

## General Terms and Conditions of Sale

of the

### **va-Q-tec Thermal Solutions GmbH**

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### **§ 1 Scope of application**

(1) These Terms and Conditions of Sale and Delivery (hereinafter also referred to as the "Terms and Conditions") apply exclusively to entrepreneurs, legal entities under public law or special funds under public law within the meaning of Section 310 (1) of the German Civil Code ("BGB"). Terms and conditions of any kind of our customers (hereinafter also referred to as the "Customer(s)") or third parties shall not apply, even if we do not object to their validity in individual cases. Even if we refer to a letter containing or referring to the terms and conditions of the customer or third parties or accept orders without reservation in the knowledge of existing terms and conditions, this shall not constitute agreement with the validity of those terms and conditions.

(2) These Terms and Conditions shall also apply in their respective version as a framework agreement for all future transactions with the Customer, insofar as these are legal transactions of a related nature, even if they are not separately agreed again and without us having to refer to them again in each individual case. The current version is available at [www.va-q-tec.com](http://www.va-q-tec.com).

(3) Rights to which we are legally entitled beyond these terms and conditions remain unaffected.

(4) In the event of contradictions between the German and English versions of these terms and conditions, the German version shall prevail.

### **§ 2 Offer and conclusion of contract**

(1) All our offers are non-binding and subject to change, unless they are expressly designated as binding offers by way of exception or contain a specific acceptance period.

(2) If an order is to be regarded as an offer in accordance with § 145 BGB, we can accept it within two weeks of receipt.

(3) The legal relationship between us and the customer shall be governed solely by the contract concluded in writing, including these terms and conditions. This fully reflects all agreements between the contracting parties regarding the subject matter of the contract. Verbal promises made by us prior to the conclusion of the contract are not legally binding and verbal agreements between the contracting parties shall be replaced by the written contract, unless expressly agreed otherwise between the contracting parties.

(4) Additions and amendments to the contract, including these terms and conditions, must be made in writing to be effective. With the exception of members of the Executive Board or authorised signatories, our employees are not entitled to make any verbal agreements deviating from this.

(5) Telecommunication, in particular by fax or e-mail, is sufficient to fulfil the written form requirement, provided that a copy of the signed declaration is transmitted.

(6) Our information on the object of the delivery or service (hereinafter also referred to as "scope of delivery and service") - e.g. weights, dimensions, utility values, load-bearing capacity, tolerances and technical data - as well as our representations of the same are only approximate unless the usability for the contractually intended purpose requires exact conformity. They are not guaranteed characteristics, but descriptions and characterisations of the scope of delivery and performance. Deviations that are customary in the trade and deviations that occur due to legal regulations or represent technical improvements, as well as the replacement of components with equivalent parts, are permissible insofar as they do not impair the usability for the contractually intended purpose. Unilateral modification by the customer of the scope of delivery and services to be provided by us is excluded.

(7) Unless otherwise expressly agreed in writing in the contract, the scope of delivery and services shall comply with the technical standards and safety regulations applicable in the Federal Republic of Germany and not with any deviating standards and safety regulations applicable at the place of use of the scope of delivery and services.

(8) Insofar as a quality of the scope of delivery and services has been agreed, objective requirements for the scope of delivery and services shall not apply in this respect.

(9) Unless expressly stated otherwise in our order confirmation, the customer shall not receive any accessories or instructions with the scope of delivery and services. If instructions are listed in our order confirmation, these may be limited to pictograms or the German language at our discretion.

### **§ 3 Documents and materials provided**

We reserve all property rights and copyrights to all documents or materials provided to the customer in connection with the placing of the order, such as offers, calculations, cost estimates, drawings, illustrations, calculations, brochures, catalogues, samples, models, tools and other documents or aids etc.. These documents and materials may not be made accessible to third parties, either as such or in terms of content, unless we give the customer our express written consent. Nor may they be used or reproduced by the customer for the purposes of third parties or by third parties at the instigation of or with the knowledge or acquiescence of the customer. At our request, the customer must return these materials and documents to us in full and destroy any copies made if they are no longer required by him in the ordinary course of business or if negotiations do not lead to the conclusion of a contract. Excluded from this is the storage of electronically provided data for the purpose of normal data backup.

