

1. General – Scope of Application

Our deliveries, services and offers are made exclusively on the basis of these Terms and Conditions of Supply (“T&C”). We do not recognise any terms and conditions of the customer which contradict or deviate from our T&C unless we have expressly agreed to their validity in writing. Our T&C shall also apply if we deliver to the customer without any reservations although we are aware of customer’s terms and conditions which contradict or deviate from our T&C.

2. Offers – Offer Documents – Conclusion of Contract

- 2.1. Our offers are made without engagement, are not binding and are subject to prior sale unless they are explicitly specified as binding. The order of the goods by the customer shall be viewed as a binding offer to contract. Unless otherwise stated in the order, we are entitled to accept this offer to contract within 2 weeks of receipt.
- 2.2. The documents supplied by the customer (specifications, drawings, samples, models or similar) are considered by us as true and binding; the customer is liable for the correctness of their content, technical feasibility and completeness, which we are not obliged to check and / or verify.
- 2.3. If there is any conflict or inconsistency between the parts constituting the contract the parts will rank in the following order: (i) our order acceptance; (ii) any other document attached or referred to in our order acceptance; (iii) these T&C; (iv) any other document attached or referred to in these T&C; (v) our offer ; (vi) any other document attached or referred to in our offer; and (vii) the order.

3. Delivery and Risk

- 3.1. Unless explicitly agreed otherwise, the indicated delivery times are approximate only. The period for delivery only starts to run when all details of the order execution have been clarified and both parties have mutually agreed on these terms and conditions of the order. Any agreed delivery dates will be postponed accordingly.
- 3.2. Unless indicated otherwise in our order acceptance, delivery and passing of risk is deemed to have been agreed Ex Works (pursuant to Incoterms 2020 or in their respective version valid in time). Place of delivery and place of performance is our works as stated in our order acceptance.
- 3.3. Delivery may be made in one or more instalments and at different times if these are reasonably acceptable to the customer under consideration of the customer’s interests.
- 3.4. If the customer is in default of acceptance or if the delivery is delayed for reasons which are attributable to the customer, we will be entitled to claim compensation of the damage incurred as a result thereof, including additional expenses, if any. In these cases, we will store the goods at the customer’s risk and invoice the customer for such storage.
- 3.5. If we are prevented from keeping agreed delivery dates as a result of Force Majeure, we are obliged to inform the other party without undue delay. Force Majeure shall be any event or circumstance beyond our control and shall include but not be limited to any shortage of electricity or water, lack of production, capacity or raw materials, labour disputes, fires, floods, epidemics or pandemics, acts of God or public enemy, governmental action, transport bottlenecks or hindrances, breakdowns in machinery or other disruptions in the flow of operations either at our premises or those of our sub-suppliers or subcontractors for which we are not responsible and which can be proved to have a significant impact, non-performance or failure by any bank in relation to sending or receiving money under the contract due to trade or compliance restrictions, trade sanctions or embargoes (including new, expanded or changed in scope) and restrictions or provisions by any government or any semi-governmental authorities or any new circumstance, act or omission of a customer or a third party that would or is likely to result in Sandvik being in breach (or in the reasonable opinion of Sandvik is likely to become in breach) of any law (including extraterritorial laws), any financing arrangements, including any loan facilities or issued notes of Sandvik AB (publ.) or any of its affiliates. In such cases we are entitled to extend the delivery period by the period of the event of force majeure or the disruption if we have informed the customer pursuant to the above information obligation. If delivery becomes impossible as a result thereof, our obligation to supply shall become null and void to the exclusion of claims for damages. If the customer proves that subsequent performance of the contract is of no interest to him as a result of the delay, he may rescind the contract to the exclusion of any further claims. If the event of force majeure or the disruption lasts longer than three months, either party may rescind the contract as regards to that part which has not yet been performed, provided that we can only exercise this right of rescission if we have informed the customer pursuant to the above information obligation and if we have not assumed the risk of procurement (“*Beschaffungsrisiko*”) or a delivery guarantee.
- 3.6. Clause 3.5 applies mutatis mutandis if and to the extent that we had entered into a transaction for our coverage with a sub-supplier before the conclusion of the contract with the customer which – if properly executed – would have enabled us to fulfil our contractual obligations, and we have been supplied by our sub-supplier incorrectly and/or belatedly with no fault on our part.
- 3.7. If, as a result of Force Majeure, there is any other consequences to the supply of the goods and services (including transport and logistics) due to circumstances outside of the service provider’s control Sandvik will provide the Customer with details of the consequences. If there is any impact, such as an increase in the price of the goods and services (including transport and logistics costs), Sandvik reserves the right to pass through such cost to the customer (acting reasonable). Any increase will be calculated in accordance with any rates in the contract, or if there are no rates, by a reasonable amount.
- 3.8. We shall be liable for damages only in accordance with Clause 12 of these T&C. The customer’s right to withdraw from the contract shall be governed by the statutory provisions.

