

## General Terms and Conditions of Sale of Oxford PV Germany GmbH

### 1. Scope of Application, Form

- 1.1 These General Terms and Conditions of Sale ("**GTCS**") apply to all business relationships between Oxford PV Germany GmbH, Münstersche Str. 23, 14772 Brandenburg an der Havel ("**OxPV**") and its customers ("**Customers**"; Customer and OxPV each individually also "**Party**" and collectively "**Parties**"). The GTCS shall only apply if the Customer is an entrepreneur (Section 14 of the German Civil Code [*BGB*]), a legal entity under public law or a special fund under public law.
- 1.2 These GTCS apply in particular to contracts for the sale and/or delivery of movable goods (hereinafter "**Goods**"), regardless of whether OxPV manufactures the Goods itself or purchases them from suppliers (Sections 433, 650 of the German Civil Code [*BGB*])
- 1.3 Unless otherwise agreed, these GTCS shall apply in the version valid at the time of the Customer's order, in any case in the version last communicated to the Customer in writing [*Textform*] as a framework agreement also for similar future contracts, without OxPV having to refer to the validity of these GTCS again in each individual case.
- 1.4 These GTCS apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the Customer shall only become part of the contract if and insofar as OxPV has expressly agreed to their validity in writing [*Textform*]. This requirement of consent shall apply in any case, e.g. even if OxPV provides the contractual services to the Customer without reservation despite being aware of the Customer's general terms and conditions.
- 1.5 Individual agreements made with the Customer in individual cases (including collateral agreements, supplements and amendments) shall take precedence over these GTCS. Subject to proof to the contrary, a contract or confirmation from OxPV in writing [*Textform*] shall be decisive for the content of such agreements.
- 1.6 Legally relevant declarations and notifications by the Customer in relation to the contract (e.g. setting a deadline, notification of defects, cancellation or reduction) must be made in writing [*Textform*]. Statutory formal requirements remain unaffected. OxPV reserves the right to request further documents, e.g. proof of the legitimisation of the declarant.
- 1.7 References to the validity of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCS.

### 2. Conclusion of Contract, Amendments, Additions, Transferability

- 2.1 Unless otherwise stated, offers from OxPV are always subject to change and non-binding. This shall also apply if OxPV has provided the Customer with catalogues, technical documentation such as drawings, plans, calculations, costings, references to DIN standards, other product descriptions or documents, including in electronic form.
- 2.2 The order of Goods by the Customer shall be deemed a binding offer by the Customer to conclude a contract. Unless otherwise stated in the order, OxPV is entitled to accept the Customer's offer within ten (10) working days of receipt of the order ("**Working Days**" within the meaning of these GTCS are all days from Monday to Friday with the exception of public holidays at OxPV's registered office). OxPV generally accepts the Customer's offer either by confirming the order (e.g. by letter or email) or by providing the contractual services. OxPV's order confirmation shall be regarded as a binding acceptance unless stated otherwise in the

order confirmation by OxPV.

- 2.3 If OxPV has sent an explicit binding offer to the Customer in an individual case, the Customer is entitled to accept OxPV's offer within ten (10) working days of receipt of the offer.
- 2.4 Subject of the contract are the Goods listed in the order confirmation.
- 2.5 After the order is confirmed by OxPV, amendments and additions to the contract require a separate agreement between the Customer and OxPV in writing (cf. section 15.2). This also applies to an amendment to this section 2.5.
- 2.6 The Customer is not authorised to transfer and/or assign rights and obligations arising from the contract to third parties without the prior written consent of OxPV. This prohibition of assignment does not apply to monetary claims.