### **§ 4 Prices and payment**

(1) Unless otherwise agreed in writing, our prices are free carrier (INCOTERMS 2020 FCA Free Carrier) from our Kolleda or Würzburg plants, excluding packaging and plus statutory VAT. Packaging costs will be invoiced separately.

(2) Our prices apply to the scope of delivery and services listed in the order confirmation. Additional and/or special services shall be invoiced separately.

(3) Insofar as the agreed prices are based on our list prices, no fixed price agreement has been made and the delivery or service is to take place more than four months after conclusion of the contract, our list prices valid at the time of delivery or service provision shall apply (in each case less any agreed percentage or fixed discount). Insofar as the agreed prices are not based on list prices, no fixed price agreement has been made and the delivery or service is to take place more than four months after conclusion of the contract, we reserve the right to make reasonable price

changes due to changes in labour, material and distribution costs for deliveries and services that take place four months after conclusion of the contract.

(4) Payment of the purchase price shall be made exclusively to the account specified by us. The deduction of a cash discount is only permitted with a special written agreement.

(5) Unless otherwise agreed, the purchase price must be paid within 10 days of delivery. Payment shall be deemed to have been made on the day on which we can dispose of the amount owed. Payment by cheque is excluded unless agreed separately in individual cases. If the customer is in default of payment, we may demand interest in the amount of 9 percentage points above the respective base interest rate of the European Central Bank per annum; the assertion of higher interest and further damages in the event of default shall remain unaffected.

(6) Offsetting against counterclaims of the customer or the withholding of payments due to such claims is only permissible if the counterclaims are undisputed, have been legally established or are ready for judgement or arise from the same order under which the delivery or service in question was made.

(7) We shall be entitled to execute or render outstanding deliveries or services only against advance payment or provision of security if, after conclusion of the contract, we become aware of circumstances which are likely to significantly reduce the creditworthiness of the customer and which jeopardise the payment of our outstanding claims by the customer from the respective contractual relationship (including from other individual orders to which the same framework agreement applies). Such circumstances exist in particular if the customer is in arrears with the payment of due claims

## **§ 5 Deliveries and delivery time**

(1) Unless otherwise agreed in writing, our deliveries shall be made free carrier (INCOTERMS 2020 FCA Free Carrier) to our Kölleda or Würzburg plants (hereinafter "supplying plant").

(2) Deadlines and dates for deliveries and services promised by us are always non-binding, unless a fixed deadline or a fixed date has been expressly promised or agreed. Even if delivery and/or service dates are determined according to the calendar, they are not fixed dates. If no deadlines and/or dates for deliveries and services have been agreed, we shall determine these at our reasonable discretion. If despatch has been agreed, delivery periods and delivery dates refer to the time of handover to the forwarding agent, carrier or other third party commissioned with the transport.

(3) The commencement of the delivery period stated by us as well as a stated delivery date presuppose the timely and proper fulfilment of the obligations of the customer, in particular also all obligations of the customer to cooperate, e.g. the complete provision of all documents and information in the required quality as well as all approvals and releases and the receipt of any agreed down payment. If these requirements are not met in good time, the deadlines shall be extended accordingly; this shall not apply if we are responsible for the delay. The defence of non-performance of the contract remains reserved.

(4) Requests for changes or additions subsequently agreed with us shall always lead to a reasonable extension of agreed delivery dates or delivery periods - even without specific reservation or naming.

(5) We are entitled, but not obliged, to make partial deliveries and render partial services that are reasonable for the customer. We are also authorised to carry out deliveries and services prematurely, unless expressly agreed otherwise.

(6) We shall not be liable for impossibility or for delays if these are caused by force majeure or other events not foreseeable at the time of conclusion of the contract (e.g. operational disruptions of any kind, difficulties in the supply chain). operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortages of labour, energy or raw materials, difficulties in obtaining necessary official permits, pandemics or epidemics, official measures or the failure of suppliers to deliver or to deliver correctly or on

time despite a congruent hedging transaction concluded by us) for which we are not responsible. If such events make delivery or performance significantly more difficult or impossible for us and the hindrance is not only of a temporary nature, we shall be entitled to withdraw from the contract. In the event of hindrances of a temporary nature, the delivery or performance periods shall be extended or the delivery or performance dates postponed by the period of the hindrance plus a reasonable start-up period. If the customer cannot reasonably be expected to accept the delivery or service as a result of the delay, he may withdraw from the contract by immediate written declaration to us.

