

## GENERAL TERMS & CONDITIONS OF PURCHASE ("Ts&Cs") of

**Wander GmbH**, Westendstraße 28, 60325 Frankfurt am Main, Germany ("the Buyer");

**Anti Bribery and Corruption Policy** means the Buyer's anti bribery and corruption policy provided to the Supplier from time to time (including on request from the Supplier);

**Binding Purchase Order** means a Purchase Order which has been accepted or is deemed accepted by the Supplier;

**Buyer's Code of Conduct** means the Buyer's code of conduct from time to time located at ([www.wander.ch](http://www.wander.ch)) or otherwise provided by the Buyer;

**Delivery Point** means the unloading point at the address stated in the Binding Purchase Order or such other address as is notified to the Supplier by the Buyer;

**Goods** means the goods to be supplied pursuant to a Binding Purchase Order (as referenced in the relevant Binding Purchase Order), together with, where applicable, all documents, manuals and instructions which pertain to them;

**Insolvency Event** means, in respect of a Party, such Party is unable to pay its debts, becomes insolvent or enters into liquidation or receivership, or suffers any event analogous to any of the above;

**Intellectual Property Rights** means patents, rights to inventions, trademarks, utility models, rights in confidential information (including know how and trade secrets) copyright, design rights, domain names, (and all similar or related rights existing anywhere in the world, whether registered or not and including any applications for the same and priority rights to obtain thereof);

**Loss(es)** means all direct, indirect or consequential losses, damages, expenses, costs, claims, fines, cost of proceedings, or demands;

**Purchase Order** means an individual purchase order or any other written instructions placed by the Buyer for the supply of Goods or the performance of Services. At the Buyer's option (as communicated in writing by the Buyer), providing a PO number shall be deemed to amount to placing a Purchase Order;

**Service Completion Date** means the date specified in the Service Description (or otherwise specified by the Buyer in writing prior to the date of the relevant Binding Purchase Order);

**Service Description** means the description of the Services contained or referred to in any Binding Purchase Order (or otherwise supplied to the Supplier by the Buyer in writing prior to the date of the relevant Binding Purchase Order);

**Services** means the services (if any) described or referenced in the Binding Purchase Order to be performed by the Supplier;

**Specification** means the specifications, drawings, samples or other descriptions of the Goods contained or referred to in any Binding Purchase Order (or otherwise supplied to the Supplier by the Buyer in writing prior to the date of the relevant Binding Purchase Order);

**Supplier** means the legal entity or person to whom the Purchase Order is addressed; the Buyer and the Supplier are also referred to as a "Party" or jointly as the "Parties";

**Supplies** means the Goods and/or Services;

**VAT** means value added sales tax payable in Germany or any similar sales tax.

## 1. GENERAL

- 1.1 These Ts&Cs apply only in relation to a Supplier who is an entrepreneur (Sect. 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law.
- 1.2 References to the applicability of statutory provisions shall only be of a clarifying nature. The statutory provisions shall therefore apply even without such clarification, unless they are directly amended or expressly excluded in these Ts&Cs.

## 2. INCORPORATION & VARIATION

- 2.1 These Ts&Cs apply to the Purchase Order to the exclusion of any other terms that Supplier seeks to impose or incorporate, or which are implied by trade custom, practice or course of dealing. This shall apply in any case, even if the Buyer, being aware of the Supplier's general terms and conditions, allows the performance/delivery of the Supplies to be carried out without reservation.
- 2.2 A Purchase Order becomes a Binding Purchase Order which is binding on Supplier once accepted or deemed accepted by Supplier. Acceptance may be in writing or in accordance with the terms of an agreement between Buyer and Supplier in respect of the same. All Purchase Orders shall be deemed accepted by the Supplier and shall become Binding Purchase Orders unless the Supplier gives written notice of rejection within 5 days of receipt of the Purchase Order. Commencement of performance of the Supplies shall also be deemed acceptance by Supplier of the relevant Purchase Order. These Ts&Cs may not be varied unless agreed by the Buyer in writing.
- 2.3 The Buyer shall be under no responsibility to accept delivery of, or pay for, Supplies for which a Purchase Order has not been properly provided by the Buyer. Deliveries of Supplies other than in accordance with a Binding Purchase Order may (at the Buyer's option) be returned to the Supplier at the Supplier's expense and risk.

