

## **General Terms and Conditions of Purchases of Erich Rohde GmbH regarding Products**

**August 2013**

1. Scope of Application
  - 1.1 Erich Rohde GmbH ("**Rohde**") orders and purchases moveable items, in particular shoes, shoe parts, shoe preproducts and shoe shafts ("**Products**") from different and independent manufacturers or suppliers of such Products ("**Supplier**") for re-sale in the international wholesale and retail market or, if required, further development of these Products.
  - 1.2 These General Terms and Conditions of Purchase are an integral part of all orders of Rohde for Products and therefore become an integral part of the respective purchase contract(s) concerning the Products between Rohde and the Supplier ("**Parties**"), irrespective of whether the Supplier is the producer or a supplier of the respective Products. These General Terms and Conditions of Purchase shall only apply vis-à-vis entrepreneurs as defined in § 14 para. 1 German Civil Code (Bürgerliches Gesetzbuch, BGB) and for all other orders and contracts where Rohde is the principal, the buyer or the customer regarding Products unless the Parties have expressly agreed otherwise in writing. Rohde does not agree to any other terms and conditions provided or referenced by the Supplier and which contravene with these General Terms and Conditions of Purchase and expressly contradicts their validity and application. Further terms and conditions will be accepted by Rohde and apply to Rohde only if Rohde has expressly approved of them in writing. In addition, acceptance of the Products does not stipulate approval of any additional terms and conditions of the Supplier.
  - 1.3 These General Terms and Conditions of Purchase as amended from time to time also apply in their then effective version as a framework agreement to Rohde's future orders of Products with the Supplier, even if Rohde has not made any further express reference to their application in the respective future order of Products. Rohde retains the right to amend these General Terms and Conditions of Purchase from time to time. Rohde will inform the Supplier of any amendments or changes to these General Terms and Conditions of Purchase by providing an updated version of the General Terms and Conditions of Purchase marking the changes and amendments to the previous version. Unless the Supplier contradicts to the amendments within a period of four (4) weeks or in case the Supplier accepts subsequent orders of Rohde regarding Products without express objection to such amended terms the new version of the General Terms and Conditions of Purchase shall apply to the contractual relationship between Rohde and the Supplier.
2. Orders and Contracts

- 2.1 If the Supplier so requests, Rohde endeavours to make available to the Supplier before the start of a season, and generally not later than with the first order, a forecast of the type and number of the Products prospectively required for the upcoming season. Forecasts requested by Suppliers will be according to the best knowledge of Rohde. Rohde will amend these forecasts upon respective requests by the Supplier throughout the season and update their accuracy. Forecasts are non-binding and do not make Rohde liable for ordering or buying the types or amounts of Products predicted. The Supplier shall have no claim against Rohde and shall not rely on Rohde's orders and purchases in one season to reach and add up to the volumes of a previous season or that Rohde will order similar amounts as ordered in a previous season. Forecasts and potential sign offs for material shall not be deemed to be orders or commitments to or promises of any future orders. Rohde provides sign offs for materials and forecasts according to its best knowledge and on the basis of estimates and forecasts of its customers. Accordingly, these forecasts and sign offs are only estimates of potential future orders by Rohde, but do in no event oblige Rohde to purchase or pay any Products which the Supplier has produced or acquired in accordance with a forecast or sign off. Furthermore, Rohde will not reimburse the Supplier for any losses incurred for already ordered or procured material or for any excess Products produced or acquired if the actual orders of Rohde do not reach the forecasts or sign offs. The purchase and binding procurement on the basis of sign offs and forecasts is solely on the risk of the Supplier.
- 2.2 The Supplier must make sure to maintain a good and trustfull relationship with its own suppliers and keep a sound relationship with them. The Supplier will also make sure to protect the interests and reputation of Rohde when dealing with suppliers and third parties.
- 2.3 Rohde will usually order the Products in 3 stages per season specifying in each order the types and the amount of the Products it wishes to purchase. The first order, as a rule, will occur in March or September for the respective following season and after that in monthly intervals.
- 2.4 Orders of Rohde in text shall be binding offers to buy the Products listed in the order to the terms and conditions of these General Terms and Conditions of Purchase and the order. Supplier accepts an order by Rohde by sending an order confirmation in text form within three (3) business days, unless a specific deviating order confirmation period has been individually agreed with the Supplier. By accepting the order the Supplier declares to supply the ordered Products within the delivery period or on the delivery date stated in the order.
- 2.5 The first order of a Product for a season shall be binding subject to the condition precedent of the approval of the confirmation samples of the Products to be provided in accordance with Sec. 3.