(7) In the event of our default, the Purchaser's claim for compensation for the damage caused by the delay shall be limited to 5% of the agreed net contract price in the case of simple negligence.

(8) If the customer is in default of acceptance, we shall be entitled to demand compensation for our additional expenses incurred in this respect for our unsuccessful offer as well as for the storage and maintenance of the scope of delivery and services. We reserve the right to assert further claims. Insofar as the above conditions are met, the risk of accidental loss or accidental deterioration of the scope of delivery and services - insofar as this has not already been transferred beforehand - shall pass to the customer at the point in time at which the customer is in default of acceptance. We reserve the right to assert further claims, in particular the right to compensation for damages incurred by us in the event of default by the customer.

#### **§ 6 Place of fulfilment, dispatch, packaging, transfer of risk, acceptance**

(1) The place of fulfilment for all obligations arising from the contractual relationship is the respective supplying plant; for payments by the customer it is Würzburg, unless otherwise agreed. If we also owe the installation, the place of fulfilment shall be the place where the installation is to be carried out.

(2) The mode of despatch and packaging shall be subject to our dutiful discretion.

(3) If dispatch of the goods has been agreed and we have not assumed responsibility for transport or installation, the risk shall pass to the customer at the latest when the scope of delivery and services is handed over (whereby the start of the loading process shall be decisive) to the forwarding agent, carrier or other third party appointed to carry out the dispatch. This shall also apply if partial deliveries are made. If dispatch or handover is delayed due to a circumstance caused by the customer, the risk shall pass to the customer from the day on which the scope of delivery and services is ready for dispatch and we have notified the customer of this.

(4) Storage costs after the transfer of risk shall be borne by the customer. In the case of storage by us, the storage costs shall amount to 0.25 % of the net invoice amount of the scope of delivery and services to be stored per elapsed week plus statutory value added tax. Both parties reserve the right to claim and prove further or lower storage costs.

(5) We shall only insure a consignment against theft, breakage, transport, fire and water damage or other insurable risks at the express written request of the customer and at the customer's expense.

(6) Insofar as acceptance has been expressly agreed or is required by law, the following shall apply:

- a. The scope of delivery and services shall be deemed to have been accepted if i) the delivery and, if we also owe the installation, the installation, or the provision of services has been completed, ii) we have requested the customer to accept with the setting of a reasonable deadline, and iii) the customer does not refuse acceptance within the deadline set in accordance with lit. ii), stating at least one significant defect.
- b. Implied acceptance, in particular by commencing use of the scope of delivery and services, shall remain unaffected by this. Formal acceptance is not required.
- c. Partial acceptances are permissible.

- d. If we have provided part of the scope of delivery and services and there is a long delay or interruption before the further scope of delivery and services still to be provided, the cause of which is not within our area of responsibility, we may also demand separate acceptance of the part of the scope of delivery and services already provided.

## **§ 7 Liability for damages due to fault, limitation of liability**

(1) Our liability for damages, irrespective of the legal grounds, in particular for impossibility, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and unauthorised action, shall be limited in accordance with this § 7, insofar as fault is involved in each case; in the case of simple negligence, § 5 para. 7 shall apply to our liability for default, otherwise this § 7 shall also apply.

(2) We shall not be liable in the event of simple negligence on the part of our executive bodies, legal representatives, employees or other vicarious agents, insofar as this does not involve a breach of material contractual obligations. Material contractual obligations are the obligation to deliver the scope of delivery and services on time - and, if owed, its installation -, its freedom from defects of title and such material defects that impair its functionality or this General Terms and Conditions of Sale of va-Q-tec Thermal Solutions usability more than insignificantly, as well as obligations to provide advice, protection and care that are intended to enable the customer to use the scope of delivery and services in accordance with the contract or to protect the life and limb of the customer's personnel or to protect the customer's property from considerable damage.

(3) Insofar as we are liable for damages in accordance with this § 7 para. 2 in the event of simple negligence on the part of our organs, legal representatives, employees or other vicarious agents, this liability shall be limited to damages which we foresaw as a possible consequence of a breach of contract at the time of conclusion of the contract or which we should have foreseen if we had exercised due care. Indirect damage and consequential damage resulting from defects in the scope of delivery and services shall only be eligible for compensation if such damage is typically to be expected when the scope of delivery and services is used as intended.

