

General Terms and Conditions of VELA Performance GmbH

(Version: November 2024)

Section 1: Scope of Application and General Provisions

1. All deliveries, services, and offers provided by VELA Performance GmbH, Ostendstraße 25, 12459 Berlin, as well as by any company affiliated with it within the meaning of Section 271 of the German Commercial Code (HGB) (hereinafter collectively referred to as the "Contractor"), to an entrepreneur within the meaning of Section 14 of the German Civil Code (BGB), a legal entity under public law, or a special fund under public law (hereinafter referred to as the "Client"), shall be made exclusively on the basis of these General Terms and Conditions ("GTC") of the Contractor.
2. Unless otherwise agreed, these GTC, in the version valid at the time of the respective conclusion of the contract, or in any case in the version last communicated to the Client in text form, shall also apply as a framework agreement for all future contracts of a similar nature between the Contractor and the Client, without the need for the Contractor to refer to them again in each individual case.
3. Any general terms and conditions of the Client that conflict with, supplement, or deviate from these GTC shall become part of the contract only if and to the extent that the Contractor has expressly agreed to their applicability. This requirement of consent shall apply in all cases, for example even if the Contractor performs deliveries and services without reservation, accepts payments without objection, or remains silent in response to a declaration of inclusion by the Client.
4. Individual agreements concluded between the Client and the Contractor in a specific case (including ancillary agreements, supplements, and amendments) shall in all cases take precedence over these GTC. Subject to proof to the contrary, a written contract or written confirmation by the Contractor shall be decisive for the content of such individual agreements.
5. Legally relevant declarations and notifications by the Client in relation to the contract, in particular the setting of deadlines, notices of defects, withdrawal, and reduction, must be made in writing, i.e. in written or text form (e.g. letter, email, or telefax). Statutory formal requirements and further evidence, in particular in case of doubts as to the legitimacy of the declaring party, shall remain unaffected.
6. References to the applicability of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall apply unless they are directly modified or expressly excluded in these GTC.
7. With regard to any information obligations of the Contractor under the General Data Protection Regulation (GDPR), reference is made to the privacy policy available at: <https://www.vela-group.com/en/datenschutz>.
8. The Contractor reserves the right to amend these GTC insofar as this is necessary for valid reasons, in particular due to changes in the legal situation or supreme court rulings, technical changes or further developments, new organizational requirements of mass transactions, gaps in these GTC, changes in market conditions, or other equivalent reasons, provided that the Client is not unreasonably disadvantaged by such amendments and that no essential provisions of the contractual relationship are affected. Essential provisions include, in particular, those concerning the type and scope of the contractually agreed services and the provisions regarding termination. Amendments to the GTC shall be notified to the Client at least six weeks prior to their intended entry into force in writing or in text form. The amendments shall become effective if the Client does not object to them within this six-week period (commencing upon receipt of the notification of amendment) in writing or in text form, and if the Contractor has informed the Client of this legal consequence in the notification of amendment. The Client's consent to the amendment of the GTC shall be deemed to have been given if no objection is raised. The Contractor undertakes to draw the Client's attention to the amendments to the GTC and to the fact that the Client's consent shall be deemed given in the absence of an objection, in a particular manner, for example by highlighting the notification in terms of language or design. The deemed consent shall not apply if the Client was prevented from submitting the objection in due time for an important reason. By amending the GTC, the Contractor shall only respond to changed circumstances; it is excluded that provisions of the GTC that are not affected by such changed circumstances are amended in this context.

Section 2: Offers and Accompanying Documents

1. Verbal offers made by the Contractor are always non-binding and subject to change; they shall only become binding upon confirmation in written or text form. This requirement of written or text form shall also apply to any ancillary agreements and amendments. A contract cannot be concluded by the unilateral written reference of the Client to prior contract negotiations. Silence on the part of the Contractor shall in no case be deemed as consent.
2. Unless expressly stated otherwise in the offer, the binding period of (confirmed) offers in written or text form shall be thirty (30) days from the date of issuance indicated in the offer, irrespective of the date of receipt of the offer.
3. The information contained in the offer letter and in the documents attached thereto for the purpose of determining the contractually owed characteristics, functions, and/or quality features of the performance (the "Offer Documents") shall be reviewed by the Client with regard to their suitability both for the intended use by the Client and for customary use. In the event of discrepancies, the Contractor must be notified within ten (10) days of receipt of the Offer Documents; otherwise, any resulting defects and deviations shall be the responsibility of the Client.

4. The specifications and information contained in documents provided in connection with the Offer Documents, such as catalogs, technical documentation, calculations, cost estimates, DIN standards, or data sheets (the "Accompanying Documents"), including but not limited to technical descriptions, drawings, illustrations, data, programs, and physical performance data, are non-binding and shall in particular not constitute an agreement on quality within the meaning of Section 12 Clause 2 of these GTC.