- 2.6 If the Supplier is not able to deliver the Products on the agreed delivery date or within the agreed delivery period the Supplier shall notify Rohde within three (3) business days upon receipt of an order and suggest alternative delivery dates or periods. Rohde may, in its sole discretion, reject the suggested delivery dates or period and revoke the order. Alternative delivery dates or periods will only be binding upon approval by Rohde.
- 2.7 Oral agreements of any kind including additional changes to the orders or these General Terms and Conditions of Purchase require the consent of Rohde in text.
3. Production, Quality Control and Approval of Sample
- 3.1 The Supplier shall provide to Rohde immediately upon request and, generally prior to a first binding order for a season, a sample of two (2) pairs of every Product and every colour that the Supplier has produced under real production conditions, as well as a sample of the shoe boxes of the Products (confirmation samples). In addition, the Supplier shall provide Rohde with three (3) different sizes of every Product, in every instance small, medium and large, to enable Rohde to examine their fit. Rohde will define the relevant sizes for each Product and inform the Supplier thereof. The Supplier will deliver and supply the confirmation samples free of charge.
- 3.2 Together with the confirmation samples, the Supplier shall make available (1) a contamination report, to be prepared according to the requirements defined in Annex 1a Schadstoffrichtlinie – Guideline on Harmful Substances, as well as (2) test records with respect to physical quality of the Products in accordance with Annex 1b Physikalische Anforderungen – Physical Requirements. Regarding the requirements with respect to Reach, please see below under Sec. 10.3 and Annex 6, these remain unaffected and apply in addition.
- 3.3 Rohde will inspect and check the confirmation samples, usually within seven (7) business days upon receipt, and confirm the confirmation samples or request amendments to the confirmation samples. The Supplier will only begin the production of the Products after Rohde has approved of the confirmation samples and has submitted a binding order (if applicable, after a changed order according to Sec. 2.6 above). The Products produced for an order must fully correspond to the respective confirmation sample as approved by Rohde. The Supplier must implement in the production any further changes to the confirmation sample requested by Rohde. Rohde reserves the right to send back free of charge to the Supplier only one of the confirmation samples after its inspection, but to hold on to the other confirmation sample for the control of future deliveries. Rohde shall be entitled to make amendments to the confirmation samples from time to time, even after approval of such confirmation samples and request amendments to Products under future or-