### **3. Prices and Terms of Payment**

- 3.1 Unless otherwise agreed in individual cases, OxPV's current prices at the time of conclusion of the contract plus statutory VAT shall apply. The prices do not include packaging and dispatch of the Goods, i.e. ex works OxPV (Ex Works OxPV according to Incoterms 2020).
- 3.2 The Customer may also order the packaging and dispatch of the Goods when placing the order. OxPV shall indicate the price for packaging and shipping the Goods to a delivery address specified by the Customer (doorstep or agreed unloading point) on the offer to the Customer (Section 2.1) or informs the Customer of the price on request. Any customs duties, fees, taxes and other public charges shall be borne by the Customer.
- 3.3 Payments must be made before delivery of the Goods within seven (7) calendar days of the invoice date ("**Payment Period**") to the account specified in the invoice (advance payment).
- 3.4 The Customer shall be in delay [*Verzug*] without a reminder if it has not made payment within the Payment Period. During the period of delay, interest shall be charged on the price at the applicable statutory default interest rate. OxPV reserves the right to assert further claims for damages caused by default. Vis-à-vis merchants the statutory commercial interest rate (Section 353 of the German Commercial Code [*HGB*]) remains unaffected.
- 3.5 If the Customer does not fulfil its payment obligation, does not fulfil it properly or does not fulfil it on time, or if circumstances become known which make the Customer's creditworthiness appear doubtful, OxPV is entitled to declare outstanding payments by the Customer due for payment immediately. The same shall apply if the Customer is no longer able to conduct proper business operations, in particular if the Customer's assets are seized or an application is made for insolvency proceedings.
- 3.6 A payment shall be deemed to have been made when OxPV can dispose of the amount. Any delay in payment by the Customer shall only end upon receipt of the payment in OxPV's account.
- 3.7 The Customer shall only be entitled to the rights of set-off or retention to the extent that its claim has been legally established or is undisputed. This shall not apply to the Customer's rights of retention which are based on counterclaims of the Customer arising from the same contractual relationship. In the event of defects in the delivery, the Customer's counter-rights, in particular pursuant to section 7 of these GTCS, remain unaffected.
- 3.8 If it becomes apparent after conclusion of the contract (e.g. through an application for the commencement of an insolvency proceedings) that OxPV's claim to remuneration is jeopardised by the Customer's inability to pay, OxPV is entitled to refuse performance in

accordance with the statutory provisions and – If necessary after setting a deadline – to withdraw from the contract (Section 321 of the German Civil Code [BGB]). In the case of contracts for the manufacture of non-fungible items (customised products), OxPV may declare its withdrawal immediately; the statutory provisions on the dispensability of setting a deadline remain unaffected.

#### **4. Delivery of Goods, Passing of Risk, Acceptance, Default of Acceptance**

- 4.1 The Goods shall be delivered from OxPV's warehouse (Ex Works OxPV according to Incoterms 2020), which is also the place of fulfilment (Section 269 (1) of the German Civil Code [BGB]) for the delivery and any subsequent performance. At the request and expense of the Customer, OxPV shall ship the Goods to another destination (sale to destination, cf. section 3.2). Unless otherwise agreed, OxPV is entitled to determine the type of shipment (in particular transport company, shipping route and packaging) itself. The Customer shall be responsible for procuring transport insurance at its own expense.
- 4.2 OxPV is entitled to make partial deliveries, provided that the Customer is not unreasonably disadvantaged by this. OxPV shall bear any additional shipping costs caused by partial deliveries.
- 4.3 The risk of accidental loss and accidental deterioration of the Goods shall pass to the Customer at the latest upon handover. In the case of sale by despatch, however, the risk of accidental loss and accidental deterioration of the Goods as well as the risk of delay shall pass to the Customer upon delivery of the Goods to the forwarding agent, carrier or other person or institution designated to carry out the despatch. If an acceptance [*Abnahme*] has been agreed, this shall be decisive for the transfer of risk. In addition, in respect of the acceptance the statutory provisions of the law on contracts for work and services shall apply accordingly. If the Customer is in default of acceptance, this shall be deemed equivalent to handover or acceptance.
- 4.4 If the Customer is in default of acceptance, fails to cooperate or if the delivery of the Goods is delayed for other reasons for which the Customer is responsible, OxPV is entitled to demand compensation for the resulting damage (e.g. storage costs). OxPV shall be entitled to claim a lump-sum compensation from the Customer for each week of delay or part thereof in the amount of 0.5 % of the invoice amount (net) of the Goods in respect of which the Customer is in default. The compensation is limited to a total of 5% of the invoice amount of the Goods in respect of which the Customer is in default of acceptance. Proof of higher damages and OxPV's statutory claims (in particular reimbursement of additional expenses, reasonable compensation, cancellation) shall remain unaffected; the lump-sum compensation shall be offset against any further claims for damages by OxPV. The Customer shall be entitled to prove that OxPV has suffered no damage at all or only significantly less damage than the flat-rate compensation.