5. The Contractor reserves all ownership, usage, and exploitation rights to the Offer Documents and Accompanying Documents, as well as to the information contained therein. Furthermore, the information contained therein constitutes trade and/or business secrets of the Contractor. The Client is prohibited from any unauthorized use as well as from any unauthorized disclosure to third parties.

Section 3: Retention of Title

1. The tangible and intangible, including intellectual, results of performance owed by the Contractor (the "Performance Items") shall remain the property of the Contractor until full settlement of all present and future claims of the Contractor arising from an ongoing business relationship with the Client (the "Secured Claims").
2. The Performance Items subject to retention of title may neither be pledged to third parties nor assigned as security prior to full payment of the Secured Claims. The Client shall notify the Contractor in writing without undue delay if an application for the opening of insolvency proceedings has been filed or if third parties gain access to the Performance Items belonging to the Contractor (e.g. by way of attachment).
3. In the event of a breach of contract by the Client, in particular in the event of default in payment, the Contractor shall be entitled, in accordance with the statutory provisions, to withdraw from the contract and/or to demand the return of the Performance Items on the basis of the retention of title. A demand for return shall not simultaneously constitute a declaration of withdrawal; rather, the Contractor shall be entitled to demand only the return of the Performance Items subject to retention of title and to reserve the right of withdrawal. The Performance Items shall then be subject to the Contractor's unrestricted right of realization. In the case of software provided, all rights of use and exploitation granted to the Client under the contract shall expire in such a case. If the breach of contract by the Client is based on default in payment, the Contractor may assert these rights only if it has previously set the Client a reasonable deadline for payment without success or if setting such a deadline is dispensable under statutory provisions.
4. Until revoked, the Client shall be entitled, in the ordinary course of business, to resell and/or process the Performance Items subject to retention of title in accordance with the provisions set out below.
5. In the event of processing, mixing, or combining the Performance Items subject to retention of title with one or more other items, the Contractor's retention of title shall extend to the entire new item; the Contractor shall be deemed the manufacturer thereof. If, in the event of processing, mixing, or combining with items belonging to third parties, their ownership rights remain, the Contractor shall acquire co-ownership in proportion to the invoice values of the processed, mixed, or combined items. In all other respects, the same shall apply to the new item as to the Performance Items subject to retention of title.
6. If the Client resells Performance Items subject to retention of title to third parties without receiving full consideration in advance or concurrently, the Client shall agree with such third parties on a retention of title in accordance with these conditions. The Client hereby assigns to the Contractor its claims arising from such resale as well as the rights from the retention of title agreed by it. The Contractor hereby accepts such assignment. The obligations of the Client under Clause 2 above shall apply accordingly with respect to these assigned claims. The Client shall remain authorized, alongside the Contractor, to collect these assigned claims. In this context, the Contractor undertakes not to collect the assigned claims as long as the Client meets its payment obligations towards the Contractor, no deficiency in the Client's ability to perform exists, and the Contractor does not demand return by exercising its right under Clause 3 above. If this is the case, however, the Client shall be obliged to inform the purchasers of the assignment and to provide the Contractor with the information and documents necessary for asserting its rights against the purchasers; furthermore, in such case, the Contractor shall be entitled to revoke the Client's authority to further resell the Performance Items subject to retention of title.
7. If the realizable value of the Performance Items subject to retention of title exceeds the Secured Claims by more than 10%, the Contractor shall, at the request of the Client, be obliged to release securities of its choice within a reasonable period.

Section 4: Performance Period and Delay in Performance

1. The period for the performance of services by the Contractor (the "Performance Period") shall either be agreed individually with the Client or specified by the Contractor in its offer or in the acceptance of an order. Unless a fixed-date transaction has been expressly agreed, compliance with Performance Periods shall therefore not constitute an essential element of the Contractor's performance obligations, with the result that delayed performance shall still be deemed proper performance of the Contractor's obligations.
2. Compliance with Performance Periods by the Contractor shall be subject—where applicable—to the fulfillment of all obligations incumbent upon the Client, in particular the timely receipt of all items to be provided by the Client, whether

tangible or intangible (including documents, plans, materials, components, software, etc.), as well as the obtaining of necessary approvals and releases, and compliance with the agreed payment terms by the Client. If these prerequisites are not fulfilled, not fulfilled in full, or not fulfilled in due time, the Performance Periods shall be extended accordingly. In such cases, the Contractor shall not be deemed to be in delay.

