly acknowledged by AG.

4. Delivery

4.1 Unless agreed otherwise, AG shall deliver ex works (Incoterms 2010).

4.2 The specified delivery dates shall be subject to change, i.e., shall be non-binding. Therefore, compensation claims of all types with reference to delivery periods or dates shall be excluded.

4.3 Binding delivery times must be expressly agreed in writing. Compliance with binding delivery dates require that all commercial and technical questions between AG and Customer have been clarified and Customer has met any and all obligations incumbent upon it, e.g., possession of the documents to be procured by it, other materials, permits or releases, or payment of a down payment or prepayment. Should Customer fail to meet its obligations, AG shall be entitled to reasonably extend the delivery time.

4.4 In the event of force majeure or other unforeseen incidents outside AG’s responsibility, including, without limitation, natural events, strike and lockout, acts of public authorities, the delivery may be delayed or be extended by AG. In case the delivery of Products becomes impossible due to an event of force majeure or other unforeseen incidents as defined in this Section 4.4, AG shall be entitled to unilaterally rescind the Contract.

4.5 Partial deliveries are permitted and can be invoiced separately. Customer shall not be entitled to reject partial deliveries.

4.6 No Products may be returned without AG’s express written permission, as evidenced by the issuance of a return authorization. Risk of loss or damage to Products returned to AG shall remain with Customer until they are received by AG. Products that have not been stored in a sanitary manner or in accordance with the Products’ storage recommendations cannot be returned or credited.

5. Retention of title

5.1 The delivered Products shall remain the sole property of AG until full payment of all invoiced amounts including interest and charges by Customer (retention of title, “Retained Goods”). In case the delivered Products contain software, AG grants Customer a non-exclusive and not separately transferable right of use.

5.2 Customer shall be entitled to resell the Retained Goods in the course of regular business and only subject to this reservation under Section 5.1. Customer herewith authorizes AG to claim from AG’s claims. AG hereby accepts such assignment. The same shall analogously apply in case of finishing or processing, combination or mixing.

5.3 Upon request, Customer shall notify AG of any undue delay and in writing to whom it has sold the Retained Goods and the receivables that vest in it as a result of sale, and shall furnish any documents necessary for collecting such receivables. In case of seizures or other claims raised by third parties, Customer shall be obliged to assert AG’s right of ownership and notify AG accordingly without delay. Customer shall reimburse AG for the costs associated with any claims in this context.

5.4 If Customer is in breach of the Contract, in particular in the event of a default in payment after a reasonable extension period, Customer shall, upon AG’s demand and at Customer’s own risk, immediately return the Retained Goods to AG and assign to AG any repossession claims against any third party in conjunction with such goods. Following to AG’s demand, Customer has to return the respective goods to AG.

6. Representations and Warranties

6.1 Customer shall inspect the Products immediately and record any objections thereto without undue delay upon receipt. In case of a defect, Customer shall notify AG of any defect in writing no later than 7 (seven) days of delivery, otherwise any claims, also claims from consequential damage, shall be excluded. Latent defects and defective performance of services which cannot be detected even by diligent examination shall be notified to AG in writing within 7 (seven) days following discovery thereof (otherwise any claims, also claims from consequential damage, shall be excluded), but in any event no later than three months after delivery. After the expiry of these periods, the liability for defects, for whatever reason, shall be excluded.

6.2 The warranty will be void if a defect is caused by the use of unsuitable dental materials, specifically the use of classes of dental materials which are not permitted for use in the software delivered by Amann Girrbach. The warranty will also be void due to improper use of dental materials as well as the incorrect or negligent treatment of the Products.

6.3 Any reference to technical norms within offers, information and cost estimates shall constitute a non-binding performance specification only. AG does not guarantee the compliance with such technical norms. Any guarantees in relation to such technical norms have to be explicitly provided in the form of a warranty for compliance with such norms in writing. The functions of offered software programs and modules shall be limited to the description in the performance specifications.

6.4 Any actual or potential damage including any legal claims and/or loss of profits shall be excluded by the buyer shall bear the burden of proof that any defects already existed at the time of delivery. A claim of recurrence pursuant to Sec 933d ABGB (Austrian Civil Code) by the buyer is expressly excluded.

6.5 AG shall be entitled at its own discretion render repairs free of charge or substitute delivery. In the event of a defect or non-conformity, AG may provide the necessary repairs, release in lieu of repair. Any other warranty rights of Customer including but not limited to price reduction and rescission of Contract are excluded.

6.6 Customer shall provide AG with all necessary information and recommendations cannot be returned or credited.

7. Liability

7.1 AG shall be liable for damage caused in the course of performing the Contract only in case of gross negligence and/or intent. The compensation of indirect, incidental, special or consequential damages, including any legal claims, as well as any damage resulting from any infringements of Third Party IP Rights, but only regarding to the jurisdiction of Austria. In particular, in case the delivered goods are exported to third countries, AG therefore shall not be liable for any and all substitute performance measures that appear necessary to AG. In particular, upon request, Customer shall send the delivered Products to AG or a workshop to be specified by AG on a case by case basis within 30 (thirty) days from invoice date to prevent AG from liability for any consequences.

7.2 Notwithstanding the foregoing Section 7.1, AG shall be liable in the event of culpable negligence as well as any other liability that – as a matter of law – cannot be limited to intellectual property rights and third party copyrights, (”Third Party IP Rights”) but only regarding to the jurisdiction of Austria. In particular, in case the delivered goods are exported to third countries, AG therefore shall not be liable for any and all substitute performance measures that appear necessary to AG. In particular, upon request, Customer shall send the delivered Products to AG or a workshop to be specified by AG on a case by case basis within 30 (thirty) days from invoice date to prevent AG from liability for any consequences.