## 3. INTELLECTUAL PROPERTY RIGHTS

- 3.1 Supplier hereby transfers to the Buyer and the Buyer acquires all Intellectual Property Rights created by the Supplier in the production, performance and delivery of the Supplies, without any limitation in time or territory, with effect at the latest from the date of provision to the Buyer of such Supplies. Supplier will execute and sign assignments of the same to the Buyer, with full title guaranteed, on request, without any additional fee. The Supplier will ensure that it does not infringe the Intellectual Property Rights of any third party during the manufacture or delivery of the Goods or the performance of the Services and hereby authorises the receipt, use, modification, sale, disposal and other exploitation by the Buyer of the Goods and Services (and outputs of the Services), without any limitations in time or territory, to the extent the relevant Intellectual Property Rights have not vested in or otherwise been assigned to the Buyer under this clause, including on all fields of exploitations enumerated in this clause, without any additional fee. Supplier shall ensure that the receipt, use, modification, sale, disposal and other exploitation by the Buyer of the Goods and Services (and outputs of the Services) does not infringe the Intellectual Property Rights of any third party. Supplier shall indemnify the Buyer in respect of all Losses incurred due to any such actual or alleged infringement. The price as specified under clause 7 includes all costs of transferring to the Buyer all Intellectual Property Rights referred to in this clause 3.
- 3.2 Any Specification/Service Description supplied by the Buyer to the Supplier together with the copyright, design rights or any other Intellectual Property Rights in the Specification/Service Description shall be the exclusive property of the Buyer. Supplier shall not use or disclose such Specification/Service Description or Intellectual Property Rights except for fulfilling Supplier's contractual obligations.

## 4. QUALITY STANDARDS AND ETHICAL TRADING

- 4.1 The Supplier warrants (*gewährleistet*), represents and undertakes that:

- 4.1.1 the Goods and Services shall comply with the relevant Specifications and Service Descriptions in all respects and the Supplier shall comply with (and ensure the Supplies comply with as applicable) all statutory requirements and regulations relating to the manufacture, packaging, labelling, delivery and sale of the Goods and the performance of the Services as well as the latest regulations issued by the authorities, all relevant German and European safety and environmental regulations, the German Product Safety Act (ProdSG), the applicable safety requirements and the occupational safety and accident prevention regulations in force as at the date of delivery of Goods to the Buyer and/or performance of Services (as applicable);
- 4.1.2 the Goods shall be free from defects in design, quality, material and workmanship, shall be free from faults, and shall meet any subjective requirements (Sect. 434 para. 2 BGB) and/or the objective requirements (Sect. 434 para. 3 BGB) as well as any assembly requirements (Sect. 434 para. 4 BGB; if applicable), and shall have the guaranteed quality;
- 4.1.3 in respect of Goods with digital elements or other digital content (*Waren mit digitalen Elementen oder sonstigen digitalen Inhalten*), the Supplier shall be responsible for the provision and updating of the digital content in any case to the extent that this results from the relevant Specifications and Service Descriptions or other product descriptions of the manufacturer or on its behalf, in particular on the Internet, in advertising or on the product label;
- 4.1.4 in producing and providing the Supplies the Supplier shall comply with (i) industry standards and certifications (ii) any of the Buyer's policies and procedures that have been made known to the Supplier and are relevant to the Supplies (including the Buyer's Code of Conduct) and (iii) all human rights and environment related duties of care, in particular as listed in the German Supply Chain Due Diligence Act (*Lieferkettensorgfaltspflichtengesetz- LkSG*) and any other applicable supply chain due diligence legislation. The Supplier shall provide regular training to its staff to ensure compliance with its obligations under this Clause 4.1.4, and on request, shall provide the Buyer with any required evidence of such compliance;
- 4.1.5 it takes appropriate action to require the Supplier's own contractual partners to comply with Clause 4.1.4 (i) to (iii) above (or in the case of Clause 4.1.4 (ii), with such alternative obligations that ensure that each of the principles of the Buyer's policies and procedures (including the Buyer's Code of Conduct) are complied with in materially the same way). The Supplier shall do this by agreeing appropriate contractual obligations and control mechanisms with its own suppliers and passing on the obligations in Clause 4.1.4 (i) to (iii) in its own supply chain. In the event of a breach of the obligations in Clause 4.1.4 (i) to (iii) by the Supplier or its own suppliers, the Supplier will immediately inform the Buyer;
- 4.1.6 upon prior and reasonable written notice, the Supplier will permit the Buyer and any of its authorised representatives to have access to the Supplier's premises, personnel and records (relevant to the Supplies) to verify the Supplier's compliance with these Ts&Cs, including compliance with the Buyer's Code of Conduct. The Supplier shall also (to the extent possible) ensure that such audits can be carried out by the Buyer or its authorised representatives on the Supplier's sub-suppliers;
- 4.1.7 if any non-compliance with these Ts&Cs is revealed by the Supplier's notification under Clause 4.1.5 or any audit carried out pursuant to Clause 4.1.6 (without prejudice to the Buyer's termination right pursuant to clause 5.4), the Supplier will cooperate with the Buyer to determine and take such designated remedial measures to end or (where this is not possible) to minimise the impact of such breach;
- 4.1.8 the Services will be provided using appropriately qualified, skilled and trained personnel, and with due care and diligence and to such high standard of quality as is reasonable for the Buyer to expect in all the circumstances, and shall be fully completed to the Buyer's reasonable satisfaction by no later than the Service Completion Date;

4.1.9 that it holds all permits, licences and authorisations necessary or desirable to enable it to comply with its obligations under these Ts&Cs, including any export licences.

## 5. TERMINATION

5.1 Buyer may cancel a Purchase Order prior to its acceptance, without liability to Supplier. Following its acceptance or deemed acceptance the Buyer may terminate a Binding Purchase Order in respect of all or part of the Supplies by giving notice to the Supplier at any time prior to completion of delivery or performance of the relevant Binding Purchase Order, in which event the Buyer's sole liability shall be to pay the Supplier the value for the work in progress relating to the cancelled Supplies, up to a maximum amount of the price for the cancelled Supplies.

5.2 The Buyer may terminate a Binding Purchase Order and/or any other agreement between the Parties immediately by written notice to the Supplier and without liability to the Supplier and require a full refund for the Supplies so cancelled (such refund to be paid forthwith by the Supplier) if:

5.2.1 the Supplier suffers an Insolvency Event; and/or

5.2.2 there is a change in control of the Supplier. For the purpose of this clause, "control" means the ability to direct the affairs of another whether by voting or contractual rights or otherwise and whether directly or indirectly.

5.3 The Supplier may terminate a Binding Purchase Order immediately by written notice to the Buyer and without liability to the Buyer if the Buyer suffers an Insolvency Event.

5.4 In the event of material default by the Supplier which is irremediable, or which is remedial but has not been remedied to the Buyer's satisfaction within 30 days (or such other timeframe specified by the Buyer in any remediation plan or otherwise in writing), the Buyer is entitled to immediately terminate any Binding Purchase Order and/or any other agreement between the Parties in whole or in part and require a full refund for the Supplies so cancelled (such refund to be paid forthwith by the Supplier). Material default for these purposes shall include but not be limited to, any breach of the Buyer's Code of Conduct or the Anti Bribery and Corruption Policy, and any breach of clause 4, 9.1, 9.2, 15.5 or 15.8.

