

General Terms and Conditions of Purchase (GTC)

Applies to **Ganter Interior GmbH** and **Ganter Property Development GmbH**

(GTC -purchasing)

§ 1 – Preface / Code of Ethics / Scope

- All supplies and services from our suppliers and/or subcontractors (hereinafter jointly referred to as the “contractor”) shall be performed exclusively on the basis of these General Terms and Conditions of Purchase (GTC).
- Our terms and conditions of purchase apply exclusively; contractor’s regulations to the contrary or deviations are not accepted unless agreed in writing. Our GTC apply in any case even if we accept a consignment unconditionally being aware that existing conditions are contradictory to our GTC or deviating from them.
- Our GTC shall also apply to all future transactions with the contractor, as well as to all additional services, pursuant to German Construction Contract Procedures (VOB), Part B, § 1, ss. 4, no. 2.

- All the agreements, stipulated in this contract between us and the contractor, are to be put into writing. Supplements and amendments to the stated agreement including these GTC are only valid in writing. This also applies to the said requirement for written form. Except from the directors and officers with power of attorney, the employees of the purchasing company are not allowed to orally agree upon deviating terms.
- Insofar as this contract - as well as with reference to the German Construction Contract Procedures (VOB) Part B - provides for the written form, transmission by Fax will suffice, as will transmission by other means of telecommunication, especially email.
- The stipulations in Part A and the general stipulations in Part C shall apply to purchase agreements and contracts for work and materials. The stipulations in Part B and the general stipulations in Part C shall apply to contracts for work.**

Part A – Purchase Agreements / Contracts for Work and Materials

§ 2 Documents of Offer

§ 3 Prices and Payment

§ 4 Delivery, Delivery Times and Arrangements for Variation

§ 5 Passing of Risk / Documents

§ 2 – Documents of Offer

We reserve the copy- and property rights on the figures, drawings, calculations and other documents. They are not allowed to be handed over to third parties without our explicit prior written consent. They are only to be used for the production as per our orders. After production the documents are to be returned to us without further request. They are to be kept confidential towards third parties.

§ 3 – Prices and Payment

- The price stipulated in the order is binding. Prices include delivery to the door, as well as all packaging costs, except as otherwise expressly agreed upon in writing.
- Unless otherwise agreed in writing, we will pay the purchase price with a 3% discount 14 days from delivery and receipt of invoice (including in the case of partial payments within the trade discount period), or the net price within 45 days of receipt of invoice.
- An agreed discount shall similarly be deducted from the Contractor’s remuneration for amended services (see Section 4) as it is deducted from the hourly wage work.

§ 4 – Delivery, Delivery Times and Arrangements for Variation

- The delivery time as stipulated in the order is binding.
- The contractor is without limitation responsible for the purchase of the subcontracted supplies and services which are necessary to fulfil his contractual obligation – even if there is no actual fault of his own. The contractor is fully responsible for the purchased subcontracted supplies and services like for his own consignments and services. This is valid especially in relation to defects.
- The contractor is obliged to contact us in writing immediately when circumstances appear or he gets aware of any circumstances which may result in the fact that the agreed delivery time cannot be kept.
- In case of a delay in delivery we have the right of statutory claims. Particularly after an unsuccessful expiry of additional period of performance, we are authorized to claim compensation instead of the service and to withdraw from the contract.
- We can change the contracted performance (also in terms of execution deadlines) and additional contractual performance (hereinafter jointly: “changed performance”) if the arrangement – in consideration of the mutual interests of both parties – is not unreasonable.
- Arrangements are only effective if they are provided in writing. Arrangements may be granted only by persons who are authorised to do so pursuant to the provisions of this contract.
- When changing contractual performance, the contractor shall be owed the usual remuneration, including any additional or reduced costs. The price usually payable is the price payable for performance of the same kind and quality and the same scope at the place of performance in accordance with the generally accepted view of the parties concerned and that payable in a plurality of similar cases. The same benchmark shall be used for the determination of reduced costs.
- The contractor is obliged to submit a supplementary offer to us immediately and if possible before execution, whereby the supplementary offer must comply with the terms of this contract. The supplementary offer should state the likely impact on the construction process. If the contractor does not communicate at the latest by the time of submitting its supplementary offer any effects that the changed performance will have on execution times, then an extension of the agreed execution periods on the basis of the changed performance shall be excluded, unless the necessity of the extension is obvious.
- If the parties cannot agree on the amount of remuneration prior to the execution of the changed performance, we can nevertheless still demand execution of the changed performance. The contractor shall not have the right to refuse performance.
- Constructive changes made by the contractor shall require our approval. We are entitled to request at any time that the contractor provides us with the documents and drawings that it has prepared with regard to the approved changes.