3. If the Contractor is unable to comply with Performance Periods for reasons for which it is not responsible ("Non-Availability of Performance"), the Contractor shall inform the Client thereof without undue delay and at the same time notify the Client of the expected new Performance Period. If the Non-Availability of Performance persists even within the new Performance Period, the Contractor shall be entitled to withdraw from the contract in whole or in part. In particular, a case of Non-Availability of Performance shall be deemed to exist in the event of non-timely self-supply to the Contractor by a supplier or upstream supplier, provided that the Contractor has concluded a congruent covering transaction, neither the Contractor nor the supplier or upstream supplier is at fault, or the Contractor is not obliged to procure in the individual case.
4. The occurrence of delay on the part of the Contractor ("Delay in Performance") shall be determined in accordance with the statutory provisions, whereby in any case a reminder from the Client setting a reasonable deadline shall be required. Lump-sum damages and/or contractual penalties shall in any case require an express written agreement between the Client and the Contractor; even in the case of expressly agreed lump-sum damages, the Contractor shall in any event be entitled to prove that no damage or only a lesser damage than the lump sum has been incurred by the Client. In all other respects, the statutory consequences of delay shall apply.
5. The rights of the Client under Section 12 of these GTC and the statutory rights of the Contractor, in particular in the event of exclusion of the obligation to perform (for example due to impossibility or unreasonableness of performance and/or subsequent performance), shall remain unaffected by the foregoing provisions.

Section 5: Transfer of Risk and Default of Acceptance

1. All services of the Contractor shall be performed ex works, which shall also be the place of performance for deliveries (including deliveries of Performance Items) and any subsequent performance. Deliveries shall, as a rule, be made available ready for loading without packaging. Shipment to another destination shall only be effected at the Client's expense and on the basis of a corresponding agreement. Unless otherwise agreed, the Contractor shall be entitled, in the case of shipment, to determine the method of dispatch (in particular the transport company, the shipping route, and the packaging) at its own discretion.
2. The risk of accidental loss and accidental deterioration of the performance shall pass to the Client at the latest upon handover to the Client. In the case of collection by the Client, such risk shall pass to the Client already upon notification of completion and contractual readiness for collection at the Contractor's premises. In the case of data transmission, such risk shall pass to the Client already upon dispatch of the data. In the case of shipment, such risk, as well as the risk of delay, shall pass to the Client upon delivery to the forwarding agent, carrier, or any other person or institution designated to carry out the shipment.
3. Where acceptance has been agreed, such acceptance shall be decisive for the transfer of risk. In all other respects, the statutory provisions of the law on contracts for work and services shall apply mutatis mutandis to an agreed acceptance, insofar as they are applicable. Handover or acceptance shall be deemed equivalent where the Client is in default of acceptance.
4. If the Client is in default of acceptance, fails to perform an act of cooperation, or if the Contractor's performance is delayed for other reasons attributable to the Client, the Contractor shall be entitled to demand compensation for the resulting damage, including additional expenses (e.g. rescheduling of capacities, underutilization of planned capacities, storage costs). For this purpose, the Contractor may charge a lump-sum compensation amounting to 0.5% of the value of the performance per commenced calendar week, commencing with the Performance Period or with notification of readiness for collection of the performance, but in total not exceeding 5% of the delivery value of the performance affected by the default of acceptance. Proof of higher damages and statutory claims (in particular reimbursement of additional expenses, reasonable compensation, termination) by the Contractor shall remain unaffected; however, the lump-sum shall be credited against any further monetary claims. The Client shall be entitled to prove that no damage at all or only significantly lower damage than the aforementioned lump-sum has been incurred by the Contractor.

Section 6: Payment Terms and Default in Payment

1. The Contractor's prices are net prices and are quoted ex works, excluding transport, insurance, and packaging, unless otherwise agreed in the individual case. Value-added tax (VAT) shall be charged to the Client in addition; any statutory change in the VAT rate shall not give rise to a right of termination for the Client. Where shipment is agreed, the Client shall bear all transport costs and ancillary transport costs ex works, including the costs of packaging and transport insurance. In addition, the Client shall bear any customs duties, fees, taxes, and other public charges.
2. The Contractor shall be entitled to invoice separately, at customary market conditions, for services not included or specified in the Contractor's offer or in an order of the Client accepted by the Contractor, which the Client has requested during the course of the contractual relationship ("Additional Services"). Additional Services shall also include any additional work performed by the Contractor as a result of change requests made by the Client, without the need for a separate notice to the Client.