#### **5. Delivery Dates, Delayed Delivery**

- 5.1 Delivery dates and deadlines promised by OxPV are always only approximate and are non-binding for OxPV as expected delivery dates and deadlines, unless a fixed deadline or a fixed date has been expressly promised or agreed. Delivery dates and deadlines are always subject to the timely payment of the purchase price (see section 33.3)
- 5.2 OxPV may – without prejudice to its rights arising from default on the part of the Customer – demand that the Customer extends or postpones agreed delivery dates and deadlines by the period during which the Customer fails to fulfil its contractual obligations towards OxPV.

- 5.3 If OxPV is unable to meet binding delivery dates and deadlines, OxPV shall inform the Customer of this immediately and at the same time inform the Customer of the expected new delivery period or the expected new delivery date. If the Goods are also not available within the new delivery period and OxPV is not responsible for this, OxPV shall be entitled to withdraw from the contract in whole or in part; OxPV shall immediately reimburse any remuneration already paid by the Customer. OxPV shall not be liable towards the Customer for the postponement of deadlines or dates if OxPV is not responsible for the reason for the postponement. In particular, OxPV shall not be responsible for a postponement of dates or deadlines if (i) OxPV itself is not supplied on time by its suppliers, provided that OxPV has concluded a congruent hedging transaction or (ii) neither OxPV nor its suppliers are at fault.
- 5.4 The rights of the Customer pursuant to sections 7 and 9 of these GTCS and the statutory rights of OxPV, in particular in the event of an exclusion of the obligation to perform (e.g. due to impossibility or unreasonableness of performance and/or subsequent fulfilment), shall remain unaffected.

## 6. Retention of Title

- 6.1 Goods delivered to the Customer shall remain the property of OxPV until all claims to which OxPV is entitled against the Customer now or in the future have been fulfilled, including all current account balance claims ("**Retained Goods**").
- 6.2 If the Customer is in breach of contract – in particular if the Customer is in delay with the payment of the remuneration – OxPV has the right to withdraw from the contract after OxPV has set the Customer a reasonable deadline for performance. The Customer shall bear the transport costs incurred for the return. If OxPV takes back the Retained Goods this does not in itself constitute a cancellation of the contract; OxPV is rather entitled to merely demand the return of the Goods and reserve the right to cancel the contract. OxPV may exploit the Retained Goods taken back by OxPV. The proceeds of the exploitation shall be offset against the amounts owed by the Customer to OxPV after OxPV has deducted a reasonable amount for the costs of the exploitation.
- 6.3 The Customer must treat the Retained Goods with care. The Customer must insure them adequately at its own expense against fire, water damage and theft at replacement value. If maintenance and inspection work becomes necessary, the Customer must carry it out in good time at its own expense.
- 6.4 The Customer is authorised to use the Retained Goods and to resell them in the ordinary course of business as long as it is not in default of payment. However, the Customer may not pledge the Retained Goods or assign them by way of security. The Customer hereby assigns to OxPV in full, by way of security, the Customer's claims for payment against its customers arising from the resale of the Retained Goods as well as those claims of the Customer in respect of the Retained Goods which arise against its customers or third parties for any other legal reason (in particular claims arising from unauthorised acts and claims for insurance benefits), including all current account balance claims. OxPV accepts this assignment.
- 6.5 The Customer may collect the claims assigned to OxPV for its account in its own name on behalf of OxPV as long as OxPV does not revoke this authorisation. This shall not affect OxPV's right to collect these claims itself; however, OxPV shall not assert the claims itself and shall not revoke the direct debit authorisation as long as the Customer duly meets its payment obligations. However, if the Customer acts in breach of contract – in particular if it is in delay with the payment of the remuneration – OxPV may demand that the Customer

informs OxPV of the assigned claims and the respective debtors, informs the respective debtors of the assignment and hands over all documents to OxPV and provides all information that OxPV requires to assert the claims.