§ 6 Warranty against Defects

§ 7 Product Liability / Release from Liability / General Liability Insurance Coverage

§ 8 Retention of Title / Provision of Material

§ 9 Contractual Penalty

§ 5 – Passing of Risk / Documents

- Delivery must be made “to the door”, unless otherwise stipulated in writing.
- The contractor is obliged to indicate on all shipping documents and delivery notes our order number, project number, article number, description of article and the clerk. If not, delays in processing, for which we are not responsible, are inevitable.

§ 6 – Warranty against Defects

- We are obliged to check the goods within an appropriate time for deviations of quality and quantity. The notification of defects is in time if it arrives at the contractor within 8 working days.
- We reserve unrestricted rights as per the applicable laws resulting from the delivery of faulty goods or services. Irrespective of this, we are entitled to demand either making good of defects or replacements. The contractor has to bear the costs for all the charges of making good of defects or replacements. The right for compensation, especially the right for compensation instead of the service and performance, remains expressly reserved. We expressly reserve the right to require indemnity in place of making good of the goods or services.
- Warranty period is defined as a 36 months period from the passage of risk aberrant from §438 para.1 n°3 Civil Code. For the rest legal arrangements apply.

§ 7 – Product Liability / Release from Liability / General Liability Insurance Coverage

- If a contractor is responsible for damage to goods, he is obliged to hold us harmless upon first demand against any claims for compensation, cost and expenses of third parties, as far as the reason for those claims is within his responsibility.
- In this scale the contractor is obliged to compensate possible expenditures as per §683, 670 German Civil Code, which arise from or are related to a product call-back from our side, as far as the claim is no result of §§ 830,840 German Civil Code in relation with §§426, 254 German Civil Code. We will inform the contractor about content and scale of the product call-backs, if possible and reasonable and give him the opportunity for a statement.
- The contractor defends and releases us from claims of our clients, which they made because of advertising messages of our contractor, of a subcontractor (producer as per §4 para.1 or 2 Product Liability Act) or of one of their subsidiaries, and which would not exist or not to that amount or in that way without the advertising message. Arrangement applies irrespectively whether the advertising message has been made before or after the transaction.
- The contractor is obliged to take out a product liability insurance with an amount of cover of 5.000.000,00 € flat per personal injury / damage to property.

§ 8 – Retention of Title / Provision of Material

- Insofar as we provide parts to the contractor, we shall retain ownership thereof. If our propriety is processed with materials which are not our propriety, we acquire co- ownership on the new product proportionately to the value of our material at the time of the agreement.
- If the products provided by us are inseparably mixed with goods that are not our property, we shall acquire co-ownership of the new products, in proportion to the value of the products and subject to the retention of title, relative to the other goods they are mixed with at the time the latter occurred. If the manner in which they are combined requires the contractor’s products to be considered as the main product, it is hereby agreed that the contractor shall transfer proportional co-ownership to us. The contractor shall safeguard the sole ownership or co-ownership for us.
- The transfer of title on the goods and services has to be executed without any right of retention irrespectively of the price having been paid or not. However, if in an individual case the client accepts an offer made by the contractor for transfer of ownership which is conditional on the payment of the purchase price, then the retention of title held by

the contractor shall expire, at the latest when the purchase price is paid for the delivered goods. In the ordinary course of business and even before paying the purchase price, the client shall remain authorised to resell the goods subject to the assignment in advance of the resultant amount receivable (alternatively, application of the simple retention of title and the extended retention of title for resale). At any rate, all other forms of retention of title are excluded, in particular expanded retention of title, extended retention of title for resale and retention of title for aggregation.

§ 9 – Contractual Penalty

1. The interim deadline and the completion date stipulated in the contractor’s submission of offer may involve contractual penalties.
2. For the culpable exceeding of the agreed deadlines, the contractor has to pay 0,1% of

the total net order value of the partial service per working day since the beginning of the delay.

3. The contractual penalty is limited to 5% of the total net order value.
4. This shall not affect the assertion of claims for damages or the contract penalty. However, any contract penalty incurred shall be taken into account for such claims for damages.
5. Contractual Penalty can be claimed until final payment.
6. In so far as contractual deadlines are delayed for an extension of the delivery times at the justified request of the contractor, or insofar as new contractual deadlines are determined by mutual agreement, the above contractual penalty shall apply to the new deadlines, without requiring a specific new agreement over such contractual penalty.