3. Unless otherwise agreed in the individual case, the Contractor shall be entitled to invoice its services on a monthly basis. Unless otherwise stated in the invoice, the respective invoice amount shall be due and payable by the Client within fourteen (14) days from the date of the invoice (the "Payment Period"). The Contractor shall be entitled—also within the framework of an ongoing business relationship—to perform services in whole or in part only against advance payment at any time. The Contractor shall declare such reservation no later than in its order confirmation.
4. Upon expiry of the Payment Period, the Client shall be in default without the need for a reminder. During the period of default, the invoice amount shall bear interest at the applicable statutory default interest rate. The Contractor's claim to commercial maturity interest (Section 353 HGB), as well as the right to claim further damages for default and the lump sum pursuant to Section 288 (5) BGB, shall remain unaffected.
5. Invoices issued by the Contractor shall be deemed accepted unless the Client objects to them in text form within two weeks of receipt.
6. The Contractor shall be entitled to apply payments made by the Client first to the Client's older debts and to allocate incoming payments first to costs, then to interest, and finally to the principal claim.
7. If, after conclusion of the contract, it becomes apparent that the Contractor's claim to payment is jeopardized due to the Client's lack of financial capacity (e.g. application for the opening of insolvency proceedings, rejection of a significant loan, issuance of dishonored checks, etc.), the Contractor shall be entitled, in accordance with statutory provisions, to refuse performance. This right to refuse performance shall cease if the Client satisfies the payment claim or provides security for it. The Contractor may set a reasonable period within which the Client must, concurrently against performance and at the Contractor's discretion, either satisfy the payment claim or provide security. Upon unsuccessful expiry of such period, the Contractor shall be entitled to withdraw from the contract.
8. The Client shall be entitled to set-off or exercise a right of retention only in the case of claims that have been finally adjudicated or are undisputed. In the event of defects in the Contractor's performance, the Client's counter-rights—particularly pursuant to Section 12 Clause 5 sentence 2 of these GTC—shall remain unaffected.

Section 7: Acceptance Obligation for Work Services

1. To the extent that acceptance is possible due to the nature or characteristics of the performance, the Client shall accept without undue delay any work performance produced by the Contractor that is ready for acceptance ("ready for acceptance"). A performance shall be deemed ready for acceptance if it exhibits the essential characteristics of the agreed quality. Notwithstanding the foregoing, the Client may also accept the performance prior to it being ready for acceptance.
2. If the Contractor's work performance can be divided into several partial work performances that are independently usable by the Client, the Client shall be obliged to accept each partial performance separately.
3. The Client shall prepare a written acceptance protocol and submit it to the Contractor without undue delay. If the Client fails to comply with this obligation, a work performance ready for acceptance shall be deemed to have been accepted by conduct (conclusive acceptance) if (i) its suitability and absence of defects can be determined by the Client through an external inspection and the Client accepts it without rejecting it within fourteen (14) days, (ii) the Client puts it into final use after a trial period of fourteen (14) days, or (iii) the Client pays the corresponding price to the Contractor without reservation.
4. The Client may not refuse acceptance in the case of minor defects ("acceptability"). In particular, acceptability shall be deemed to exist where the usability of the performance for the Client is not impaired or not significantly impaired, for example in the case of cosmetic defects. Likewise, the absence or incompleteness of documentation, design documents, or source code shall not affect acceptability.
5. The performance shall also be deemed accepted if, after completion of the work, the Contractor has set the Client a period of fourteen (14) days for acceptance and the Client has not refused acceptance within this period, specifying at least one defect.
6. The issuance of an invoice for the respective work performance by the Contractor to the Client shall also be deemed to constitute the setting of a period for acceptance within the meaning of Section 7 Clause 5 of these GTC, whereby the payment period stated in the invoice shall be deemed the period for acceptance.

Section 8: Effects of Force Majeure

Force majeure of any kind, in particular unforeseeable operational, traffic, or shipping disruptions, fire damage, flooding, unforeseeable shortages of labor, energy, raw materials, or auxiliary materials, strikes, lockouts, official orders, or other obstacles for which the Contractor is not responsible, which delay, prevent, or render unreasonable the production, shipment, or acceptance, shall release the parties from their obligations to deliver or accept for the duration and to the extent of the disruption. If, as a result of such disruption, delivery and/or acceptance is delayed by more than eight (8) weeks, both parties shall be entitled to withdraw from the contract.

Section 9: Rights to Tools Used for Performance

1. The trade secrets, practical knowledge, know-how, industrial property rights, (software) copyrights, and any combination thereof used by the Contractor in the course of performing its services (the "Intangible Tools") shall remain with the Contractor. No rights of use or exploitation to the Intangible Tools shall be granted to the Client.
2. The tools, auxiliary models, working equipment, devices, models, molds, etc. produced by the Contractor in the course of its services (the "Tangible Tools") shall not form part of the Performance Items unless expressly agreed in the Offer Documents and shall remain the property of the Contractor; the Contractor shall also retain all rights of use and exploitation to such tools.
3. The Tangible Tools shall be stored by the Contractor for a period of six (6) months following acceptance of the parts by the Client, without acknowledgment of any legal obligation to do so. After expiry of this period, the Contractor may scrap the tools unless the Contractor and the Client have agreed on further storage of the tools or on a transfer of ownership against payment of reasonable compensation.