- 6.6 Any processing or remodelling of the Retained Goods by the Customer shall always be carried out for OxPV. If the Retained Goods are processed with other items that do not belong to OxPV, OxPV shall acquire co-ownership of the new item in the ratio of the value of the Retained Goods (final invoice amount including VAT) to the other processed items at the time of processing. Additionally, the same shall apply to the new item created by processing as to the Retained Goods.
- 6.7 If the Retained Goods are inseparably combined or mixed with other items not belonging to OxPV, OxPV shall acquire co-ownership of the new item in the ratio of the value of the Retained Goods (final invoice amount including VAT) to the other combined or mixed items at the time of combination or mixing. If the Retained Goods are combined or mixed in such a way that the Customer's item is to be regarded as the main item, the Parties hereby agree that the Customer shall transfer proportionate co-ownership of this item to OxPV. OxPV accepts this transfer. The Customer shall keep safe for OxPV the resulting item, which is in the sole ownership or co-ownership of OxPV.
- 6.8 In the event of seizure of the Retained Goods by third parties or other interventions by third parties, the Customer must refer to OxPV's ownership and must inform OxPV immediately in writing so that OxPV can enforce its ownership rights. If the third party is unable to reimburse OxPV for the judicial or extrajudicial costs incurred in this connection, the Customer shall be liable for these.
- 6.9 If the Customer so requests, OxPV shall be obliged to release the securities to which OxPV is entitled to the extent that their realisable value exceeds the value of OxPV's outstanding claims against the Customer by more than 10%. OxPV is authorised to select the securities to be released.

## **7. Warranty Rights of the Customer**

- 7.1 OxPV warrants that the Goods have the agreed specifications and are suitable for the use intended by the contract. Unless expressly agreed, OxPV does not warrant that the Goods are suitable for the use intended by the Customer. Agreed specifications are such descriptions of the Goods by OxPV, which are subject of the contract with the Customer or which OxPV has made public at the time of conclusion of the contract (in particular on OxPV's homepage or in product catalogues). Information provided by third parties on the quality of the Goods does not constitute an agreement on the quality between the Customer and OxPV. If the Parties have not agreed on the specifications, the assessment of whether a defect exists shall be based on the statutory provisions.
- 7.2 OxPV is only obliged to provide or update digital content for Goods with digital elements or other digital content if this is expressly subject to the agreement between the parties regarding the specifications. In this respect, OxPV is not liable for public statements made by third parties.
- 7.3 OxPV is not liable for defects that the Customer is aware of when the contract is concluded. If a defect has remained unknown to the Customer as a result of gross negligence, the Customer may only assert warranty rights against OxPV if OxPV has fraudulently concealed the defect or has assumed a guarantee for specifications of the Goods.
- 7.4 The statutory provisions shall apply to the Customer's rights in the event of material defects

and defects of title, unless otherwise specified below. In any case, the special statutory provisions on the reimbursement of expenses for the final delivery of newly manufactured Goods to a consumer shall remain unaffected (supplier recourse, Sections 478, 445a, 445b / Sections 445c, 327 para. 5, 327 of the German Civil Code [*BGB*]). A consumer is any natural person who enters into a legal transaction for purposes that are predominantly outside their trade, business or profession (Section 13 of the German Civil Code [*BGB*]).