Part B – Contracts for Work

§ 10 Components of the Contract

- § 11 Scope of Services**
- § 12 Execution**
- § 13 Alteration of Services**
- § 14 Times of Performances**
- § 15 Contract Penalty**
- § 16 Remuneration**

§ 17 Settlement and Payment

- § 18 Acceptance**
- § 19 Claims for Defects**
- § 20 Termination of Contract**
- § 21 Liability and Insurance**
- § 22 Exemption pursuant to German Income Tax Law (EStG) § 48 b**

§ 10 – Contractual Components

This contract is composed of our order, our GTC and the stipulations of the German Construction Contract Procedures Part B (2016 version). In the event of contradictions, the contractual components shall take precedence in the order listed above.

§ 11 – Scope of Services

1. The performances to be done comply with the integral parts of the contract as per §10.
2. With the exception of the building permit, the contractor shall obtain in a timely manner, all permission, authorisation, etc. required for the provision of its services.

§ 12 – Execution

1. The contractor is obliged to appoint technical supervisors (site manager, assembly supervisor, foreman), appropriate to the nature and scope of its area of work and for the duration of its activity on the construction site.
2. The responsible construction manager and respectively his representative have to be mentioned by name and present on site during the regular working hours. Out of regular working hours he has to be available telephonically. The principal is authorized to demand exchange of single workers of the technical supervision if good causes are shown.
3. The contractor is obliged to agree to any adjustments required for the execution of its work with us, and with the construction and project management, its subcontractors, the specialist planners, authorities, structural engineers, utility companies, neighbouring residents and all other parties involved.
4. The agent has to compile a detailed schedule on the basis of the agreed execution deadlines within 2 weeks after placing of order at the latest. The schedule as well as the payment schedule is binding with the assent of the principal. The agent is obliged to update and to adapt the schedule to the actual process.
5. The contractor is obliged to provide us with all the inventory and revision plans pertaining to its work, as well as the operations and maintenance documents for all technical installations, machines and building parts requiring maintenance, no later than at acceptance and in triplicate.
6. The contractor is obliged to produce daily typewritten construction reports and to provide us with a copy of these every working day. These reports must contain all the details which are relevant for the fulfilment of the contract and the settlement as e.g. construction progress, weather, number and type of the employed workers on site, the number and type of the used equipment, begin and end of the performances of substantial scale, inspections, interruptions of work with indication of the reasons, accidents, official rulings and other special incidents.
7. Construction meetings shall be held weekly, or more frequently if required, at regular (fixed) dates to be agreed with the contractor. The contractor is obliged to participate in these construction meetings with a sufficient number of authorised members of the technical supervision team.
8. The parties agree that there will be a sampling inspection regarding the units and materials to be installed. The sampling inspections take place on the basis of a sampling list which has to be adjusted by both parties. The sampling list has to contain also the schedule and date of the sampling inspection. All samples are to be presented in time so that no delays in the construction progress can emerge, taking into account the testing period of 3 working days for the principal. In general, sampling inspections have to be made with several cost neutral versions (at least 3 versions). To grant a better evaluation only connected sectors have to be put together in the sampling inspection.
9. The goods, designated for delivery to the principal, are to be packed professionally and properly by the agent. If goods are to be packed and piled up on pallets, the agent has to grant an appropriate fastening on the pallet (e.g. fastening by tension belts)
10. For the provision of material by the principal the following applies
 - 10.1. The goods have to be used for the execution of the works
 - 10.2. The provided goods have to be packed in an appropriate way together with the goods of the agent.
11. Prior to the execution of assembly work, the materials delivered shall be carefully inspected by the contractor. Any damage incurred during transport or missing quantities must be reported to us immediately, photographed and indicated on the consignment note. During assembly, assemblers shall wear the jackets or T-shirts provided by us.

12. For work paid at an hourly rate, the contractor shall present us with daily timesheets to be signed in triplicate. In addition to the information required by the German Construction Contract Procedures Part B § 15 ss. 3, these shall include the following information:
 - 12.1. date
 - 12.2. name of the site
 - 12.3. the exact name of the place of execution within the site, the type of work
 - 12.4. the names of the workers and their occupational or wage group or their brackets, the working time per worker, if necessary divided into additional, night, Sunday and holiday work, as well as difficulties which are not stated in the cost rate and the parameter of the equipment.
 - 12.5. the device parameters.