5.5 The termination of a Binding Purchase Order, however arising, shall be without prejudice to the rights and remedies of the Buyer and of the Supplier accrued prior to termination. The Ts&Cs which expressly or impliedly have effect after termination shall remain in effect notwithstanding termination.

## 6. INDEMNITY & INSURANCE

6.1 The Supplier shall indemnify, keep indemnified, defend and hold harmless the Buyer upon first demand (*Freistellung auf erstes Anfordern*) in full against all Losses in respect of any claim against the Buyer by any third party (including consumers) to the extent the claim relates to (or seeks to recover Losses caused by or which relate to or arise from) the Supplies as well as all Losses incurred or suffered as a result of recall or withdrawal of a product incorporating the Supplies to the extent that such arise as a result of the Supplies. In particular, the Supplier shall indemnify the Buyer against claims based on producer liability (*Produzentenhaftung*) and on the German Product Liability Act (ProdHaftG) to the extent that the cause giving rise to the liability lies within the Supplier's or its supplier's sphere of control and organization (*Herrschafts- und Organisationsbereich*).

6.2 Within the scope of its indemnification obligation, the Supplier shall reimburse expenses pursuant to Sect. 683, 670 BGB arising from or in connection with a claim by third parties including recall actions carried out by the Buyer. If there is any matter which may cause a safety risk to consumers arising from the Supplies or a potential recall or withdrawal of any Goods (or Buyer products which contain the Goods) the Supplier shall give advance notice to the Buyer as soon as possible of any action Buyer or Supplier is obliged to take and full details of the underlying issue. Except as required by law Supplier shall not seek to commence any recall or withdrawal

of Goods or Buyer products without the prior written consent of the Buyer. Further legal claims shall remain unaffected.

- 6.3 The Supplier shall at all times maintain in force as a minimum such insurance as it most recently disclosed to the Buyer prior to the date of the Binding Purchase Order and such insurance as is (i) required by law or (ii) is usual good industry practice to maintain by persons / legal entities engaged in business of the kind carried on by the Supplier. In any case, the Supplier shall at all times maintain in force product liability insurance with a lump sum coverage of at least [5 million] EUR per incident of personal injury/property damage.
- 6.4 The Supplier will, on request, provide to the Buyer copies of certificates of insurance, together with satisfactory evidence of the payment of premiums, to demonstrate compliance with the above requirements.

## 7. **PRICE**

- 7.1 The price of the Supplies shall be as stated in the Binding Purchase Order, or as otherwise agreed between the Parties in writing. Such prices shall be exclusive of any applicable VAT (which shall only be payable by the Buyer on receipt of a valid VAT invoice) and shall be inclusive of all charges for packaging, carriage, insurance, and delivery of the Supplies to the Delivery Point and inclusive of any duties, taxes or levies other than VAT.
- 7.2 Should the Supplier reduce its prices or improve the sales conditions for the Supplies in the period between the occurrence of a Binding Purchase Order and the performance/delivery of the Supplies, the prices and conditions valid on the day of performance/delivery shall apply.
- 7.3 After the occurrence of a Binding Purchase Order, price increases and deteriorated sales conditions shall only become effective with the Buyer's express written consent. To avoid doubt, any price-increasing provisions in any of the Supplier's terms do not apply to business relations between the Buyer and the Supplier. The provisions of Sect. 313 BGB shall remain unaffected by this clause 7.3.