(4) In the event of liability for simple negligence, our obligation to pay compensation for material damage and any further financial losses resulting therefrom shall be limited to an amount of EUR 5,000,000.00 per claim, even if this involves a breach of material contractual obligations.

(5) The above exclusions and limitations of liability shall apply to the same extent in favour of our executive bodies, legal representatives, employees and other vicarious agents.

(6) Insofar as we provide technical information or act in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by us, this shall be provided free of charge and to the exclusion of any liability.

(7) The limitations of this § 7 shall not apply to our liability for intentional behaviour, for any guaranteed characteristics, for injury to life, limb or health or under the Product Liability Act.

(8) The customer's liability shall be governed by the statutory provisions.

## **§ 8 Retention of title**

(1) The retention of title agreed below serves to secure all our current and future claims against the Customer arising from the supply relationship existing between us (including balance claims from a current account relationship limited to this supply relationship).

(2) The goods delivered by us to the customer shall remain our property until all secured claims have been paid in full. The goods and the items covered by the retention of title which take their place in accordance with the following provisions are hereinafter referred to as "goods subject to retention of title".

(3) The customer shall store the goods subject to retention of title for us free of charge. He shall bear the duty to ensure the safety of the goods and shall indemnify us against any claims of third parties in the event of a culpable breach of the duty to ensure the safety of the goods by him. He is obliged to treat the reserved goods with care.

(4) The customer shall be entitled to process and sell the goods subject to retention of title in the ordinary course of business until the event of realisation pursuant to para. 9 or until taking possession pursuant to para. 10, whichever occurs earlier. Pledges and transfers by way of security are not permitted.

(5) If the reserved goods are processed by the customer, it is agreed that the processing is carried out in our name and for our account as manufacturer within the meaning of § 950 para. 1 BGB and that we directly acquire ownership or - if the processing is carried out from materials of several owners or the value of the processed item is higher than the value of the reserved goods - co-ownership (fractional ownership) of the newly created item in the ratio of the value of the reserved goods to the value of the newly created item. In the event that no such acquisition of ownership should occur for us, the customer hereby transfers his future ownership or - in the above-mentioned ratio - co-ownership of the newly created item to us as security. If the goods subject to retention of title are combined or inseparably mixed with other items to form a uniform item and if one of the other items is to be regarded as the main item, we shall, insofar as the main item belongs to us, transfer co-ownership of the uniform item to the customer on a pro rata basis in the ratio specified in this § 8 (5) sentence 1.

(6) In the event of the resale of the reserved goods, the customer hereby assigns to us by way of security the resulting claim against the purchaser - in the case of our co-ownership of the reserved goods in proportion to the co-ownership share. The same applies to other claims that take the place of the reserved goods or otherwise arise with regard to the reserved goods, such as insurance claims or claims arising from unauthorised action in the event of loss or destruction. We revocably authorise the customer at any time to collect the claims assigned to us in his own name. As a rule, we will only revoke this direct debit authorisation in the event of realisation, but expressly reserve the right to revoke it in other justified cases at our discretion.

(7) If third parties seize the goods subject to retention of title, in particular by attachment, the customer shall immediately inform them of our ownership and inform us of this in order to enable us to enforce our ownership rights. If the third party is not in a position to reimburse us for the court or out-of-court costs incurred in this connection, the customer shall be liable to us.

(8) We shall release the goods subject to retention of title and the items or claims taking their place if their value exceeds the amount of the secured claims by more than 20 %. The selection of the items to be released thereafter shall be at our discretion.

(9) Should we withdraw from the contract in the event of behaviour by the customer in breach of contract - in particular default of payment - we shall be entitled to demand the return of the reserved goods.

(10) We are also entitled to take possession of the reserved goods and dispose of them if the customer does not fulfil his contractual obligations, in particular if he is in default of payment. This shall not constitute a cancellation of the contract. Our further rights remain unaffected, as do any rights of an insolvency administrator in the event of the customer's insolvency.

## **§ 9 Warranty and notification of defects**

(1) The scope of delivery and services must be carefully inspected immediately after delivery to the customer or a third party designated by the customer. With regard to obvious defects or other defects that would have been recognisable in an immediate, careful inspection, it shall be deemed approved by the customer if we do not receive a written notice of defects within ten working days of delivery. With regard to other defects, the scope of delivery and services shall be deemed to have been approved by the customer if we do not receive the notice of defects within ten working days of the time at which the defect became apparent; however, if the defect was already recognisable to the customer at an earlier time, this earlier time shall be decisive for the start of the period for giving notice of defects.