13. The signing of timesheets shall only represent an acknowledgment of the nature and scope of the work executed. We reserve the right to decide whether the work is to be paid by the hour or contractually.
14. Structural changes performed by the contractor require our permission. We are entitled at any time to demand the documents and/or drawings produced by the contractor in relation to the permitted changes.
15. The contractor may only transfer services to subcontractors who are expert, capable and reliable. In addition, it must fulfil its legal obligation to pay taxes and social security contributions and all preconditions under trade law. Before awarding the contract, the contractor shall inform us in writing of the nature and scope of the work to be outsourced, as well as of the name, address and professional association (including the membership number) of the intended subcontractor. Moreover, we reserve the right to demand evidence of the expertise, capability and reliability of the intended subcontractor.
16. The contractor is obliged to provide us with information on the appointed subcontractors and contracts concluded with them, insofar as this is necessary to safeguard our rights, does not conflict with the justifiable interests of the contractor or subcontractor, and where such information is not subject to confidentiality.
17. Should the contractor employ subcontractors for work their business is not equipped to perform, we may set the contractor a reasonable deadline to remedy the situation and declare that we will withdraw its contract if the deadline is reached without any results (German Construction Contract Procedures Part B § 8 ss. 3); in the event where the subcontractors it employs are not expert, capable or reliable, or if the contractor has not, at our request, provided evidence of this precondition within the established timeframe.

§ 13 – Alteration of Services

1. We can order changes to the contracted services (including with regard to execution times) and additional services (hereinafter jointly referred to as “altered services”), if the arrangement is not unreasonable in consideration of the interests of both parties.
2. Arrangements shall only be effective if provided in writing (email will suffice). Arrangements may be granted only by persons who are authorised to do so, pursuant to the provisions of this contract.
3. For altered services, the contractor is entitled to the usual remuneration, taking additional and reduced costs into account. The usual price is the one paid for similar goods and services, within the scope of the place of work, in the general and recognised view of the stakeholders concerned and allowed in the majority of comparable cases. The same criteria shall apply in determining reduced costs. Provided nothing to the contrary has been agreed, the discounts allowed on the contractual sum shall be deducted from the usual remuneration.
4. The contractor is obliged to present us with an immediate follow-up proposal that corresponds to the stipulations of this contract and this, whenever possible, prior to its execution. The follow-up proposal shall also include the likely effects on the construction process. If the contractor does not notify of the effects of altered services on execution times, at the latest on presentation of its follow-up proposal, an extension of the agreed execution times due to the altered services shall be excluded, unless the necessity for such an extension is obvious.
5. If the parties are unable to agree on the extent of remuneration prior to the execution of the altered services, we may nevertheless demand the execution of these altered services. The contractor does not have the right to refuse performance.

§ 14 – Times of Performances

The binding times of performances (contractual terms) as well as eventual further terms arise from the order.

§ 15 – Contract Penalty

1. The date of completion named in our order is subject to a contract penalty.
2. For the culpable exceeding of the agreed dates of completion the agent has to pay a contract penalty for every working day of the exceeding of 0,1 % on the net order sum of the performance.
3. The contract penalty is limited to a total percentage of 5% on the net order value.
4. The assertion of claim for damages besides the contract penalty remains unaffected. But a forfeited contract penalty is credited to such claims for damages.
5. We are entitled to reserve the enforcement of the contract penalty incurred until the final payment is due, provided the reservation was not already declared at acceptance.
6. Insofar as contractual deadlines are delayed for an extension of the delivery times at the justified request of the contractor, or new contractual deadlines are determined by mutual agreement, the above contract penalty shall apply to the new deadlines without requiring a specific new agreement over the contract penalty.

§ 16 – Remuneration

1. Payment is effected excluding the current VAT. If the principal as recipient of benefits is a delinquent tax payer as per § 13b Turnover Tax Law, payment is effected net.
2. The agreed unit price and flat rate are fixed prices and include remuneration for ancillary services. A sliding scale of costs for labour, equipment, devices and materials has not been agreed.

§ 17 – Settlement and Payment

1. Payments on accounts shall occur according to the payment schedule or at the request of the contractor, to the value of the relevant, proven contractual services.
2. The final settlement requires the completion of the building project, as well as acceptance and the remedying of all essential defects or defects affecting use noted at acceptance.
3. An agreed discount shall similarly be deducted from the Contractor's remuneration for amended services (see Section 13) as it is deducted from the remuneration for work by the hour.

§ 18 – Acceptance

1. The contractor's service will be formally accepted after full completion. Partial acceptance and the acceptance of work to remedy defects, pursuant to the German Construction Contract Procedures Part B § 13 ss. 5 shall also be formal.
2. Partial performances which are not apparent or accessible until the acceptance are to be checked together with the principal after completion which has to be communicated to the principal in writing. The check is not a partial acceptance but it leads to a reversal of the burden of proof if the principal does not complain about the performance. A written protocol has to be compiled about the acceptance and check.
3. We may also have defects remedied before acceptance, at the contractor's expense, if the contractor fails to comply with the demand to remedy the defects within a reasonable timeframe determined by us. This shall not require termination of the contract.