## 8. **PAYMENT**

- 8.1 The Supplier shall invoice the Buyer in Euro (EUR) (or such other currency specified in the Binding Purchase Order) after delivery of the Goods and the Buyer is obliged to pay the invoice in Euro (EUR) (or such other currency specified in the Binding Purchase Order). Services shall be invoiced in arrears as detailed in the Binding Purchase Order or otherwise agreed in writing between the Supplier and the Buyer. Each invoice and packing list shall quote the Binding Purchase Order number, item number(s) and line item number(s). Invoices shall be sent to the "Bill To:" address shown on the relevant Binding Purchase Order(s).
- 8.2 The Buyer shall pay undisputed invoices thirty days from date of receipt of invoice or within such other period as detailed in the Binding Purchase Order. Interest shall apply at an annual rate of 5% in respect of late payment of invoices which fall due for payment under this clause 8. Buyer may withhold payment of disputed invoices and shall notify Supplier of any such dispute.
- 8.3 Buyer shall not be obliged to pay any invoice which is received more than 6 months following delivery/performance of the relevant Supplies.
- 8.4 Payment does not imply acceptance of the Supplier's conditions and prices. The time of payment by the Buyer has no influence on the Supplier's warranty or on the Buyer's right to give notice of defects.
- 8.5 Without prejudice to any other right or remedy, the Buyer may set off any amount owing at any time from the Supplier to the Buyer against any amount payable by the Buyer to the Supplier in respect of Purchase Orders or any other agreement.

## 9. DELIVERY / ACCEPTANCE / PERFORMANCE

- 9.1 Unless agreed otherwise in writing, delivery of Goods shall be made by the Supplier, DDP (Incoterms 2020), to the Delivery Point on the date (and, where applicable, within the delivery time window) set out in the Binding Purchase Order or as otherwise agreed in writing. Goods delivered outside specified times remain at the Supplier's risk and may be refused by the Buyer.
- 9.2 The delivery time for Goods and/or performance date for Services specified in the Binding Purchase Order is binding. The delivery period shall begin to run from the date of the occurrence of the Binding Purchase Order. As soon as the Supplier can assume that it will not be able to fulfil its contractual obligations in whole or in part or not in due time, it shall notify the Buyer thereof without undue delay, stating the reasons and the expected duration of the delay. If the Supplier fails to give such notice, it shall not be entitled to invoke the impediment causing the delay vis-à-vis the Buyer.
- 9.3 If the Supplier does not perform within the agreed delivery time/performance time, it shall be liable in accordance with the statutory provisions. Any agreed contractual penalty in the event of late delivery shall remain unaffected by this within the scope of Sect. 340 para. 2 BGB. If a contractual penalty has been agreed, it may be claimed up to the due date of the final payment without requiring a reservation pursuant to Sect. 341 para. 3 BGB, Sect. 11 para. 4 of the German Construction Tendering and Contract Regulations (VOB/B).
- 9.4 Insofar as an acceptance (*Abnahme*) has been agreed, this shall be decisive for the transfer of risk (*Gefahrübergang*). In all other respects, the statutory provisions of the law on works contracts (*Werkverträge*) shall also apply accordingly to an acceptance.
- 9.5 Goods which the Buyer cannot use due to a reason for complaint shall only be accepted by the Buyer for the account and at the risk of the Supplier and shall be stored in the Supplier's name. In the event of the return of defective Goods, the Supplier shall bear the costs of the return shipment.
- 9.6 An advice/delivery note quoting the Supplier's name, the Binding Purchase Order number, the Supplier's stock number(s) and any additional information or documentation agreed in writing must accompany each delivery or consignment of Goods and must be displayed prominently on each delivery or consignment. Any required Certificate of Analysis, manufacturer's batch number or other manufacturing records should not be attached to the advice/delivery note but should be sent to the Buyer's designated Quality Assurance team. The Supplier shall retain samples of each batch of Goods delivered to the Buyer for at least one year and shall make a reasonable amount of such retained samples available to the Buyer upon request.
- 9.7 The Buyer is not obliged to inspect the Goods or to make special inquiries about any defects upon conclusion of the Binding Purchase Order. In partial deviation from Sect. 442 para. 1 sent. 2 BGB, the Buyer shall therefore also be entitled without restriction to claims for defects if the defect remained unknown to the Buyer at the time of conclusion of the Binding Purchase Order as a result of gross negligence.
- 9.8 The statutory provisions (Sect. 377, 381 of the German Commercial Code (HGB)) shall apply to the commercial duty to inspect and give notice of defects (*Untersuchungs- und Rügeobliegenheit*), subject to the following provisions: The Buyer's duty to inspect shall be limited to defects which become apparent during the Buyer's incoming Goods inspection by means of external examination including the delivery documents (e.g. transport damage, wrong delivery and short delivery) or which are identifiable during the Buyer's quality control by means of random sampling. If an acceptance has been agreed, there shall be no obligation to inspect Goods. Otherwise, it shall depend on the extent to which an inspection is practicable in the ordinary course of business, taking into account the circumstances of the individual case. The Buyer's obligation to give notice of defects discovered after such inspection shall remain unaffected. Notwithstanding the Buyer's obligation to inspect Goods, the Buyer's notice of defects in the Supplies shall be deemed to have been given without undue delay and in good time if it is sent to the Supplier within 14 working days of discovery of the defect or, in the case of obvious defects, of delivery/performance of the Supplies. In this respect, the Supplier explicitly waives the