- ders and deliveries. Rohde may request new confirmation samples when asking for further amendments to the Products.
- 3.4 Rohde can revoke offers and can reject the acceptance of Products if the Supplier has not provided confirmation samples or when the delivered Products do not fully correspond to the confirmation samples approved by Rohde or do not include the amendments requested by Rohde or if the Parties cannot agree on the approval for a confirmation sample.
- 3.5 The Supplier is obliged to monitor the quality of the Products at all times, in particular the Supplier is obliged to ensure that the quality is fully in line with the confirmation samples approved by Rohde. The Supplier has to at least maintain quality standards according to the standards of ISO 2859 and Annex 2 Qualitätskontrollstandards – Quality Control Standards, unless additional quality control standards are agreed with Rohde. The Supplier must, in writing, maintain records classifying how and by whom the Products and the production process were inspected and how it ensures compliance with quality and manufacturing standards. Rohde shall be entitled to examine the relevant records. Rohde is entitled to make regular checks on the manufacturing of the Products either in the factory or other business premises designated to the production of the Products and the Supplier shall grant Rohde access to such premises. The Supplier must ensure that his own suppliers are obliged accordingly.
- 3.6 The Supplier will provide a production plan for the Products which it will present to Rohde immediately after the receipt of the first forecast of orders for a season and which it will amend and provide such amended production plan to Rohde within one (1) week after receipt of an order. In addition, the Supplier shall make available to Rohde together with the production plan a cost analysis and calculation which contains a breakdown of the cost for any material, wages and other production costs with respect to the Product.
- 3.7 In addition to the control of the Products according to Sec. 8 herein, Rohde is entitled to inspect the Products on-site in the factory or other premises of the Supplier. The Supplier grants access to Rohde to enter these premises during the normal business hours. The Supplier makes sure that third parties will grant Rohde access to their premises if this is required by Rohde for the orderly inspection of the Products in accordance with this Sec. 3.7.
- 3.8 The Supplier will comply in the manufacturing of the Products with all applicable rules, laws and statutory regulations as well as any other generally recognised health and safety regulations. The Supplier is responsible and guarantees that the Products are suitable for their agreed purpose, which is the resale, potentially after processing to shoes and parts of shoes, if applicable, which are suitable for consumers worldwide.

4. Deliveries
  - 4.1 Deliveries will be FOB, unless otherwise agreed by the Parties. Rohde's packaging and delivery regulations, as amended from time to time, apply (cf. Sec. 5).
  - 4.2 The Supplier acknowledges that the delivery of the ordered Products in accordance with the confirmation samples and punctual and on time is of the essence for the business of Rohde, and that Rohde will suffer considerable economic and ideal losses if delivery dates or periods are not met. Such losses include contractual penalties from customers as well as damage claims, abatements of the Product's price, discounts as well as cancellation of orders and loss of reputation as well as reduced future orders. The Supplier acknowledges that in case of a delay in delivery of maximum twenty (20) days, customers will, as a rule, revoke or withdraw their orders; in many cases orders are revoked even earlier. Furthermore, already minor delays in the delivery of a specific Product (e.g. shoe parts, shoe preproducts and shoe shafts) can delay the production of a substantial number of shoes. The production partners of Rohde and Rohde are dependent on the proper implementation of the Rohde production schedules. Changes in the Rohde production schedules due to delivery delay regarding certain Products can result in substantial additional costs within the production process and further disadvantages for Rohde including loss of production. Therefore, delivery periods and dates are fixed and binding and must be followed at all times.
  - 4.3 The delivery date or period will be met if the Products will be made available FOB in time and the Supplier notifies Rohde of the availability of the Products within the agreed delivery period or at the delivery date. The delivery of the Products *FOB* requires a successfully carried out Products control as defined in Sec. 8 herein. If the Supplier does not deliver the Products within the agreed delivery period or on the agreed delivery date, it will be in default (*Schuldnerverzug*) without any further warning by Rohde.
  - 4.4 The Supplier shall be obliged to notify Rohde immediately in writing if circumstances occur or become identifiable that may potentially result in a delay in delivery. This notification will not preclude Supplier's default in case the Supplier actually does not meet the agreed delivery date or delivery period.
  - 4.5 In case of a default (*Schuldnerverzug*), Rohde shall be entitled to a contractual penalty to be paid by the Supplier for every started business day of delay of delivery in the amount of 0.3% of the respective net order amount of the Products subject to the default, but no more than 10% of the overall net order amount of the Products of the affected order. The obligation to pay a contractual penalty does not release the Supplier from his duty to punctually deliver the Products. The right of Rohde to demand payment of such contractual penalty will not be forfeited if Rohde does not explicitly reserve its right to demand payment of the contractual