§ 19 – Claims for Defects

Warranty claims from §13 subs 4 no. 1 and 2 German Construction Contract Procedure shall be time-bared after five years plus six weeks from the acceptance of the performances stated in the contract.

§ 20 – Termination of Contract

1. The termination of the contract is possible under condition of §§ 8 and 9 German Construction Contract Procedure.
2. German Construction Contract Procedures Part B § 5 ss. 4 shall apply according to the following criteria: if the contractor falls behind with the beginning of the execution, if it falls behind with completion, or if it culpably does not comply with the obligations mentioned in the German Construction Contract Procedures Part B § 5 ss. 3. In the event that the contract is maintained, we may demand compensation pursuant to the German Construction Contract Procedures Part B § 6 ss. 6 or set the contractor a reasonable deadline to fulfil the contract and declare that we will withdraw its contract if the deadline is reached without any results.
3. In addition, we are entitled to terminate the contract with good cause if a culpable act or omission committed by one of the parties in the course of the execution of the contract jeopardises the purpose of the contract and renders the continuation of same unreasonable for the other party. In particular, we shall have good cause to terminate the contract if the contractor
 - 3.1. interrupts or does not take up work without an appropriate reason,
 - 3.2. and we warn it in writing, naming the objectionable circumstances and the contractor does not immediately remedy these objectionable circumstances after receiving the warning.
4. In the event of a termination or other end to the contract, the parties shall undertake to calculate the level of service reached with a joint survey.
5. In the event of a termination or other end to the contract, the contractor shall conclude its performance, such that we may take over this performance without difficulty and arrange for its continuation by a third party.

§ 21 – Liability and Insurance

1. Evidence of public liability insurance must be provided unsolicited to us, at the latest before the start of the service provision, by sending a certificate of insurance. Payments to the contractor shall only commence after the insurance certificate has been presented.
2. The contractor shall be liable for public safety in all areas accounted for in the building project until the final and complete evacuation of the construction site. A prior reassignment of public liability for individual areas where the work has been fully completed is possible. This requires the complete evacuation of these areas and the express written agreement of the contractual parties that the public liability be assigned to us or a third party.

§ 22 – Exemption pursuant to German Income Tax Law (EStG) § 48 b

1. Unless already provided for in the bidding process, the contractor shall present us with a tax exemption certificate from its competent tax authority, pursuant to German Income Tax Law (EStG) § 48 b, immediately after concluding the contract and shall send us a new certificate without our solicitation when the validity of the original certificate expires. The contractor shall undertake to notify us immediately of any change made by the competent tax authority in relation to this tax exemption certificate.
2. If we do not have a valid tax exemption certificate, the contractor is obliged to inform us immediately of its tax number, its competent tax authority and the bank details of the latter. If there is no tax exemption certificate, or if a submitted certificate is revoked or withdrawn, we are entitled to withhold a sum equal to the total of the tax to be paid.

Part C – General Stipulations

§ 23 Property Rights / Legal Obligations / REACH Clause

§ 24 Workplace safety

§ 25 Securities / Bonds / Retentions

§ 26 Avoidance of the Right to Refuse Performance and the Right of Retention

§ 27 Assignment of claims, set-off

§ 28 Confidentiality

§ 29 Final clause / Place of jurisdiction / Applicable law

§ 23 – Property Rights / Legal Obligations / REACH Clause

1. The contractor shall be responsible for ensuring that its performance does not infringe the rights of third parties within the States of the European Union, North America or Asia, insofar as it does not provide evidence that it is not liable for such infringement of rights. If a third party lodges a claim against us, the contractor shall be obliged upon our first written request to indemnify us from these claims. We are not entitled to conclude any arrangement with third parties, without the agreement of the contractor and in particular, we may not conclude a settlement. The indemnity obligation of the contractor shall apply to all instances necessarily arising from or in relation to the claims asserted by a third party.
2. The contractor undertakes to comply with the statutory provisions to combat undeclared work, the Posted Workers Act, the Employment Act, the Minimum Wage Act and the provisions of social security law, in particular provisions on the deduction of contributions.
3. We are entitled to request at any time that the contractor provides us with current evidence on the fulfilment of the obligations specified in Section 23.2 (especially the proof of payment of social security contributions, time sheets, anonymised payslips and employee lists). The evidence must, at our request, extend to subcontractors employed by the contractor. In the event that the evidence is not presented, we are entitled to withhold payments due to the contractor until it has fulfilled the obligation.
4. The contractor must ensure that it keeps in its possession at all times all personal and social security ID relating to persons working on the building site, either working on the contractor's behalf or on behalf of the contractor's subcontractors.
5. The contractor is obliged to indemnify us against all claims issued by employees of the contractor, issued by employees of subcontractors and issued by all employees of all

other downstream subcontractors as well as all claims issued by any lenders and issued by the social security agency, whereby such claims are asserted against us pursuant to Section