objection of delayed notice of defects.

## 10. TITLE

- 10.1 Title in the Goods shall pass to the Buyer on delivery to the Delivery Point and shall be unconditional and without regard to the payment of the price. However, if in individual cases the Buyer accepts in writing an offer of the Supplier for transfer of title conditioned by the payment of the purchase price, the Supplier's retention of title shall terminate at the latest upon payment of the purchase price for the Goods delivered. The Buyer shall remain authorized to resell the Goods in the ordinary course of business even before payment of the purchase price with advance assignment of the claim arising therefrom (alternatively validity of the simple reservation of title extended to the resale). This excludes all other forms of retention of title, in particular the extended retention of title (*erweiterter Eigentumsvorbehalt*), the passed-on retention of title (*weitergeleiteter Eigentumsvorbehalt*) and the retention of title extended to further processing (*auf die Weiterverarbeitung verlängerter Eigentumsvorbehalt*).
- 10.2 Material provided by the Buyer shall remain the title of the Buyer. If the Buyer's material is processed, the title of the Buyer shall extend to the new item. In the event of processing, combining or mixing with third-party items, the Buyer shall acquire co-title in the ratio of the value of its material (purchase price plus VAT) to the third-party items at the time of processing, combining or mixing.

## 11. REMEDIES

- 11.1 In the event of defects in the Goods, the Buyer shall be entitled to the statutory claims for defects in their entirety. In particular, the Buyer shall be entitled to demand from the Supplier, at the Buyer's option, remedy of the defect (*Nachbesserung*) or delivery of new Goods (*Nachlieferung*) as well as to withdraw from the Binding Purchase Order (*Rücktritt*) and claim for refund or to reduce the purchase price for the Goods (*Minderung*). The right to claim damages, also in lieu of performance (*Schadensersatz statt der Leistung*), as well as loss of profit shall remain expressly reserved.
- 11.2 If the Supplier does not fulfill its obligation of subsequent performance (*Nacherfüllung*) within the reasonable period set by the Buyer, the Buyer shall be entitled to remedy the defect itself or to purchase new Goods and to claim reimbursement of expenses (*Aufwendungsersatz*) from the Supplier. If subsequent performance by the Supplier has failed or is unreasonable for the Buyer (e.g. due to special urgency or the threat of disproportionate damage), no period needs be set.
- 11.3 Defect rights for defects in Goods known at the time of acceptance shall not be excluded even if a corresponding reservation is not declared at the time of acceptance.
- 11.4 The obligation of subsequent performance shall also include the dismantling of the defective Goods and the renewed installation if the Goods have been installed in another item or attached to another item in accordance with their type and intended use. Any statutory claims for reimbursement of expenses of the Buyer shall remain unaffected. Even if it should prove that no defect existed, the Supplier shall bear any expenses required for the inspection and subsequent performance. In the event of an unjustified request for remedy of a defect, the Buyer shall only be obliged to pay damages if the Buyer recognized or was grossly negligent in not recognizing that there was no defect.
- 11.5 In the case of material defects which become apparent within six months of the transfer of risk, it shall be presumed that the Goods were already defective at the time of the transfer of risk, unless this presumption is incompatible with the nature of the item or the defect.
- 11.6 If the Supplier has granted a guarantee (*Garantie*) for the quality or durability of the Goods, the Buyer may also assert claims under the guarantee in addition to any warranty rights resulting from these Ts&Cs. This shall not apply to defects or damage to the Goods which are caused due to (i) normal wear and tear and (ii) improper handling on the part of the Buyer.
- 11.7 The above provisions of this Clause 11 shall apply mutatis mutandis to Services.