- 7.5 If the Goods are defective, OxPV shall, at its own discretion, provide subsequent fulfilment by remedying the defect (rectification) or by delivering a defect-free item (replacement delivery). OxPV's right to refuse subsequent fulfilment under the statutory conditions, in particular due to disproportionality (Section 439 para. 4 of the German Civil Code [*BGB*]), remains unaffected. The Customer may reject the type of subsequent fulfilment chosen by OxPV if it is unreasonable.
- 7.6 The Customer shall give OxPV the time and opportunity required for the subsequent fulfilment owed. The Customer must hand over the rejected Goods to OxPV for inspection purposes. If OxPV provides subsequent fulfilment by means of a replacement delivery, OxPV may demand the return of the defective Goods from the Customer in accordance with the statutory provisions. However, the Customer has no right of return against OxPV.
- 7.7 If OxPV was not originally obliged to install, attach or install the Goods, subsequent fulfilment shall not include (i) the removal, dismantling or de-installation of the defective Goods and (ii) the installation, attachment or installation of the defect-free Goods. Any statutory claims of the Customer for reimbursement of corresponding removal and installation costs shall remain unaffected, whereby OxPV's right to refuse performance due to disproportionality in accordance with section 439 para. 4 of the German Civil Code [*BGB*]) must always be taken into account.
- 7.8 OxPV shall reimburse the Customer in accordance with the statutory provisions for expenses incurred for inspection and subsequent performance (in particular transport, travel, labour and material costs) if a defect actually exists. The Customer shall reimburse OxPV for costs incurred as a result of unjustified requests by the Customer to rectify defects (in particular inspection and transport costs) if the Customer was aware of the lack of defectiveness or was unaware of it due to gross negligence.
- 7.9 The Customer's warranty rights shall lapse if the Customer modifies the Goods or has them modified by a third party without OXPV's consent and this makes it impossible or unreasonably difficult to rectify the defect. In any case, the Customer shall bear the additional costs of remedying the defect resulting from the modification.
- 7.10 Even in the event of defects, the Customer shall only be entitled to compensation for damages or reimbursement of futile expenses in accordance with section 9 and are otherwise excluded. The Customer may not withdraw from the contract due to an insignificant defect.

## **8. Incoming Goods Inspection**

- 8.1 The Customer's warranty claims in the event of defects of the Goods in accordance with section 7 require that the Customer has fulfilled its statutory obligations to inspect and give notice of defects (Sections 377, 381 of the German Commercial Code [*HGB*]). According to section 377 para. 1 of the German Commercial Code [*HGB*], a buyer must inspect the Goods immediately after delivery by the seller and, if a defect is found, notify the seller immediately. If such a defect is discovered later, the buyer must notify the seller of the defect immediately after its discovery (Section 377 para. 2 of the German Commercial Code [*HGB*]). Section

377 of the German Commercial Code [*HGB*] also applies to a contract for the delivery of movable Goods to be manufactured or produced (Section 381 para. 2 of the German Commercial Code [*HGB*]).

- 8.2 In the case of Goods intended for installation or further processing, an inspection must always be carried out immediately prior to installation or further processing.
- 8.3 If a defect becomes apparent upon delivery, inspection or at any later point in time, the Customer must notify OxPV of the defect immediately in writing [*Textform*]. In any case, obvious defects must be reported in writing [*Textform*] within three (3) working days of delivery and defects not recognisable during the inspection within the same period from discovery.
- 8.4 OxPV's liability is excluded in accordance with the statutory provisions for defects that are not reported or not reported in good time or not reported properly if the Customer has failed to carry out a timely and proper inspection and/or report defects. This shall also apply to Goods intended for installation, mounting or installation if the defect only becomes apparent after installation or further processing as a result of a breach of the statutory inspection and notification obligations; in this case, the Customer shall in particular have no claims for compensation for corresponding removal and installation costs.

## 9. Liability

- 9.1 OxPV shall be liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions, unless otherwise stated in these GTCS including the following provisions.
- 9.2 OxPV shall be liable for damages – irrespective of the legal grounds – within the scope of fault-based liability in the event of intent and gross negligence.
- 9.3 Subject to statutory limitations of liability (e.g. care in own affairs; insignificant breach of duty), OxPV is liable in cases of simple negligence [*einfache Fahrlässigkeit*] only
  - a) for damages resulting from injury to life, body or health,
  - b) for damages arising from the breach of an essential contractual obligation (i.e. an obligation whose fulfilment is essential for the proper execution of the contract and on whose compliance the Customer regularly relies and may rely); in this case, however, OxPV's liability is limited to compensation for foreseeable, typically occurring damages.
- 9.4 The obligations arising from sections 9.2 and 9.3 shall also apply in the event of breaches of duty by or in favour of persons for whose fault OxPV is responsible in accordance with the statutory provisions. They shall not apply if OxPV has fraudulently concealed a defect or has assumed a guarantee for the quality of the Goods and for claims of the Customer under the Product Liability Act.
- 9.5 The Customer may only withdraw from the contract due to a breach of duty that does not consist of a defect if OxPV is responsible for the breach of duty. Otherwise, the statutory requirements and legal consequences shall apply to cancellation.