- 13 MiLoG, Section 14 AEntG, Section 28e (3a) to (4) SGB IV or Section 150 (3) SGB VII or other statutory provisions regulating similar types of liability. The indemnification obligation also extends to any other asset losses which we suffer as a result of a breach on the part of the contractor or its subcontractors against the legal provisions referred to in Section 23.2 (e.g. fines, legal costs).
6. If the contractor infringes the statutory provisions referred to in Section 23.2 or its obligation under Section 23.3, we are entitled to termination or good cause, without the need to issue a warning of imminent termination.
 7. The contractor undertakes to impose the same obligation on its subcontractors in the corresponding scope.
 8. The contractor warrants compliance with the requirements of Regulation (EC) No 1907/2006 of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH) in the version in force at the time of delivery.
 9. If the contractor supplies us with products containing one or more substances at a concentration of more than 0.1 percent by weight (w/w) that fulfil the criteria of Article 57 REACH (i.e. that can be included in the list of substances requiring authorisation) and that have been identified pursuant to Article 59 (1) of the REACH Regulation (i.e. included on the "candidate list"), then the contractor undertakes to provide sufficient information to allow the safe use of the products. The delivery of these products requires separate approval by us.

10. The contractor is obliged to (pre-)register all substances provided to us in accordance with the requirements of the REACH Regulation itself or have this done by its upstream contractors.
11. The contractor is obliged to forward to us all information and documentation required by the REACH Regulation within the stipulated REACH deadlines.
12. The fulfilment of the above obligations under Sections §23.8 - §23.11 to 8.13 constitute the cardinal duties of the contractor.
13. If the contractor has failed to fulfil its obligations under Section §23.8 and Section §23.9, we are to this extent entitled to withdraw from the contract if the supplied goods do not or no longer meet the requirements of the REACH Regulation. In the event that the obligations under Section §23.10 and Section § 23.11 are breached, we are entitled to withdraw from the contract if the contractor has not remedied the breach within a reasonable deadline set by us. Any further claims for damages remain unaffected.
14. If we are held liable by a third party claim because the performance provided by the contractor does not comply with the requirements of the REACH Regulation, the contractor is obliged to indemnify us against these claims to the extent that such claims are based on a breach of obligations pursuant to Section §23.8 to §23.11. The indemnification obligation of the contractor refers to all expenses that we necessarily incur, arising from or in connection with the claim issued by the third party, in particular expenses for legal defence and administrative costs and all costs for any necessary replacement.

§ 24 - Workplace safety

1. We shall expressly inform the contractor the obligations of the OSH Act. The contractor shall draft a risk assessment of their performance – including in relation to third parties – and submit it to us. The contractor must, via an assessment as per the ArbSchG §5 or the existing national law of the respective State in which the work is performed, determine the risk to the employees in connection with their work and implement work protection measures. With regard to risk, the contractor must also, independently, get educated by other entrepreneurs on site, coordinate its tasks accordingly and inform their employees of the same in an appropriate manner. If the owner or GANTER appoints a health and safety coordinator, they must be provided with all necessary documents, and must follow their instructions.
2. In order to prevent workplace accidents in connection with their service, the contractor must implement all necessary facilities, arrangements and measures in line with the valid provisions, the accident prevention measures that apply to them and the generally recognized safety and occupational health regulations. To the extent that we provide protection and safety equipment, this must be accommodated by the contractor at its own expense and, if necessary, complemented. The contractor must return it to us in an orderly fashion after the tasks have been completed. Existing protective covers, railings or similar which need to be temporarily removed to allow for the execution of the tasks, must be restored accordingly. For the duration period of the removal, all danger points must be locked off and signposted as accident-safe via other appropriate measures.
3. The contractor must obligate their staff employed on the construction site to wear the prescribed personal protection equipment (e.g. protective helmet, safety shoes) on the construction site. The contractor must provide a sufficient quantity of protection equipment. Employees of the contractor, who fall short of their obligation to wear protective equipment, may be ordered to leave the construction site.