- penalty upon receipt of the Products. In this case Rohde reserves hereby its right to demand payment of such contractual penalty. Furthermore, claims for damages from Rohde shall remain unaffected. Any contractual penalty paid by the Supplier shall be credited against any damages claimed by Rohde. The penalty shall be due and payable immediately. Rohde is entitled to deduct the sum of the contractual penalty from the Suppliers invoice for the respective order or other orders.
- 4.6 Rohde is entitled to, after expiry of a reasonable grace period, but no longer than two (2) weeks, unless a grace period is legally superfluous, to withdraw from an order and claim damages instead of performance. A grace period is particularly legally superfluous where the Supplier has been in default of delivery with a material part (usually equalling more than 10% of the delivery) of the respective delivery for a delivery date or delivery period for more than twenty (20) days.
- 4.7 Partial delivery is only allowed when expressly approved by Rohde.
- 4.8 Early deliveries of more than two (2) weeks are only permitted with the prior written consent of Rohde. In case of unauthorised early deliveries Rohde shall be entitled to reject the Products without affecting the obligations of the Supplier to deliver the Products at the agreed delivery date or within the agreed delivery period and without triggering default of acceptance. In case of an acceptance of an early delivery, the relevant payment period will nevertheless not start before the originally agreed delivery date or the expiry of the originally agreed delivery period.
- 4.9 The delivery must contain a dispatch note and a packing list that contains the order numbers from Rohde, the delivery dates and the name and quantity of Products delivered.
5. Packaging
- 5.1 Packaging should be in accordance with the guidelines established by Rohde in [Annex 3 Verpackungsrichtlinien – General Packing Specifications](#). Boxes must be in accordance with the guidelines established in [Annex 4 Kartonspezifikationen – Box Specifications](#). The packaging shall be marked with a label in accordance with [Annex 5 Etikettierung – Labelling](#).
- 5.2 The Supplier will only use Micropak to protect the shape of the Products. The use of Silicia-Gel is prohibited.
6. Fees, Billing and Payments
- 6.1 The original invoice has to be submitted in all cases to Rohde either by mail or by pdf ([rechnungseingang@rohde-shoes.com](mailto:rechnungseingang@rohde-shoes.com)). The original invoice may not be sent together with the ordered Products. The invoice must meet all statutory require-

- ments; in particular it must meet the requirements for deduction of input value added tax by the recipient of the services or goods. In case an invoice is required for customs duty purposes in connection with the importation of the Products, the Supplier will only send a copy or a duplicate of the invoice together with the Products. In this case, the invoice therefore shall contain an explicit, highlighted reference stating that such invoice is merely a copy or duplicate of the invoice, but the original invoice has to be exclusively submitted to Rohde in accordance with sentence 1.
- 6.2 The prices specified in the order are binding. The prices include all costs for packaging, transport and FOB insurance. Price adjustments are not possible during a season. Price adjustments shall be agreed by the Parties in text form.
- 6.3 Unless otherwise agreed, payments of Rohde will be made within thirty (30) days after receipt of an orderly original invoice and receipt of the orderly Products at the business address of Rohde in Schwalmstadt (respectively – in case of early deliveries – upon expire of the agreed delivery period or delivery date) with 3% cash discount or within sixty (60) days net.
- 6.4 The dispatch note and the packing list of the Supplier are to be mailed separately and in due time (i.e. prior to the Supplier's notification that the Products are ready for collection) to Rohde. Invoices and dispatch notes shall contain Rohde's order number and the amount, the exact name or description of the Products and further information that is required by law for such documents. Invoices from Suppliers outside of Germany must provide IBAN and BIC numbers of their bank accounts. Any missing information will delay the processing of the invoice and will, therefore, extend the payment period for Rohde respectively.
7. Transfer of Ownership
- 7.1 The ownership of the Products passes to Rohde with the handover of the Products to Rohde or an appointed carrier of Rohde. The Supplier is not entitled to reserve ownership in the Products.
8. Quality Control of Products
- 8.1 Rohde shall be entitled to quality control the Products, including quality control the production as well as the Products on-site, before their delivery as established under ISO 2859 respectively Annex 2 Qualitätskontrollstandards – Quality Control Standards or in accordance with such other standards that the Parties might have agreed on.
- 8.2 At all times quality control of the Products on-site will take place before delivery, i.e., prior to the notification that the Products are available FOB and ready for col-