(2) Irrespective of para. 1, the customer must in any case carefully inspect the scope of delivery and services before an intended installation of the scope of delivery and services or its attachment to other items and notify us of any defects in writing. If he carries out an installation or attachment of the scope of delivery and services without such an inspection, any defect that would have been recognisable during a careful inspection shall be deemed to have remained unknown to him as a result of gross negligence, and he may only assert rights with regard to this defect if we have fraudulently concealed the defect or have assumed a guarantee for the quality of the scope of delivery and services.

(3) At our request, a rejected delivery item shall be returned to us carriage paid. In the event of a justified complaint, we shall reimburse the costs of the most favourable shipping route; this shall not apply if the costs increase because the delivery item is located at a place other than the place of intended use. Our consent must be obtained prior to any return of the delivery item. Returns not agreed with us will be rejected with costs.

(4) In the event of material defects in the scope of delivery and performance, we shall initially be entitled, at our discretion and within a reasonable period of time, to repair or replace the goods and shall be obliged to do so subject to timely notification of defects. As long as we fulfil our obligations to remedy defects, the customer shall not have the right to demand a reduction of the remuneration ("reduction") or cancellation of the contract ("withdrawal"), unless the subsequent performance has failed. If a construction service is the subject of liability for defects, cancellation is excluded. The customer has no right to remedy the defect himself and to demand compensation for the necessary expenses. Any rights of recourse shall remain unaffected by the above provision without restriction.

(5) If the inspection of a notice of defect reveals that there is no defect or that we are not responsible for this, the customer shall reimburse us for the costs of the inspection and, if a repair is carried out, also for these costs in accordance with the time spent and material used.

(6) The warranty shall lapse if the customer changes the scope of delivery and services or has them changed by third parties without our consent and this makes it impossible or unreasonably difficult to remedy the defect. In any case, the customer shall bear the additional costs of remedying the defect resulting from the change.

(7) The limitation period for claims for defects ("warranty period") shall be one year from delivery or, if acceptance is required, from acceptance. This shall also apply to the limitation period for recourse claims in the supply chain pursuant to § 445 b para. 1 BGB. This shall not affect the suspension of the limitation period under Section 445 b (2) BGB; it shall end no later than five years after the date on which we have delivered the scope of delivery and services to the customer. These provisions on the limitation period for recourse claims and the suspension of expiry shall not apply if the last contract in this supply chain is a purchase of consumer goods. The warranty period of one year shall not apply to claims for damages by the customer arising from injury to life, limb or health or from intentional or grossly negligent breaches of duty by us or our vicarious agents, which shall in each case become statute-barred in accordance with the statutory provisions. Furthermore, the warranty period of one year shall not apply insofar as the German Civil Code (BGB) prescribes longer periods in accordance with § 438 para. 1 no. 2 (buildings and items for buildings), § 438 para. 3 and § 634a para. 3 (fraudulent concealment) and § 634a para. 1 no. 2 (building defects), which shall then apply.

(8) Claims for defects shall not exist in the case of only insignificant deviation from the agreed quality, in the case of only insignificant impairment of usability, in the case of natural wear and tear, in the case of changes in the properties of the item resulting from the passage of time (e.g. degradation) or normal wear and tear and not in the case of damage arising after the transfer of risk as a result of incorrect or negligent handling, excessive use, unsuitable operating materials, defective construction work, unsuitable building ground or due to special external influences which are not provided for in the contract. If improper repair work or modifications are carried out by the customer or third parties, no claims for defects shall exist for these and the resulting consequences.

(9) Claims on the part of the customer for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour and material costs, shall be excluded if the expenses increase because the scope



of delivery and services has subsequently been taken to a place other than the customer's branch office, unless the transfer corresponds to its intended use known to us.

(10) Any delivery of used items agreed with the customer in individual cases shall be made to the exclusion of any warranty for material defects.

(11) Any claims for damages or reimbursement of futile expenses for material defects shall be governed by § 7.