Section 10: Rights to Performance Results and Inventions

1. The Contractor's rights to the intangible or intellectual Performance Items owed (the "Performance Results") shall, in accordance with the following provisions, pass into the ownership of the Client upon the lapse of the retention of title pursuant to Section 3 of these GTC, insofar as this is legally possible.
2. With regard to Performance Results protected by copyright, the Client shall, upon the lapse of the retention of title pursuant to Section 3 of these GTC, be granted the right to use such Performance Results without limitation as to territory, time, or content for all known types of use (the "Right of Use"). This Right of Use shall include, in particular, the right of reproduction, the right of distribution, the right of exhibition, the right of presentation, performance and demonstration, the right of making available to the public, the broadcasting right, the right of reproduction by means of image or sound carriers, and the right of reproduction of broadcasts and of making available to the public. The Right of Use shall be granted as transferable and sublicensable. The Contractor shall retain a right of use for its own scientific research and development purposes. To the extent legally permissible, the Contractor waives the right to be named as author.
3. To the extent that Performance Results contain inventions eligible for protection and no deviating contractual agreement has been made, the rights to such inventions shall belong to the Contractor. The Contractor shall not be obliged to apply for protection rights. The Client shall be granted a non-exclusive right of use to such Performance Results, which shall be unlimited in terms of territory, time, and content, and shall be transferable and sublicensable, and shall be deemed compensated by the total remuneration. In consideration of this grant, the Client shall bear the costs incurred by the Contractor (in particular for employee invention compensation). Upon request of the Client, which must be asserted in text form to the Contractor within one year after the respective Performance Results have been made available, the Contractor shall transfer the exclusive rights to such Performance Results to the Client against appropriate and customary market remuneration; following such transfer, the Client shall be entitled, but not obliged, to apply for protection rights.
4. If inventions arise within the scope of the contractual cooperation in which employees or agents of both the Client and the Contractor are involved, the provisions on co-ownership (fractional ownership) shall apply.

Section 11: Third-Party Intellectual Property Rights

1. The Contractor shall endeavor, applying industry-standard care, to ensure that the Performance Items are free, in the country of the place of performance, from third-party intellectual property rights that exclude or impair the use of the performance by or for the Client ("Conflicting IP Rights"). This endeavor shall neither include a search for such Conflicting IP Rights nor their evaluation (an "IP Search").
2. The Client may, in individual cases, agree with the Contractor to commission the performance of an IP Search with respect to the Performance Items. For this purpose, the Client must specify in advance the (substantive and territorial) scope, define a cost framework, and bear all costs incurred. Any applicable delivery periods shall be extended by the duration of the IP Search. The Client acknowledges that even a search carried out with the utmost diligence cannot identify all relevant Conflicting IP Rights of third parties, and that, due to the necessary interpretation of identified Conflicting IP Rights, the assessment of a potential infringement will always be subject to uncertainties.
3. If Conflicting IP Rights become known to the Client through notification of the results of an IP Search or by other means, the Client may, at its discretion, (i) request the Contractor, against payment, to develop a technical solution that does not make use of the specifically identified Conflicting IP Rights, (ii) instruct the Contractor, against reimbursement of costs, to temporarily suspend performance in order to take action against the Conflicting IP Rights or to obtain a license thereto, or (iii) terminate the contract with the Contractor with the consequences set out in Section 17 Clause 2 of these GTC.
4. If the Client is asserted against by third parties on the basis of an alleged infringement of Conflicting IP Rights by the Performance Items, the Client shall inform the Contractor thereof without undue delay in text form, shall not acknowledge any infringement, and shall reserve all rights of defense for itself and

for the Contractor. If the use of such Performance Results is discontinued, the Client shall inform the third party that such discontinuation does not constitute an acknowledgment of infringement of intellectual property rights.