- lection by Rohde. Besides that a separate inspection of the Products on collection by Rohde or at handover of the Products to Rohde will not occur and Rohde is not under any duty to control the Products at collection or handover, or in any other case prior to receipt of the Products in Schwalmstadt, for any transportation damages, the completeness of the Products or with respect to any other defects that might or might not be visible. An inspection of the Products by Rohde will be carried out upon receipt of the Products at the business address of Rohde in Schwalmstadt.
- 8.3 The Supplier will inform Rohde at least three (3) business days prior to the Products being ready for collection and prior to notification of the delivery FOB. After receipt of such notice Rohde shall be entitled to quality control the Products – as far as applicable – at the business of the Supplier at any time. The Supplier is not entitled to notify Rohde of the delivery and availability for collection of the Products and Rohde can reject the Products prior to any quality control of the Products by Rohde.
- 8.4 Rohde only authorises the delivery of the Products, i.e. the notification of the readiness of the Products, if the quality control of the Products confirms that the Products meet the requirements of the control procedure. In case Rohde does not approve of the Products, the Supplier shall be obliged to eliminate any defects or produce new Products. Any further rights of Rohde due to a case of default or a defective delivery, in particular the right to withdraw, to claim for contractual penalties and claims for damages shall be preserved.
- 8.5 Rohde bears the cost for the initial quality control. Supplier shall bear all additional costs for further quality controls, including travel and other expenses, in case the initial quality check has been unsuccessful in regards to an order, e.g. because Rohde has not approved of the Products due to defects.
- 8.6 The quality control shall only check compliance with applicable quality control requirements but shall not constitute any acceptance of the Products or confirmation that the Products are free from defects, including visible defects. The quality control does not affect any warranty claims Rohde may have with respect to defect Products and does not relieve the Supplier from his duty of punctually delivering Products that are free from defects and comply with the agreed specifications.
9. Acceptance and Warranty
- 9.1 Rohde will not conduct a delivery control of the Products when collecting the Products and will only randomly inspect the Products for defects when receiving them at Rohde Schwalmstadt. Rohde will provide notice of defects after discovery of defects in the Products, for visible defects with respect to the whole delivery of the

Products generally within ten (10) business days upon receipt at Rohde in Schwalmstadt. The Supplier will waive its right of the defense of late notification.

- 9.2 In particular, the Products are also defective if they do not entirely correspond to the respective confirmation samples or if they – due to other reasons – are not entirely suitable for resale or where applicable for further processing into shoes for consumers and their resale worldwide, e.g. if – by doing so – any third party rights are infringed or legal requirements may not be complied with. Variations in quantity also constitute a defect.
- 9.3 The statutory provisions apply for defects to quality and title insofar nothing else has been determined herein. In case of defects, the Supplier must re-deliver new non-defective Products unless Rohde requests the defective Products to be repaired. If the Supplier fails to re-deliver Products that are free of defects within a reasonable time period, unless such period is legally superfluous, Rohde can, at its discretion, rescind the contract, demand a discount for the defect Products, put the Products back into order, i.e. remedy the defects, on the expense of the Supplier or purchase new Products to cover up the defective Products if this is necessary to ensure the operational safety, to prevent damage or to maintain the timely delivery to own customers of Rohde. The Supplier shall bear all direct or indirect expenses and damages resulting from defects in the Products. The scope of the liability extends to the expenses for an inspection of the Products beyond the usual scope or a comprehensive inspection in the following chain of customers.
- 9.4 In case of defects of individual Products of an order or delivery as well as for staples or nails found in individual Products, Rohde, in its own discretion, shall be entitled to reject an entire order or delivery and conduct further examination and checks of the Products or return the Products to the Supplier for further investigations. Further investigations of the order and delivery will be at the expenses of the Supplier and the Supplier will reimburse Rohde for all costs and damages incurred in this respect. The Supplier will, without undue delay and after further investigation of the defective Products, deliver a replacement for the defective Products.
- 9.5 The Supplier will bear the costs resulting from a supply of defective Products especially the costs for returning the defective Products. In addition, the Supplier will pay a service charge of EUR 0.50 per Good (i.e. a pair of Products) and a minimum of EUR 100.00 per return, a maximum of 5% from the value of the Products.
- 9.6 If the remediation fails within a reasonable time period, as a general rule two (2) weeks, Rohde shall be entitled to either insist on the delivery of the Products or rescind the contract.
- 9.7 Statutory limitation periods apply. A written notice of defects shall suspend the limitation period and the period shall start again for any replacement Products. The