§ 25 - Securities / Bonds / Retentions

1. Security for honouring a contract/honouring statutory obligations

- 1.1. Insofar as the provisional net order amount or the net flat rate amount exceeds 50.000 €, the Contractor shall hand over to the Principal as security, for honouring the contract and honouring statutory obligations (hereinafter jointly: contract performance security) within 18 workdays after entering into this contract, an unconditional, unlimited and absolute contract performance guarantee of a banking institution or credit insurer that meets the requirements of Section 17(2) VOB/B (German contracting rules for award of public works contracts B).
- 1.2. The guarantee amount shall be 10 % of the provisional gross order amount (in the case of settlement according to unit prices) or the agreed gross flat rate price.
- 1.3. Up until the hand over of a guarantee document that meets the requirements of the contract, the Principal shall be entitled to retain due payments up to the guarantee amount. The Contractor may not request the transfer of the retained amount to a blocked account within the meaning of Section 17(5) VOB/B.
- 1.4. The security for honouring the contract applies to
 - 1.4.1. honouring all the Contractor's obligations resulting from this contract and from additional and/or amended services entered into and/or ordered after entering into the contract,
 - 1.4.2. in particular performing the service as per agreement, the timely completion, honouring the contractual penalty claims, settling and honouring non fault-related claims for damages of any kind, in particular regarding compensatory damages instead of performance, regarding the violation of obligations, regarding culpability in the case of acts in breach of contract and from processing circumstances that may arise following termination of the contract by the Principal,
 - 1.4.3. honouring the Principal's claims (irrespective on whichever legal grounds these are based) in the case of overpayment of instalment payments including interest),
 - 1.4.4. honouring the Principal's claims based on defects and the Principal's payment claims and claims for damages in conjunction with defects provided these are asserted prior to acceptance or in the case of acceptance (so-called protocol defects). The Principal's claims regarding defects that are initially made following acceptance are not subject to the contractual performance security but rather the security for defects.
 - 1.4.5. All claims that are asserted as a result of this contract and the Contractor's activity against the Principal up until (and including) the day of acceptance in accordance with Section 13 MiLoG (German Minimum Wage Act), Section

14 AEntG (German Employee Secondment Act), Section 28e(3a) to 4 SGB (German Social Code) IV, Section 150(3) SGB VII or other statutory requirements that specify corresponding liability.

- 1.5. The Principal is to return a security that has not been utilised for honouring the contract if the acceptance has occurred or the acceptance has become superfluous for the due date of the wage for the project. If the Principal's claims have not been addressed at the time of the acceptance and such claims were secured by way of the contractual performance security, the Principal is entitled, up until these claims are honoured, to refuse to return the contractual performance security. If the contractual performance security exceeds the Principal's claims that have not been addressed at the time of the acceptance and are secured by way of the contract performance security, the Principal undertakes, following a request by the Contractor, to issue without delay a partial liability declaration in the corresponding amount.
2. **Security for claims based on defects**
 - 2.1. The Contractor undertakes to hand over to the Principal, following the acceptance or once the acceptance has become superfluous to secure the Principal's claims based on defects, an unconditional, unlimited and absolute guarantee of a banking institution or credit insurer that meets the requirements of Section 17(2) VOB/B.
 - 2.2. The guarantee amount is 5 % of the gross final invoice amount.
 - 2.3. Up until the hand over of a guarantee document that meets the requirements of the contract, the Principal shall be entitled to retain due payments up to the guarantee amount. The Contractor may not request the transfer of the retained amount to a blocked account within the meaning of Section 17(5) VOB/B.
 - 2.4. In the case of an agreed contractual performance guarantee, the security for claims based on defects shall apply to
 - 2.4.1. honouring the Principal's claims based on defects and the Principal's payment claims and claims for damages in conjunction with defects that are initially asserted following acceptance. For the sake of clarity: claims regarding defects that are asserted prior to the acceptance or during the acceptance (so-called protocol defects) shall (including in the case of Section 4(7) VOB/B) be subject to the contract performance guarantee and not the defect security,
 - 2.4.2. honouring the Principal's claims (irrespective on whichever legal grounds these are based) in the case of overpayment following or upon the final payment, including interest,
 - 2.4.3. all claims that are asserted as a result of this contract and the Contractor's activity against the Principal after the day of acceptance in accordance with Section 13 MiLoG (German Minimum Wage Act), Section 14 AEntG (German Employee Secondment Act), Section 28e(3a) to 4 SGB (German Social Code) IV, Section 150(3) SGB VII or other statutory requirements that specify corresponding liability.
 - 2.5. If a contractual performance guarantee is agreed upon, in respect of claims based on defects the security shall apply to
 - 2.5.1. honouring the Principal's claims based on defects and the Principal's payment claims and claims for damages in conjunction with defects irrespective of whether or not the claims based on defects were initially asserted prior to, during or after the acceptance.
 - 2.5.2. Honouring the Principal's claims (irrespective on whichever legal grounds these are based) in the case of overpayment of instalment payments including interest),
 - 2.5.3. all claims that are asserted as a result of this contract and the Contractor's activity against the Principal in accordance with Section 13 MiLoG, Section 14 AEntG, Section 28e(3a) to 4 SGB IV, Section 150(3) SGB VII or other statutory requirements that specify corresponding liability.
 - 2.6. Contrary to Section 17 (8) No. 2 VOB/B, the defect security shall be returned following expiry of the guarantee periods. The Principal may retain a corresponding portion of an unused security for claims based on defects, including after the period of limitations regarding the secured claims provided its asserted claims have not yet been honoured.
3. **Guarantee declaration requirements**
The guarantee declarations in accordance with sub-sections 1 and 2 must meet the following requirements:
 - 3.1. Waiving the objections set out in Sections 770 to 771 BGB (German Civil Code) is to be stated in the guarantee. However, objecting to the ability to set off or contest is only to be waived to the extent that the counter-claim or the Contractor's right to contest are not disputed or have not become res judicata.
 - 3.2. The guarantee may be issued on condition that action may only be taken against the guarantor for payment of money. However, the guarantee may not contain a deposit clause.
 - 3.3. The security scope of the guarantee is to correspond to this contract.
 - 3.4. The guarantee is to provide for the fact that claims resulting from the guarantee shall not fall under the statute of limitations prior to the secured claims, at the latest, however, 30 years following the statutory start of the statute of limitations.
 - 3.5. The guarantee is to provide for the fact that solely the law of the Federal Republic of Germany shall apply to disputes resulting from and in conjunction with the guarantee.
 - 3.6. The competent court with jurisdiction for D-79183 Waldkirch is to be entered in the guarantee as the exclusive place of jurisdiction for disputes resulting from the guarantee.
4. **Parameters**
In the event of an entitlement on the part of the Principal to deduct input tax and in the case of applicability of Section 13b UStG (German Turnover Tax Act), in the place of the gross amount (including turnover tax), the respective net amount (without turnover tax) shall be authoritative in all above sub-sections.