Section 12: Claims for Defects by the Client

1. The Client's rights in the event of defects in quality and defects in title (including incorrect delivery, short delivery, improper assembly, or defective assembly instructions) shall be governed by the statutory provisions, unless otherwise stipulated below. The statutory special provisions applicable to the final delivery of unprocessed goods to a consumer shall remain unaffected, even if the consumer has further processed them (supplier recourse pursuant to Section 478 BGB). Claims arising from supplier recourse shall be excluded if the defective performance has been further processed by the Client or another entrepreneur (e.g. by installation into another product).
2. The basis of the Contractor's liability for defects shall be the agreement reached regarding the quality of the performance. All performance descriptions forming part of the individual contract shall be deemed to constitute an agreement on quality. To the extent that the quality has not been agreed, it shall be determined in accordance with statutory provisions whether a defect exists. The Contractor shall not be liable for public statements (e.g. advertising claims) made by a supplier or upstream supplier or any other third party, including statements made by the Client to its customers. Irrespective of the foregoing, the Client shall be obliged to notify the Contractor without undue delay upon becoming aware of any recourse claim arising within the supply chain.
3. All claims for defects by the Client shall require that the Client has complied with its statutory obligations to inspect and give notice of defects (Sections 377, 381 HGB). If a defect becomes apparent upon delivery, inspection, or at any later point in time, the Client shall notify the Contractor of such defect without undue delay in text form. In any case, notice of obvious defects must be received by the Contractor within ten (10) working days from receipt of the performance, and notice of defects not recognizable upon inspection (hidden defects) must be received within the same period from their discovery. If the Client fails to carry out an inspection or fails to notify a detected defect, fails to do so in due time, or fails to do so in the agreed text form, the Contractor's liability with respect to such defect shall be excluded. If the Client accepts a performance with knowledge of a defect, the Client shall only be entitled to claims for defects if it expressly reserves such rights in writing upon acceptance.
4. If a performance of the Contractor is defective and the Client's claims for defects are not excluded, the Contractor may initially choose whether to provide subsequent performance by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery). The Contractor's right to refuse subsequent performance under the statutory conditions shall remain unaffected.
5. The Contractor shall be entitled to make the subsequent performance owed dependent upon the Client paying the due price. However, the Client shall be entitled to retain a portion of the price that is reasonable in relation to the defect.
6. The Client shall grant the Contractor the time and opportunity required for the subsequent performance owed, in particular to hand over the complained-of performance for inspection purposes. In the case of replacement delivery, the Client shall return the defective item to the Contractor in accordance with statutory provisions. The Client's claim for subsequent performance shall not include removal of the defective performance or reinstallation if the Contractor was not originally obliged to perform the installation.
7. Any expenses necessary for the purpose of inspection and subsequent performance, in particular transport, travel, labor, and material costs, as well as, where applicable, costs of removal and installation, shall be borne or reimbursed by the Contractor in accordance with statutory provisions if a defect actually exists. Otherwise, the Contractor may demand reimbursement from the Client for the costs arising from an unjustified request for defect rectification (in particular inspection and transport costs), unless the absence of a defect was not recognizable to the Client. Without an express agreement, this cost allocation rule shall not give rise to any claim by the Client to demand an advance payment from the Contractor to cover transport, travel, removal, or installation costs, even if the existence of the asserted defect has not yet been clarified.
8. In urgent cases, e.g. where operational safety is at risk or to avert disproportionate damage, the Client shall have the right to remedy the defect itself and to demand reimbursement from the Contractor of the objectively necessary expenses incurred. The Contractor shall be notified of such self-remedy without undue delay, if possible in advance. The right to self-remedy shall not exist if the Contractor would be entitled to refuse corresponding subsequent performance under statutory provisions or if no defect existed which the Contractor was obliged to remedy.
9. If subsequent performance has failed twice or a reasonable period to be set by the Client for subsequent performance has expired unsuccessfully or is dispensable under statutory provisions, the Client may withdraw from the contract or reduce the price. However, there shall be no right of withdrawal in the case of an insignificant defect.
10. Claims of the Client for damages or reimbursement of futile expenses shall also exist in the case of defects only in accordance with Section 13 of these GTC and shall otherwise be excluded.
11. Without prejudice to further claims of the Contractor, in the event of an unjustified notice of defects, the Client shall reimburse the Contractor for the expenses incurred for inspection and, if requested, for the rectification of the defect.