## 10. Force Majeure

- 10.1 Extraordinary events and circumstances originating beyond the control of a Party and which are neither foreseeable nor avoidable, including but not limited to governmental orders in connection with epidemics or pandemics, extreme weather conditions, fire, floods, war, riots, labour disputes and strikes ("**Force Majeure Events**"), shall release the Party affected by a

Force Majeure Event from its obligations under the Contract for the duration of the Force Majeure Event and to the extent of its effects.

- 10.2 The Party invoking a Force Majeure Event shall notify the other Party in writing [*Textform*] immediately after becoming aware of the Force Majeure Event and provide information about the Force Majeure Event, its expected duration and the extent of the effects of the Force Majeure Event. Each Party shall use all reasonable endeavours to avoid or remedy a Force Majeure Event and to resume performance of its affected obligations as soon as possible.

## 11. Statute of Limitation

- 11.1 The general limitation period for claims due to material defects and defects of title is one year from delivery, in deviation from section 438 para. 1 no. 3 of the German Civil Code [*BGB*]. If an acceptance has been agreed, the limitation period shall commence upon acceptance.
- 11.2 If subject to the contract is a building or an item that has been used for a building in accordance with its normal use and has caused its defectiveness (building material), the limitation period shall be five (5) years from delivery in accordance with the statutory provision (Section 438 (1) no. 2 of the German Civil Code [*BGB*]). Other special statutory provisions on the limitation period (in particular Sections 438 para. 1 no. 1, 476 para. 3, 444, 445b of the German Civil Code [*BGB*]) also remain unaffected.
- 11.3 The limitation periods according to this section 11 shall also apply to contractual and non-contractual claims for damages of the Customer based on a defect of the Goods, unless the application of the regular statutory limitation period (Sections 195, 199 of the German Civil Code [*BGB*]) would lead to a shorter limitation period in individual cases. Claims for damages by the Customer in accordance with section 9.2 and section 9.3 a) as well as under the Product Liability Act shall lapse exclusively in accordance with the statutory limitation periods.

## 12. Confidentiality

If the Parties have concluded a non-disclosure agreement ("**NDA**") the confidentiality obligations of the Parties shall be governed by it. As far as the Parties have not concluded an NDA or as far as it does not cover the cooperation, the following provisions shall apply:

- 12.1 The following provisions of this section **Fehler! Verweisquelle konnte nicht gefunden werden.** shall apply to all information disclosed by one Party ("**Disclosing Party**") or its directors, officers, employees, agents or representatives ("**Representatives**") to the other Party ("**Receiving Party**") or otherwise coming to the knowledge of the Receiving Party in the course of the co-operation, whether before or after agreeing on these GTCS, directly or indirectly, in writing, orally or by inspection of items, and whether or not it is protected as intellectual property, provided that (i) it has a commercial value and (ii) the Disclosing Party has a legitimate interest in keeping it confidential, and (iii) it is either appropriately marked as confidential by the Disclosing Party or a legitimate interest of the Disclosing Party in keeping it confidential is evident either from the nature of the information or the circumstances of the disclosure ("**Confidential Information**"). Confidential Information includes, to the extent the foregoing conditions are met, inter alia: (i) marketing strategies, plans, financial information or projections, operations, sales estimates, business plans and performance results relating to past, present or future business activities; (ii) plans for products or services, customer or supplier lists; (iii) scientific or technical information, inventions, designs, processes, formulas, technologies or methods; (iv) concepts, reports, data, know-how, work in progress, development tools, specifications, computer software, source code, object code or databases.
- 12.2 Confidential Information does not include information of which the Receiving Party proves



that

- a) it is generally known or readily accessible to persons in the circles that normally deal with this type of information or becomes so without any action on the part of the Receiving Party;
- b) the Disclosing Party has waived its protection in writing, or
- c) it has obtained the information by means other than co-operation with the Disclosing Party, without being subject to a duty of confidentiality.