5. Acceptance within the meaning of Section 12

Insofar as the parties do not conduct an acceptance for the Contractor's performance, in the place of an acceptance in all cases of Section 12 the authoritative time in accordance with Sections 446 and 447 BGB shall apply in the place of an acceptance.

§ 26 – Avoidance of the Right to Refuse Performance and the Right of Retention

1. If a contract partner applies to the right to refuse performance and the right of retention, he is obliged to set the amount for which he wants to assert the right. If the other contract partner contradicts to the assertion of the right to refuse performance and the right of retention, he is authorized to avert the assertion by a security about the amount set.
2. Security may be provided for avoiding the right to withdraw from performance and/or the right of retention, pursuant to § 25 of this contract, through the deposit or issue of an absolute and open-ended bond from a bank or credit insurer, in accordance with the requirements of the German Construction Contract Procedures Part B § 17 ss. 2.
3. The costs of such security shall be borne by the parties, in proportion to the extent to which exercising the right to withdraw from performance and/or the right of retention was justified or otherwise.
4. The above provisions shall apply in the event where the contractor threatens to cease work, pursuant to the German Construction Contract Procedures Part B § 16 ss. 5 no. 5, due to a disputed default of payment by the Client or if it wishes to terminate the contract.

§ 27 – Assignment of claims, set-off

1. The assignment of a claim, whatever it contains, requires our consent. Assignments made without our consent are invalid. We will only withhold our approval if, after inspection of the individual case, our interests in the maintenance of the business relationship outweigh the interests of the contractor in the assignment.

2. A set-off with counterclaims is only valid if the claims are undisputed or has been declared final and absolute.

§ 28 – Confidentiality

1. The provision of information or access to the contract or to plans and documents of tender to third parties is forbidden, if the provision of information or the access is not necessary for the fulfilling of the contract. The same applies to company secrets and other confidential information which emerge in connection with the fulfilling of the contract.
2. Disclosure of the services provided by the contractor or parts of the project is only permitted with our prior written consent.

§ 29 – Final clause / Place of jurisdiction / Applicable law

1. If one or more provisions of this contract are partially invalid or impracticable, it does not affect the validity and the practicability of the other terms and conditions. The parties have to work together to replace the invalid and impracticable provisions by those who match the commercial aims of the party with the invalid and impracticable provision best. The above shall apply accordingly to the closing of any gaps in the Agreement.
2. This Agreement shall be governed by the law of the Federal Republic of Germany without conflict of laws rules. The application of the "United Nations Convention on Contracts for the International Sale of Goods" (CISG) is excluded.
3. Exclusive place of jurisdiction for all disputes which result from this contract is Waldkirch – as long as the contractor is a merchant as per Commercial Law.