- limitation period for remedies for defected Products, shall occur no earlier than two (2) months after the claims of customers/consumers have been fulfilled. The suspension periods shall end no later than five (5) years after the delivery to Rohde.
- 9.8 Rohde can demand the immediate refund of any (pre-)payments made for orders and deliveries of defective Products and where Rohde has rejected, withdrawn or cancelled related deliveries and/or orders due to the same reason and Rohde is entitled to charge these against bills for other orders.
10. Product Liability and Reach
- 10.1 The Supplier indemnifies and holds harmless Rohde from all claims by third parties in connection with product liability and defect of Products, provided that the damage has been caused by a defect or failure of the Products delivered by the Supplier. In case Rohde is obliged to recall Products from third parties due to a defect in the Products and if Rohde or its customers take actions in order to prevent loss or mitigate any loss in connection with the warranty, the Supplier shall bear the relevant costs and damages.
- 10.2 The Supplier is obliged to maintain adequate product liability insurance including a complete insurance cover for recalls with a minimum cover of EUR 10 million for property damage and personal injury. Supplier must submit to Rohde upon request a proof of the relevant insurance coverage.
- 10.3 The Products must meet the requirements of the EU Regulation EC 1907/2006 (REACH) and all other legal requirements in such a way that the Products may not contain any substances which by means of resale, further processing or by placing on the market as consumer goods establish information obligations or any other obligations of Rhode vis-à-vis its customers or consumers with respect to any substances in the Products. The Supplier must provide without being requested to do so all information required in the REACH Regulation or otherwise needed by Rohde. The Supplier must send the original copy of the REACH-Declaration in Annex 6 Reach signed to Rohde before the start of production. Further, the Supplier obliges himself to continuous observation of (i) the Registry of current Substances of Very High Concern (SVHCs) intentions, which is maintained by the European Chemicals Agency (ECHA) (<http://echa.europa.eu/web/guest/registry-of-current-svhc-intentions>), (ii) the Candidate List pursuant Art. 59 REACH Regulation (<http://echa.europa.eu/web/guest/candidate-list-table>), (iii) the Registry of current Restriction proposal intentions (<http://echa.europa.eu/web/guest/registry-of-current-restriction-proposal-intentions>), and (iv) Annex XVII of the REACH Regulation (<http://echa.europa.eu/web/guest/addressing-chemicals-of-concern/restrictions/list-of-restrictions/list-of-restrictions-table>). As soon as a substance, which is contained in the Products or which was contained in Products supplied by the Supplier to Rohde in the past, is included in one of the aforementioned lists (i) to (iv), the Sup-

plier is obliged to inform Rohde thereof in writing and without undue delay. In this case, Rohde is entitled to refuse all further deliveries of such Products which contain one or more substance(s) included in the aforementioned lists (i) to (iv). In such case, Rohde shall be entitled to reject further deliveries of such Products containing one or more substances included in any of the abovementioned lists (i) to (iv) and shall be entitled to furthermore cancel the respective orders and hand back respective Products already received and withdraw from the respective purchase contracts.