12.3 The Receiving Party shall exercise a reasonable degree of care to ensure confidentiality, but no less than the degree of care it exercises to protect its own Confidential Information. It shall be responsible for any breach of this provision by Representatives employed by it, irrespective of whether the respective Representatives were authorised to receive such information. The Receiving Party shall in particular

- a) keep all documents and materials containing Confidential Information separate from other documents, materials and records in a manner that ensures that Confidential Information is identifiable as a trade secret of the Disclosing Party and that it is protected from theft and unauthorised access,
- b) make copies of Confidential Information only to the extent necessary to fulfil the respective contract,
- c) inform the Disclosing Party immediately upon becoming aware of any actual or imminent unauthorised use or disclosure of Confidential Information and take all necessary measures to prevent or stop such misuse or disclosure, if necessary with the assistance of the Disclosing Party.

12.4 The Receiving Party may provide employees with Confidential Information, provided that they

- a) disclosure is limited to employees who need this Confidential Information necessary to fulfil the respective contract (need-to-know principle),
- b) informs employees of the proprietary nature of the Confidential Information and of the obligations set out in this Agreement; and
- c) ensures that employees are bound by confidentiality obligations that are no less stringent than those set out in these GTCS.

12.5 The disclosure of Confidential Information to subcontractors or other third parties, even if they are affiliated companies pursuant to Section 15 of the German Stock Cooperation Act [AktG] and/or are involved in the co-operation between the Parties, requires the written consent of the Disclosing Party.

12.6 In the event that Confidential Information must be disclosed due to an official or court order or a legal obligation, the Receiving Party may only disclose such Confidential Information as is necessary to fulfil the obligation and must inform the Disclosing Party immediately as soon as and to the extent permitted by law. The Parties shall assist each other, to the extent legally possible, to avoid disclosure.

12.7 All rights to Confidential Information shall remain with the Disclosing Party. Nothing in these GTCS shall be construed to be

- a) the explicit or implicit transfer of a right of use or the granting of a licence in respect of Confidential Information, or
- b) authorisation or obligation to disclose certain information.

- 12.8 The confidentiality provisions set out in this section also apply to all information already exchanged at the time the Parties agreed on these GTCS. The confidentiality obligations shall survive the end of the cooperation as long as the Confidential Information is confidential, i.e. in particular not publicly accessible.
- 12.9 Upon termination of the co-operation or at any time prior thereto at the request of the Disclosing Party, the Receiving Party shall, at the discretion of the Disclosing Party, immediately return to the Disclosing Party or delete all documents and electronic documents containing Confidential Information. The Receiving Party shall confirm the deletion in writing at the request of the Disclosing Party. The obligation to delete does not apply to Confidential Information that
- a) must be stored due to legal obligations or
  - b) is stored as part of routine backups of electronic conversations and are no longer individually accessible and cannot be deleted separately, provided that the Receiving Party will no longer use this information.

### 13. Intellectual Property

- 13.1 All rights to the Goods and the technology contained therein and used for production ("**Technology**"), including all intellectual property rights and know-how to trademarks, company logos or other signs used in connection with the products are the property of OxPV and/or its affiliated companies within the meaning of Section 15 of the German Stock Corporation Act [*AktG*].
- 13.2 The Customer is authorised to use and resell the Goods as intended. OxPV does not grant the Customer any further rights of use to the Goods. The Customer is not permitted to apply for industrial property rights using the Technology. The Technology is deemed to be Confidential Information of Oxford within the meaning of the NDA concluded between the parties and/or these GTCS.
- 13.3 The Customer is not authorised to reverse engineer the Goods. Mandatory provisions of the German Trade Secrets Act [*GeschGehG*] remain unaffected.
- 13.4 AS far as the Customer combines the Goods with its own products ("**Combined Product**"), this shall not establish any further rights of the Customer in respect of the Goods or the Technology. Any type of combination that leads to the creation of new intellectual property rights in respect of the Combined Product that cannot be separately utilised and/or registered requires the written consent of OxPV.
- 13.5 It is not part of OxPV's contractual obligations to check that the Goods are free from third-party rights outside the European Union. The Customer is obliged to ensure itself that the Goods do not infringe any intellectual rights of third parties outside the European Union. In the case of Combined Products the Customer alone is, even within the European Union, responsible for ensuring that the Combined Product does not infringe any third-party rights. Furthermore, OxPV shall not be liable for the infringement of third-party rights resulting from instructions given by the Customer or from a use of the Goods not foreseeable by OxPV or from changes made to the Goods by or at the instigation of the Customer.
- 13.6 If the Goods or trademarks used infringe third-party rights and OxPV is responsible for this in accordance with these GTCS, OxPV shall either (a) modify the Goods in such a way that the intellectual property rights of third parties are no longer infringed, (b) replace the infringing Goods with goods that do not infringe third-party rights and are reasonable for the Customer or acquire the corresponding rights of use.