- 11.8 The Supplier's warranty shall also extend to the parts manufactured by sub-suppliers.
- 11.9 The Goods objected to on the basis of the Supplier's warranty shall remain at the disposal of the Buyer until they are replaced and shall become the title of the Supplier upon replacement.
- 11.10 The Supplier's warranty obligation shall not be affected by the acceptance of the Supplies by the Buyer.
- 11.11 If any Binding Purchase Order is not or is only partially fulfilled by the due delivery date/Service Completion Date, the Buyer shall be entitled to terminate any other Binding Purchase Orders in whole or in part and require a full refund for the Supplies so cancelled (such refund to be paid forthwith by the Supplier), at its discretion and without liability to the Supplier.
- 11.12 In all other respects the Supplier shall be liable in accordance with the statutory provisions.

## 12. SUPPLIER RECOURSE

- 12.1 The Buyer shall be entitled to the statutory claims for expenses and recourse within a supply chain (supplier recourse (*Lieferantenregress*) pursuant to Sect. 478, 445a, 445b or Sect. 445c, 327 para. 5, 327u BGB) without limitation in addition to the claims for defects in the Goods. In particular, the Buyer shall be entitled to demand exactly the type of subsequent performance (remedy or replacement) from the Supplier that the Buyer owes its customer in the individual case; in the case of Goods with digital elements or other digital content, this shall also apply with regard to the provision of necessary updates. The Buyer's statutory right of choice (Sect. 439 para. 1 BGB) shall not be limited hereby.
- 12.2 Before the Buyer acknowledges or fulfills a claim for defects in the Goods asserted by a customer (including reimbursement of expenses pursuant to Sect. 445a para. 1, 439 para. 2, 3, 6 sent. 2, 475 para. 4 BGB), the Buyer will notify the Supplier and request a written statement, briefly explaining the facts. If a substantiated statement is not made within a reasonable period and if no amicable solution is reached, the claim for defects actually granted by the Buyer shall be deemed to be owed to the Buyer's customer. In this case, the Supplier shall have the burden of proof to the contrary.
- 12.3 The Buyer's claims for Supplier recourse shall also apply if the defective Goods have been combined with another product or further processed in any other way by the Buyer, the Buyer's customer or a third party, e.g. by incorporation, mounting or installation.

## 13. ASSIGNMENT AND SUB-CONTRACTING

The Supplier shall not assign or transfer or subcontract (or grant any security over) the whole or any part of its rights, remedies or obligations in connection with a Binding Purchase Order without the prior written consent of the Buyer.