## 11. Loan Objects

- 11.1 All forms, models, samples, drawings, sketches, tools, machinery as well as any related documents and information made available to the Supplier by Rohde for the orders and the production of Products ("Loan Objects") shall remain the sole property of Rohde unless Rohde has under a written contract sold to the Supplier specifically listed Loan Objects. The Supplier may only use the Loan Objects for orders and for the production of orders from Rohde. The Supplier shall not be entitled to make available the Loan Objects to third parties or use them for purposes other than those agreed in connection with the provision of the Loan Objects or reproduce the Loan Objects without prior consent from Rohde. The Loan Objects and supporting documents must not be made available to third parties unless it is for the production of Products ordered by Rohde and Rohde has expressly agreed to it.
- 11.2 The Supplier has no right of retention in regards to the Loan Objects and has to return them to Rohde immediately upon request.
- 11.3 The Supplier shall keep the Loan Objects in order and with the care of a reasonable businessman and shall handle them carefully. The Supplier must comply with the applicable terms of use for the safe handling of such Loan Objects and comply with regulations regarding the prevention of any accidents. The Supplier must refrain from all acts that could lead to a complete damage or loss of the Loan Objects.
- 11.4 The Supplier is under a duty to make known to third parties that it is keeping the Loan Objects on behalf of Rohde and that Rohde is the real owner of such Loan Objects. Supplier shall keep the Loan Objects separately from other equipment so that they are protected from unauthorised access by third parties. By a seizure of the Loan Objects or by other actions of third parties affecting the ownership in the Loan Objects, the Supplier must, without undue delay, notify Rohde and must do everything necessary to protect the rights of Rohde. The same applies to threatening actions. Costs arising from measures to prevent such acts shall be borne by the Supplier or the Supplier shall fully reimburse such costs to Rohde.

12. Intellectual Property Rights
- 12.1 The Supplier guarantees that in connection with the Products and their delivery to Rohde and Rohde's subsequent delivery to its costumers (also after processing of the Products) no rights of third parties will be violated.
- 12.2 The Supplier holds harmless Rohde from any claims that third parties might have against Rohde arising out of or in connection with any breach of their rights in connection with the Products (also after processing of the Products) and indemnifies Rohde for all expenses and damages that occur in connection with the claim of such third party regardless of whether the Supplier is liable for the claim or circumstances of the claim.
13. Further Duties of the Supplier
- 13.1 The Supplier shall comply with Rohde's code of conduct (Social Code of Conduct) provided in Annex 7 SCoC.
- 13.2 The Supplier is prohibited from accepting or making any payments, gifts or other tangible or intangible benefits in relation to a transaction with or in connection with Rohde and potential transactions or business relationships with Rohde, in particular any commission, agent, broker or consultant payments or other similar payments. Furthermore, the Supplier is prohibited from promising or making any such payments or benefits to Rohde's employees, representatives, agents, sales representatives or other third parties.
- 13.3 This does not apply to gifts or other benefits that bear a minimal value or have the approval of at least two (2) members of senior management of Rohde, i.e. the Director of Sales and Managing Director of Rohde.
- 13.4 The Supplier is prohibited from agreeing or promising any anticompetitive measures and collusion with competitors or business partners of Rohde or own competitors or business partners, in particular regarding price fixing, conditions, collusion, fees and charges (vertical or horizontal anticompetitive measures).
- 13.5 For each violation (excluding the continuation of defense) against the provisions in Secs. 13.1 to 13.4 a contractual penalty of EUR 25.000 shall be payable to Rohde. Civil and criminal claims of Rohde or a third party against the Supplier will remain unaffected.
- 13.6 The Supplier agrees to provide, at the least once in a season or on request by Rohde, a written confirmation of the compliance with the principles and the obligations defined in this Sec. 13, signed by the Supplier. A form of such confirmation is

attached as Annex 8 Verhaltensanforderungsbestätigung – Conduct of Business Compliance Confirmation.