Section 13: General Liability of the Contractor

1. Unless otherwise provided in these GTC, including the following provisions, the Contractor shall be liable for breaches of contractual and non-contractual obligations in accordance with the statutory provisions.
2. The Contractor shall be liable for damages and reimbursement of futile expenses—irrespective of the legal basis—within the scope of fault-based liability in cases of intent and gross negligence. In the case of simple negligence, subject to a more lenient standard of liability under statutory provisions (e.g. for care in one's own affairs), the Contractor shall be liable only
 - a. for damages arising from injury to life, body, or health,
 - b. for damages arising from a not insignificant breach of a material contractual obligation (an obligation whose fulfillment is essential for the proper execution of the contract and on whose compliance the Client regularly relies and may rely); in this case, however, the Contractor's liability shall be limited to compensation for the foreseeable, typically occurring damage,
 - c. for damages arising from a not insignificant breach of the obligation to provide defect-free performance; in this case, however, the Contractor's liability shall be limited to compensation for the foreseeable, typically occurring damage.
3. In the case of Section 13 Clause 2 letter b of these GTC, the parties assume that the foreseeable, typically occurring damage does not exceed an amount of one (1) million euros. The Contractor's liability in such cases shall therefore be limited in amount to this sum. This limitation shall not apply if the Client specifies a higher amount of potential damage in text form in due time prior to placing the order—at the latest before the commencement of performance. In such case, the specified amount shall be deemed the liability cap. If the specified amount exceeds five (5) million euros, the Contractor shall have the right to terminate the contract for cause.
4. In the case of Section 13 Clause 2 letter c of these GTC, the parties assume that the foreseeable, typically occurring damage does not exceed the total value of the consideration as the maximum measure of a possible defect-related loss. The Contractor's liability shall therefore be limited in amount to this sum. This limitation shall not apply if the Client specifies a higher amount of potential damage in text form in due time prior to placing the order—at the latest before the commencement of performance. In such case, the specified amount shall be deemed the liability cap. If the specified amount exceeds twice the value of the consideration, the Contractor shall have the right to terminate the contract for cause.
5. Furthermore, in the event of loss of data, the Contractor shall be liable only if the Client has ensured, by means of proper data backup, that such data can be reconstructed with reasonable effort and if such data backup is not part of the Contractor's contractually agreed services. Liability shall be limited in amount to the cost of restoration.
6. Subject to any deviating contractual agreement, the Contractor shall be liable for the infringement of Conflicting IP Rights only in the event of a breach of an obligation pursuant to Section 11 Clause 1 of these GTC. In such case, the Contractor shall have the right, at its discretion and at its own expense, either to obtain a right of use to the Conflicting IP Right or to modify the affected performance in such a way that the Conflicting IP Right is no longer infringed. Claims of the Client shall further be excluded to the extent that such infringement is caused by a use of the performance that was neither known, nor communicated, nor foreseeable for the Contractor, or by the fact that the performance is modified by the Client or used together with products not supplied by the Contractor.
7. The limitations of liability arising from Section 13 Clauses 2 to 6 of these GTC shall also apply in the event of breaches of duty by or in favor of persons for whose fault the Contractor is responsible under statutory provisions, in particular its legal representatives, executive employees, and vicarious agents. They shall not apply if the Contractor has fraudulently concealed a defect, if the Contractor has assumed a guarantee for the quality of a performance, or insofar as the Contractor is subject to mandatory liability under statutory law, in particular under the Product Liability Act.
8. In the case of a breach of duty that does not consist of a defect, the Client may only withdraw from or terminate the contract if the Contractor is responsible for the breach of duty. Any free right of termination of the Client (in particular pursuant to Section 648 BGB) is excluded. In all other respects, the statutory requirements and legal consequences shall apply.

Section 14: Liability of the Contractor in the Event of Impossibility

1. If the Contractor refuses performance because performance was already impossible at the time of conclusion of the contract or would require an effort that is grossly disproportionate to the Client's interest in performance, the Contractor shall be liable to the Client for damages in lieu of performance, provided that the Contractor is responsible for the impossibility. Responsibility shall not apply if the Contractor neither knew nor should have known of the impossibility of performance. The Client's claim for damages shall be limited to 10% of the value of that part of the performance which, due to the impossibility, cannot be put into use for its intended purpose. This limitation shall not apply where liability is mandatory in cases of intent, gross negligence, or injury to life, body, or health; no change in the burden of proof to the detriment of the Client is associated herewith. The Client's right to withdraw from the contract shall remain unaffected.
2. If the impossibility or the disproportionate effort of performance arises only after the conclusion of the contract, the Contractor shall be liable for damages unless the occurrence was not foreseeable or could not be averted.

Section 15: Limitation Period for Claims of the Client

1. The Client's claims for defects shall become time-barred after twelve (12) months from delivery. Where acceptance has been agreed, the limitation period shall commence upon acceptance.
2. If the performance consists of a building, an item that has been used for a building in accordance with its usual purpose and has caused its defectiveness (building material), or a work whose success consists in the provision of planning and supervision services for a building, the limitation period shall be five (5) years from delivery. Further statutory special provisions on limitation periods (in particular Section 438 (1) No. 1, (3), Sections 444, 445b BGB) shall remain unaffected.
3. The above limitation periods shall also apply to contractual and non-contractual claims for damages by the Client based on a defect in the performance, unless the application of the regular statutory limitation period results in a shorter limitation period in an individual case—in which case such shorter period shall apply. Claims for damages by the Client pursuant to Section 13 Clause 2 sentence 1, Section 13 Clause 2 sentence 2 letter a, and Section 13 Clause 7 sentence 2 of these GTC shall be subject exclusively to the statutory limitation periods.
4. Neither the notification of a defect nor negotiations regarding a claim or the circumstances giving rise to a claim shall suspend the limitation period.