## **§ 10 Product liability**

(1) The customer shall not change the scope of delivery and services. In the event of a breach of this obligation, the customer shall indemnify us internally against product liability claims and all other claims for damages by third parties, insofar as the customer is responsible for the defect giving rise to liability.

(2) Should we be prompted to recall the scope of delivery and services or to issue a warning about the scope of delivery and services due to a product defect in the scope of delivery and services, the customer shall support us and take all measures ordered by us - insofar as reasonable for him. The customer shall be obliged to bear the costs of any recall or warning regarding the scope of delivery and services if and to the extent that he himself is responsible for the product defect and the damage incurred. Our possible further claims remain expressly unaffected.

(3) The customer shall inform us in each individual case of possible product defects or risks that have become known to him or that have occurred during the use of the scope of delivery and services. He shall do so immediately and at least in text form.

## **§ 11 Industrial property rights; defects of title**

(1) We are entitled to all industrial property rights and copyrights (hereinafter referred to as "industrial property rights") to the design drawings, process descriptions and similar documents prepared by us. The customer shall be granted a simple, non-exclusive right of use to the extent that this is necessary for the contractually intended use by the customer. In particular, the customer is not authorised to allow a third party to use the documents while retaining its own use or to process and/or modify the documents.

(2) Unless otherwise agreed, we shall only be obliged to provide the delivery free of third-party property rights in the country of the place of delivery.

(3) If we have produced the scope of delivery and services in accordance with drawings or other documents provided by the customer, the customer shall guarantee that the industrial property rights of third parties are not infringed. If third parties prohibit us from manufacturing and/or supplying the scope of delivery and services with reference to industrial property rights in particular, we shall be entitled - without being obliged to examine the legal situation - to cease any further activity in this respect and to claim damages if the customer is at fault. Furthermore, the customer is obliged to indemnify us immediately against all claims of third parties in this connection.

(4) If a third party asserts claims against the customer on the basis of industrial property rights and this constitutes a defect in our scope of delivery and services, we shall, at our discretion and at our expense, modify or replace the scope of delivery and services in such a way that no rights of third parties are infringed, but the scope of delivery and services continues to fulfil the contractually agreed function, or procure the right of use for the customer by concluding a licence agreement with the third party. Only if we do not succeed in doing so within a reasonable period of time shall the customer be entitled to any further rights after setting us a corresponding written deadline to no avail; any claims for damages shall only be subject to the restrictions of § 7.

(5) Claims of the customer pursuant to § 11 para. 4 shall only exist if the customer notifies us immediately in writing of the claims asserted by third parties, does not acknowledge an infringement and leaves all defence measures and settlement negotiations to us. We shall not be liable if the infringement is based on the use of the scope of delivery and services in connection with deliveries and/or services of third parties not authorised by us or on the modification



of our scope of delivery and services which was not authorised by us. Furthermore, we shall not be liable for infringements of industrial property rights resulting from a use not intended for the scope of delivery and services. Costs which we have incurred in these cases for any measures pursuant to § 11 (4) shall be reimbursed by the customer.

(6) If the customer ceases to use the scope of delivery and services in order to minimise damages or for other reasons, he is obliged to point out to the third party that the cessation of use does not constitute an acknowledgement of an infringement of property rights.

(7) In the event of defects of title which do not constitute an infringement of property rights, the provisions of this § 11 shall apply accordingly.

(8) Further claims or claims other than those regulated in this § 11 of the customer against us due to a defect of title are excluded. Claims of the customer against us due to a defect of title shall become time-barred in accordance with § 9 (7).

(9) We are authorised to publish work results and to name the customer as a reference insofar as this does not disclose trade or business secrets of the customer.

## **§ 12 Confidentiality**

(1) Both the customer and we must treat the information exchanged in connection with the business relationship with us confidentially and only use it for the purpose for which it was disclosed. The term "information" shall also include knowledge gained in the course of an inspection. We are entitled to pass this information on to third parties if this is necessary for the fulfilment of the contract and the third party is also subject to such a confidentiality obligation.

(2) The obligations under para. 1 shall not apply to information which was already known to the receiving party before the notification, was already generally accessible before the notification or becomes generally accessible after the notification without the cooperation or fault of the receiving party, which is disclosed to the receiving party by an authorised third party without a confidentiality obligation or which the receiving party independently develops or has developed independently irrespective of knowledge of the information received from the disclosing party.