7.3 The delivered goods are free of any and all defects and do not infringe any third-party intellectual property rights and third party copyrights, (”Third Party IP Rights”) but only regarding to the jurisdiction of Austria. In particular, in case the delivered goods are exported to third countries, AG therefore shall not be liable for any and all substitute performance measures that appear necessary to AG. In particular, upon request, Customer shall send the delivered Products to AG or a workshop to be specified by AG on a case by case basis within 30 (thirty) days from invoice date to prevent AG from liability for any consequences.

7.4 In all instances of liability on the part of AG, Customer shall have to prove AG’s fault that gives rise to liability.

7.5 Should Customer be held liable under the PHG (Austrian Product Liability Act), it shall explicitly waive recourse within the meaning of Sec 12 PHG.

7.6 Customer shall take any and all necessary measures in order to prevent or limit any damage. In particular, Customer shall ensure the regular back-up of programs and data. Customer shall be liable for any damages caused by any omission of its obligations. Customer is obliged to indemnify AG of any third party claims arising out of the software.

7.7 All compensation claims against AG shall forfeit no later than 12 (twelve) months after date of delivery by AG to Customer.

7.8 Notwithstanding the foregoing and in the event and to the extent that AG is liable, the liability of AG shall not in any event exceed the purchase price of the delivered goods.

8. Software Use

8.1 In case software is included in the scope of delivery (e.g. Milling System), all rights in know-how and products that enter into intellectual property rights are retained by AG, notwithstanding the duty to furnish the software to Customer. AG shall grant Customer a non-exclusive and not separately transferable right of use.

8.2 Customer shall use the software only with the specified hardware or hardware service documentation shall in any event require separate written agreement.

8.3 Customer receives a single licence in the software. Customer may make one copy of the software for back-up purposes only if it is expressly licensed to do so by AG. Customer shall comply with the instructions on reproduction as furnished by AG. In particular, Customer shall keep a record of the location of any and all reproductions. Upon request such records shall be submitted to AG.
8.4 Customer shall not grant sub-licenses. In the event, Customer transfers software together with the delivered equipment (e.g. CAD/CAM Milling System) to a third party, Customer shall not grant more rights to the third party than granted by AG itself. In the event that Customer and/or third party transfers a software license to a third party, Customer and the third party shall not retain any copy of the software. Multiple licenses will be sold only in their entirety.

8.5 Customer and/or third party shall ensure that the third party complies with any and all obligations arising out of these Terms. Customer will indemnify AG against any and all liabilities resulting from a breach of the Terms by a third party.


9.1 If a CAD/CAM system is included in the scope of delivery, Customer shall have following additional obligations:

a) provide the equipment training to its purchasers as agreed between AG and Customer;

b) ensure that the location where the equipment will be installed satisfies the technical installation and operating requirements for the equipment set forth in the respective specification of the equipment of AG;

c) ensure that the purchaser complies with the terms of the limited software license under the condition of the Terms.

9.2 The SPP will be automatically extended every year for an additional 12 (twelve)-month-period, if termination notice has not been given three months prior to the respective expiration date.

9.3 AG shall be entitled to provide any support under the SPP in case a fault is caused by the usage of third party products in connection with the CAD/CAM Milling Systems for which no approval of AG regarding the compatibility of such products with the AG/CAD/CAM systems of AG has been given.

9.4 Customer acknowledges and accepts that any new software releases that AG may launch, may not always run properly or at all on older PCs, or more generally be compatible with such hardware or third-party software (including but not limited to the system software), as a previous release was perhaps compatible with. Therefore, AG may be entitled or required by Customer to upgrade its hardware or third-party software (including but not limited to the system software) at its own expense in order to be able to use new software releases properly.

10. Maintenance, Records and Responsibilities of Customer

10.1 Customer shall undertake installation, overall technical maintenance, repair and technical upgrade and update of the delivered goods according to AG’s specification. Customer shall ensure the technical operational continuity of the installed base of delivered products in the country of Customer on a continuous basis.

10.2 Customer shall employ qualified service technicians ("Employed Technician"). Employed Technicians shall attend training courses which are offered by AG and are indicated as essential for Customer by AG. Any expenses related to the participation in such training courses (e.g. travelling, accommodation, etc.) shall be borne by Customer.

10.3 If the service of certain products of AG requires working material, tools and measuring instruments that are manufactured or modified specifically for AG, Customer shall use such items only. For maintenance and repairs, Customer shall also only use original AG spare parts.

10.4 Customer shall draw up and maintain records of its repair and after-sales services containing product number and serial number, name and address of each purchaser as well as the location of the purchaser. Customer shall provide AG with such records upon request without undue delay.

10.5 Customer shall maintain records of all medical products ("MP") and other machinery and equipment that AG distributes and the amounts and distribution of the Products, and the promotional materials and labeling used in connection therewith, shall be strictly in accordance with the approved use of the Products, including indications for use statements, where applicable.

11. Intellectual Property Rights

11.1 Customer acknowledges that any and all of the Intellectual Property Rights subsisting or in use in connection with the supplied goods and services, including all documentation and manuals relating thereto, are and shall remain the sole property of AG. Customer shall use Intellectual Property Rights belonging to AG or its supplier only with the prior written consent of the supplier.

11.2 Customer shall not register or procure the registration by third parties or assert or procure the assertion by third parties of any Intellectual Property Rights, including but not limited to trademarks, business names, company names, trade names, signs, patents, domain names or e-mail address etc., which are wholly or partly identical or similar to AG’s or its affiliate’s intellectual property rights. Customer will indemnify AG against any and all claims deriving from non-compliance with such provisions by Customer.

13. Assignment

Customer is not entitled to assign, transfer or sub-license any of all of its rights or obligations under the Contract and/or these Terms without AG’s prior written approval.