- 13.7 If a claim is made against the Customer due to an infringement of the rights of third parties and OxPV is responsible for this in accordance with these GTCS, OxPV shall indemnify the Customer in accordance with section 9 from these claims and shall reimburse the Customer for the costs of a legal defence in accordance with the statutory fees, provided that the Customer (i) informs OxPV immediately of the claim, (ii) does not take any action against third parties that ends the proceedings in whole or in part (e.g. an acknowledgement or the conclusion of a settlement), (iii) provides OxPV with appropriate support in the legal defence and (iv) allows OxPV to determine and implement the strategy of the legal defence, in particular by selecting lawyers and drafting pleadings. The Customer shall make the necessary declarations for this purpose. OxPV shall take appropriate account of the Customer's interests. Further rights and claims for reduction, cancellation and/or compensation shall only exist in accordance with these GTCS, in particular in accordance with section 9.
- 13.8 The Customer is obliged to inform OxPV in writing [*Textform*] at the earliest possible time if a third party claims or asserts (in or out of court) that the Goods infringe third-party rights.

#### **14. Data Protection**

- 14.1 The Parties undertake to comply with all applicable data protection regulations and to protect the other Party's personal data from unauthorised access by third parties.
- 14.2 OxPV's privacy policy is available on OxPV's website.

#### **15. Declarations, Form, Statutory Requirements**

- 15.1 Legally relevant declarations and notifications by the Customer in relation to the respective contract (e.g. setting deadlines) must be made at least in writing [*Textform*], unless a strict written form [*Schriftform*] is expressly required in these GTCS. Statutory formal requirements and further evidence, in particular in the event of doubts about the legitimacy of the declarant, remain unaffected.
- 15.2 A strict written form [*Schriftform*] within the meaning of these AVB can also be fulfilled by sending a physically or digitally signed document as a PDF (by e-mail or post) or by using digital signature software commonly used in Germany (e.g. DocuSign or Adobe Sign), in addition to compliance with written form within the meaning of Section 126 of the German Civil Code [*BGB*].
- 15.3 References to the validity of statutory provisions are for clarification purposes only. Even without such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these GTCS.

#### **16. Applicable Law, Place of Jurisdiction, Arbitration**

- 16.1 These GTCS and the contractual relationship between OxPV and the Customer shall be governed exclusively by the law of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods, and to the exclusion of private international law.
- 16.2 All disputes arising out of or in connection with the contract concluded between the Parties or its validity shall be finally settled in accordance with the Arbitration Rules of the German Institution of Arbitration (DIS) without recourse to the ordinary courts of law. The arbitral tribunal shall consist of three (3) arbitrators. The place of arbitration shall be Berlin, Germany. The language of the proceedings shall be English.

## **17. Severability, Interpretation**

- 17.1 Should a provision in these GTCS be or become invalid, ineffective or unenforceable in whole or in part, or should a necessary provision not be included, the validity and enforceability of all other provisions of these GTCS shall not be affected. The invalid, ineffective or unenforceable provision or the loophole shall be replaced by a legally permissible provision that corresponds as closely as possible to what the parties intended or would have agreed in accordance with the meaning and purpose of these GTCS if they had recognised the ineffectiveness or loophole. It is the express intention of the Parties that this severability provision does not merely result in a reversal of the burden of proof, but that Section 139 of the German Civil Code [*BGB*] is waived in its entirety.
- 17.2 For better readability, the generic masculine is used in these GTCS. Unless otherwise indicated, the personal designations used in these GTCS refer to all genders.
- 17.3 The headings in these GTCS are irrelevant for their interpretation.