(3) The obligations under para. 1 shall also not apply if the receiving party is obliged to disclose the information due to mandatory law or the decision of a competent court or authority.

(4) The obligations pursuant to para. 1 shall continue to apply for a period of seven years after fulfilment of the contract; however, in the case of business secrets pursuant to the German Trade Secrets Protection Act (Gesetz zum Schutz von Geschäftsgeheimnissen) for as long as these are such business secrets.

(5) Without our prior written consent, the customer may not refer to the business relationship with us in advertising material, brochures, etc..

(6) If a dedicated confidentiality agreement has been concluded between the customer and us, it shall take precedence over this paragraph in the respective regulated positions.

## **§ 13 Code of Conduct**

(1) In connection with the contractual relationship, the Customer is obliged to comply with the relevant statutory provisions. This applies in particular to anti-corruption and money laundering laws as well as antitrust, labour and environmental protection regulations.

(2) The Customer shall ensure that any items to be provided by it to us fulfil all relevant requirements for placing on the market in the European Union and the European Economic Area. He must prove conformity to us upon request by submitting suitable documents.

(3) The Customer undertakes to comply with the ten principles of the United Nations Global Compact. The ten principles of the United Nations Global Compact are available in detail at <https://www.globalcompact.de/ueber-uns/united-nations-global-compact>. They include, in particular, the protection of international human rights, the right to freedom of association and collective bargaining, the abolition of forced and child labour, the elimination of discrimination in respect of employment and occupation, the acceptance of responsibility for the protection of the environment and the prevention of corruption, extortion and bribery. The customer agrees that we may take appropriate measures to verify compliance with these principles. This includes, in particular, that the Purchaser must provide us with a signed self-assessment at our request or that we or a third party commissioned by us may carry out an audit on the Purchaser's premises during normal business hours after giving appropriate notice, whereby documents and information containing business secrets of the Purchaser or third parties do not have to be disclosed.

(4) The Purchaser shall inform its contractual partners of the contents of paragraph 3, endeavour to oblige them accordingly and regularly check compliance with these obligations.

(5) Should a breach of the provisions of paragraph 3 and/or 4 be detected, we may set the Customer a reasonable grace period to bring its behaviour into line with these provisions. If such a breach is culpable and makes it unreasonable for us to continue the contract until its ordinary termination, we may terminate the contract extraordinarily after fruitless expiry of the grace period set if we have threatened to do so when setting the grace period. The right to extraordinary cancellation without setting a grace period in accordance with Section 314 (2) sentence 3 BGB remains unaffected, as does the right to compensation. We may only terminate the contract within a reasonable period of time after we have become aware of the reason for cancellation.

#### **§ 14 Miscellaneous**

(1) This contract and the entire legal relationship between the parties shall be governed exclusively by the law of the Federal Republic of Germany to the exclusion of the conflict of laws. The so-called UN Sales Convention (United Nations Convention on Contracts for the International Sale of Goods of 11 April 1980 (CISG)) shall not apply.

(2) If the customer is a merchant, a legal entity under public law or a special fund under public law or if it has no place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for any disputes arising from the business relationship between the customer and us shall be our registered place of business; however, we shall also be entitled to seek legal protection from any other court that has jurisdiction under the law of the Federal Republic of Germany or the law of the state in which the customer has its place of business. In such cases, however, our registered place of business shall be the exclusive place of jurisdiction for legal action against us. Mandatory statutory provisions on exclusive places of jurisdiction shall remain unaffected by this provision.

(3) Insofar as the contract or these terms and conditions contain loopholes, those legally effective provisions shall be deemed to have been agreed to fill these loopholes which the contracting parties would have agreed in accordance with the economic objectives of the contract and the purpose of these terms and conditions if they had been aware of the loophole.

(4) Should individual provisions of the contract or these terms and conditions be or become invalid in whole or in part or contain an inadmissible deadline provision, this shall not affect the validity of the remaining provisions. Insofar as the invalidity does not result from a violation of §§ 305 et seq. of the German Civil Code (BGB) (formation of legal obligations through General Terms and Conditions), the wholly or partially invalid provision shall be replaced by a provision which the contracting parties would have agreed in accordance with the economic objective of the contract and the purpose of these General Terms and Conditions if they had been aware of the invalidity. In the event of an invalid deadline provision, the statutory measure shall apply.