Section 16: Compliance Responsibility of the Client

1. The Client undertakes to comply with all applicable laws, regulations, and provisions ("Legal Provisions"), in particular those relating to the prevention of corruption, restrictions of competition, and unfair competition practices, as well as export control regulations.
2. The Client shall take all necessary and appropriate measures to prevent corruption. In particular, the Client undertakes neither to offer, promise, or grant, directly or indirectly, any benefits or other advantages (such as money, gifts of monetary value, or invitations that are not predominantly business-related, such as to sporting events, concerts, cultural events, etc.) to employees and managing directors of the Contractor, including their relatives, nor to have such benefits offered, promised, or granted through third parties. The Client shall inform the Contractor without undue delay if it becomes aware of or has a concrete suspicion of cases of corruption that are connected to a contractual relationship with the Contractor or its performance.
3. The Client shall take all necessary and appropriate measures to comply with European and national, and where applicable also international—particularly U.S.—export regulations. This applies in particular to the export of the Contractor's services to/in sensitive purchaser states or end-user countries. All embargoes shall be observed by the Client. The Client shall carefully review and comply with all relevant sanctions lists.
4. If the Contractor determines that the Client is in breach of Legal Provisions relating to anti-corruption or export restrictions, the Contractor shall be entitled to terminate all contractual relationships.
5. The Client shall indemnify and hold the Contractor harmless from and against all claims, fines, or other sanctions imposed on the Contractor as a result of violations by the Client of Legal Provisions—particularly anti-corruption and export control laws—in connection with the Contractor's services.

Section 17: Withdrawal and Termination

1. Except for the cases set out in these GTC, the Client shall not have a right of withdrawal due to non-performance or performance not in conformity with the contract if the Contractor is not responsible for the breach of duty. This shall not apply where special agreements (e.g. a fixed-date transaction) provide for a right of withdrawal of the Client irrespective of fault; in such cases, the statutory provisions shall apply.
2. If the Client terminates the contract, the Contractor shall, in principle, be entitled to the agreed remuneration, taking into account what the Contractor saves in expenses as a result of the termination or acquires, or fails to acquire in bad faith, through alternative use of its labor.

Section 18 Non-Solicitation

1. The Client undertakes that, during the performance of services and for a period of one year thereafter, it shall neither directly nor indirectly:
 - a. solicit or induce employees of the Contractor who are engaged by the Contractor in providing services to the Client (the "Employees") to terminate their employment with the Contractor,
 - b. hire or attempt to hire such Employees, unless the employment relationship between the respective Employee and the Contractor had already been terminated more than one year prior to such hiring.
2. In the event of a breach of Section 18 Clause 1 of these GTC, the Client shall be obliged to pay to the Contractor a contractual penalty in the amount of two gross annual salaries received by the Employee from the Contractor in the year preceding the occurrence of the penalty. The amount shall become due within fourteen (14) days after the execution of the employment contract between the Client and the Employee. Furthermore, the Contractor shall be entitled to terminate all contractual relationships with the Client for cause.

Section 19: Right to Subcontracting

Subject to any deviating agreement in an individual case, the Contractor shall not be obliged to perform personally; it may subcontract or otherwise delegate the performance obligations incumbent upon it in whole or in part.

Section 20: Governing Law and Jurisdiction

1. These GTC, as well as all contracts concluded on their basis and all contractual relationships between the Client and the Contractor, shall be governed exclusively by the laws of the Federal Republic of Germany, excluding its conflict of laws rules and the provisions of the United Nations Convention on Contracts for the International Sale of Goods (CISG).
2. If the Client is a merchant within the meaning of the German Commercial Code (HGB), a legal entity under public law, or a special fund under public law, the exclusive place of jurisdiction—including international jurisdiction—for all disputes arising directly or indirectly from the contractual relationship shall be the competent court at the Contractor's place of business. The same shall apply if the purchaser is an entrepreneur within the meaning of Section 14 BGB. However, in all cases, the Contractor shall also be entitled to bring an action at the place of performance of the delivery obligation in accordance with these GTC or any overriding individual agreement, or at the general place of jurisdiction of the Client. Mandatory statutory provisions, in particular those regarding exclusive jurisdictions, shall remain unaffected.

Section 21: Final Provisions

1. The place of performance for delivery shall be the respective place of dispatch; the place of performance for payment shall be our principal place of business in Berlin.
2. Standard commercial clauses shall be interpreted in accordance with Incoterms 2020.
3. Subject to statutory provisions regarding the admissibility of prohibitions on assignment, the transfer of rights and obligations arising from contractual agreements shall require the Contractor's consent in order to be effective.
4. Should individual clauses of these GTC or any other contractual agreement between the Client and the Contractor be or become wholly or partially invalid for reasons other than Sections 305 to 310 BGB, this shall not affect the validity of the remaining provisions and regulations, unless, taking into account the following, the performance of the contract would constitute an unreasonable hardship for either the Client or the Contractor. The Client and the Contractor are aware of the case law of the German Federal Court of Justice (Bundesgerichtshof), according to which a severability clause merely reverses the burden of proof. However, it is the express intention of the Client and the Contractor to uphold the validity of the remaining clauses and agreements under all circumstances and thus to exclude the application of Section 139 BGB in its entirety. The same shall apply in the event of a regulatory or contractual gap. In place of the invalid or unenforceable provision, an appropriate and lawful provision shall apply which comes closest to what the Client and the Contractor intended or would have intended with the invalid provision had they considered this point at the time of conclusion of the contract or at a later stage.