## 14. LIMITATION

- 14.1 Any claims of the contracting parties to these Ts&Cs shall become time-barred in accordance with the statutory provisions, unless otherwise stipulated below.
- 14.2 Deviating from Sect. 438 para. 1 No. 3 BGB, the general limitation period for claims for defects in the Goods shall be 3 years from the passing of risk. Insofar as an acceptance has been agreed, the limitation period shall commence upon acceptance. The 3-year limitation period shall also apply *mutatis mutandis* to claims arising from defects of title, whereby the statutory limitation period for third parties' in rem claims for return (*dingliche Herausgabeansprüche*) (Sect. 438 para. 1 No. 1 BGB) shall remain unaffected; in addition, claims arising from defects of title shall not become time-barred under any circumstances as long as the third party can still assert the right against the Buyer - in particular in the absence of a limitation period.
- 14.3 The limitation periods of the law on sales including the above extension shall apply - to the extent provided by law - to all contractual claims for defects in the Goods. Insofar as the Buyer is also

entitled to extra-contractual claims for damages due to a defect, the regular statutory limitation period (Sect. 195, 199 BGB) shall apply, unless the application of the limitation periods of the law on sales leads to a longer limitation period in individual cases.

## 15. MISCELLANEOUS

- 15.1 Any waiver by the Buyer of any breach or default by the Supplier shall only be effective if granted in writing, and if so granted shall not be deemed a waiver of any subsequent or other breach or default.
- 15.2 If any provision of these Ts&Cs is held to be invalid or unenforceable it shall, to the extent of such invalidity or unenforceability be deemed severable and the remaining provisions, and the remainder of such provision, shall continue in full force and effect.
- 15.3 These Ts&Cs will not be enforceable by any person other than the Buyer and the Supplier.
- 15.4 Any notice required or permitted to be given by either Party to the other shall be in writing addressed to the other at its registered office or principal place of business. Notice (save for commencement of proceedings) may also be sent by email, to an approved e-mail address recipient (as notified by the recipient Party in writing), provided that no failed delivery or out of office message is received.
- 15.5 Each Party acknowledges that it may have access to, and become acquainted with, confidential information relating to the business or affairs of the other Party. Each Party specifically agrees that it will keep confidential, and will not use for any purpose other than the performance of (or the exercise of rights in respect of) Binding Purchase Orders and will not, subject to clause 15.6, without the prior written consent of the other disclose, directly or indirectly, to any third party, any confidential information of the other Party.
- 15.6 Where the Supplier supplies the Buyer with confidential information the Supplier agrees that the Buyer may disclose such information to Buyer affiliates, service providers and professional advisors under conditions of confidentiality.
- 15.7 Nothing prevents use or disclosure by either Party of information which is already in the public domain (other than due to default of such Party) or which such Party acquires independently of the other Party and without restriction on disclosure or use, or prevents disclosure to the extent required by law or regulation.
- 15.8 Supplier shall only use Buyer Intellectual Property Rights for the purpose of fulfilling Binding Purchase Orders and only to the extent authorised by the Buyer from time to time.
- 15.9 Save as cannot be limited or excluded by law, the Buyer's liability under or in connection with these Ts&Cs shall be limited to payment of the price for the Supplies under the Binding Purchase Orders.
- 15.10 Supplier shall at all times comply with all applicable economic and/or trade sanctions laws, regulations and any other binding measures of the UK, European Union, the United Nations, the United States of America or any other jurisdiction applicable to the Parties.
- 15.11 The Supplier acknowledges and agrees that the Buyer does not intend the Supplier to process any personal data on the Buyer's behalf in connection with these Ts&Cs.
- 15.12 These Ts&Cs, any other terms applicable in respect of a Purchase Order and any dispute or claim arising out of or in connection with the same or their subject matter or formation, whether of a contractual or non-contractual nature, shall in all respects be governed by and construed in accordance with German law. The Parties submit to the exclusive jurisdiction of the courts of Frankfurt am Main, Germany. However, nothing in this clause shall prevent the Buyer from seeking and obtaining injunctive or other equitable relief in such courts and jurisdictions as it sees fit. For the avoidance of doubt, the United Nations Convention on the International Sale of Goods shall not apply to these Ts&Cs or any Purchase Order placed.

15.13 The place of performance (*Erfüllungsort*) for delivery of Goods and Services shall be the Delivery Point, and for payments shall be Frankfurt am Main/Germany.