- 13.7 At the end of a season, the Supplier must make available to Rohde a list of gifts and other benefits that it has given to customers or employees of Rohde listing the gifts, values as well as the person that has received the gift.
14. Cancellation and Force Majeure
- 14.1 Rohde shall be entitled to cancel any order or contract that has not been delivered yet, in whole or in part or to rescind the contract if the awaited delivery is withdrawn or cancelled by a customer of Rohde. In case of a cancellation of an order due to default of Rohde, Rohde will accept and purchase any finished Products, provided that such Products have been produced after placement of the order and with respect to such order. In case of incomplete Products Rohde has a choice of either reimbursing the costs for production (material plus labour costs) or to request from the Supplier the completion and delivery of the Products. Materials acquired by the Supplier for the production of Products will only be indemnified by Rohde if the Supplier can prove that it only acquired the Products after an order had been placed, relying on such order, and that the materials cannot be used for any other orders of Rohde or third parties. Any other circumstances will not lead to a refund, i.e. when materials have been already in stock or ordered prior to the order, other expenses or purchases of Products that had ready been purchased or produced before any order had been made.
- 14.2 If the Supplier breaches its duties under these General Terms and Conditions and fails to rectify such breach within a reasonable time period, usually no more than two (2) weeks, Rohde is permitted to cancel all incomplete and unfulfilled orders. Other rights and claims remain unaffected.
- 14.3 If an event occurs that is outside the reasonable scope of handling and responsibility of the respective party such as illegal strikes, riots, unrests, fires, floods, storms, explosions, acts of God, war, terrorism or earthquakes ("Force Majeure") and is likely to cause the affected party to fail to fulfill its obligations in full or in time, the affected party must immediately, in writing, notify the other party of such circumstances i.e. the nature of the event and the likely implications it will have on the contractual obligations in particular to the provisions of services and fulfillment of contractual obligations, and the anticipated duration of the unforeseen event. The affected party will be set free from fulfilling its contractual obligations during the duration of the unforeseen event as long as the party has fulfilled its duty to notify the other party. The hindered party that is unable to fulfill its contractual obligations will make every effort to minimize the impact of the unforeseen event on the contractual obligations, in particular the timely delivery of the Products, and to limit the impact as much as possible or to provide the affected services by other means.

- 14.4 In the case of (1) a Force Majeure and related inability to deliver and perform its obligations for a period of more than twenty (20) days, (2) the opening of insolvency proceedings, (3) the refusal of such insolvency proceedings due to lack of assets, or (4) the initiation of similar proceedings for the dissolution and termination of the Supplier, Rohde shall be entitled to terminate all unfulfilled orders. The Supplier will support Rohde to find a replacement supplier and to relocate the production to the new supplier as soon as possible, including any licensing of potential intellectual property rights with respect to the Products or the production in accordance with market standards.
15. Confidentiality
- 15.1 The Supplier is obliged to keep confidential all orders and the information and documents provided for the purposes of the orders in accordance with the non-disclosure and confidentiality agreement as provided in Annex 9 Geheimhaltung - Confidentiality.
16. General Provisions
- 16.1 All notices and statements conveyed by Rohde or Supplier under these General Terms and Conditions of Purchase must be in text even if this is not expressly agreed. This shall also apply to an agreement on different or additional terms and conditions. The contact persons for any messages and declarations under these General Terms and Conditions of Purchase are listed in Annex 10 Ansprechpartner – Contact Persons.
- 16.2 The Supplier has the right to employ subcontractors for the fulfillment of its obligations to Rohde after obtaining the written consent of Rohde. The Supplier will make known the subcontractor by name and after an approval by Rohde ensure that the subcontractor will be obligated to the same standards as the Supplier under these General Terms and Conditions of Purchase and will put forward all obligations as defined under these General Terms and Conditions of Purchase. In particular, the Supplier shall ensure that Rohde gains access to the production sites of the subcontractor and that Rohde is able to carry out controls as defined in these General Terms and Conditions of Purchase.
- 16.3 The Supplier is not entitled to assign contractual claims against Rohde to third parties. The Supplier has no retention right with respect to any or all claims from Rohde, unless the Supplier's counterclaim is undisputed or legally binding.
- 16.4 If any of the conditions set out herein are or become invalid, this shall not render the other remaining provisions of these terms and conditions invalid. The Parties shall replace the invalid provision with a valid provision that corresponds to the economic intention of the invalid provision.

- 16.5 Exclusive jurisdiction is Schwalmstadt.
- 16.6 The law of the Federal Republic of Germany excluding the UN Sales Convention (CISG) shall apply to the contractual relationship between Rohde and the Supplier.