4. Returns

- 4.1. As far as we have granted the customer the right to return spare and wear parts independent of the existence of a legal right to rescind the contract the following conditions apply to all returned goods:
 - 4.1.1. the customer has to notify us that he wishes to return the goods within 7 days from the date of delivery;
 - 4.1.2. after notification we generate a written "Return Note" instructing the customer to return the goods to a Sandvik designated warehouse;
 - 4.1.3. the customer has 14 days from the date of the Return Note but not longer than 30 days after the date of delivery for the goods to be received at the Sandvik designated warehouse;
 - 4.1.4. non-returnable items regardless of other criteria include: Gaskets; Seals; Belts; Hoses; Opened kits; Items made to order; Non-Sandvik Goods; Glass.
- 4.2. We will not accept any liability, risk or responsibility for returned goods unless there has been prior written arrangement by way of a Sandvik generated Return Note. The Return Note provides preliminary approval for return of goods. Full and final acceptance is at our sole discretion and is subject to the following conditions:
 - 4.2.1. a copy of the Return Note authorisation must accompany the goods;
 - 4.2.2. goods will be subject to a visual and technical inspection upon receipt at the designated warehouse;
 - 4.2.3. goods returned must be undamaged, returned in original packaging and re-saleable as new;
 - 4.2.4. goods must not have been fitted or otherwise used in any manner;
 - 4.2.5. goods rejected by the receiving warehouse due to non-compliance with the above conditions will be held at warehouse pending instruction from the customer;
 - 4.2.6. goods that have been rejected in accordance with Clause 4.2.5. that are not collected by the customer will be disposed of if not collected within 3 months from receipt at the Sandvik designated warehouse.
- 4.3. If the goods are returned in full compliance with the conditions in this Clause 4, the Customer receives full credit of the invoiced value.
- 4.4. Freight costs to the Sandvik designated warehouse for returned goods are the responsibility of and to the customer's account.

5. Price and Payment

- 5.1. Unless otherwise stated, our prices do not include freight, insurance, taxes, customs and/or excise levies or duties (or similar).
- 5.2. Our prices do not include value-added tax, goods and services tax, consumption tax or similar tax imposed by legislation ("VAT"). If in any jurisdiction VAT is payable by Sandvik to a tax authority in relation to the supply of the goods and/or services, an amount equal to such VAT will be calculated and charged to the customer as an additional amount. To the extent that a payment to a party under or in connection with this contract is calculated by reference to or as a specified percentage of another amount or revenue stream, that payment shall be calculated by reference to or as a specified percentage of the amount or revenue stream exclusive of VAT. Where a sale of goods is treated as not subject to VAT on the basis the customer or its freight forwarder will move the goods from one country to another country, the customer will provide to Sandvik, upon request, all transport documentation and (if applicable) customs documentation to demonstrate the cross-border movement of the goods. If the customer fails to provide such documentation or the goods were not moved cross-border, the customer will pay to Sandvik an amount equal to any VAT for which Sandvik is required to account to a tax authority together with any penalties and/or interest imposed on Sandvik by a tax authority in relation to that supply of goods.
- 5.3. We will invoice the customer upon delivery of the goods and/or services. Under the condition that delivery of the goods and/or services has been carried out, the invoice shall be due and payable without discount within 30 days for goods and within 7 days for other services.
- 5.4. The customer is not entitled to withhold payments because of counter-claims or to offset any such counter-claims unless these are acknowledged by us, are uncontested or have been determined finally and unconditionally by a court. This does not apply to counter-claims of the customer from the same contract because of defects, non-performance or incomplete performance.
- 5.5. The customer agrees that if any amount payable is not paid by the due date we shall be entitled to charge and recover interest at the rate of 9% above the base rate per year or part thereof on the amount payable overdue for the period between the due date until payment is made in full plus a lump sum in the amount of 40.00 Euro.
- 5.6. The customer agrees to indemnify and keep Sandvik indemnified against any costs incurred by Sandvik in connection with the customer's failure to pay on the due date, including but not limited to legal fees on an attorney and own client scale, including our collection charges and debt collection agency fees.

6. Retention of Title

- 6.1. Ownership in any goods sold and delivered by us to the customer shall not pass to the customer until the amount payable for the goods (plus all accrued interest (if any) payable under Clause 5) has been paid in full.
- 6.2. The customer is obliged to treat the goods subject to reservation of title carefully. He shall keep them separated from other goods so that they remain readily identifiable as our property and shall not remove, deface or obscure any identifying mark or packaging on or relating to our goods. The customer must keep the goods subject to reservation of title insured against all risks for goods of that kind from the time risk in the goods passes to the customer until the time title in the goods passes to the customer. If requested by us the customer will provide us a copy of the insurance policies. In the event of loss or damage to the goods subject to reservation of title, the customer hereby assigns to us any claims to insurance payments existing in this connection in the amount of the final invoice (including value-added tax) of our claims with respect to the object of delivery by way of additional security in advance.

- 6.3. The goods subject to reservation of title may neither be pledged to third parties nor assigned by way of security by the customer without our explicit written consent before complete payment of the secured claims. In the case of pledges or other third party intervention, the customer must notify us immediately in writing.
- 6.4. The customer shall be entitled to resell the goods delivered in the normal course of business. He herewith assigns to us, however, all claims amounting to the final invoice amount (including value-added tax) of our claims which accrue from the resale vis-à-vis his customers or third parties, irrespective of whether the goods purchased have been sold again with or without further processing. After such assignment the customer shall also remain entitled to collect this claim. Our right to collect this claim ourselves shall remain unaffected thereby. However, we undertake not to collect the claim provided that the customer is not in default of payment and, no application to initiate insolvency proceedings with regard to the customer's assets has been filed. If this is the case, however, we may demand that the customer notifies us of the claims assigned and their debtors, provides all details necessary for their collection, delivers the relevant documents and informs the debtors (third parties) of said assignment.
- 6.5. If the goods supplied subject to reservation of title are mixed or joined inseparably with other items/materials not belonging to us in such a way that they become major components of a uniform article, we shall acquire co-ownership of the new article in a ratio of the value of the goods subject to reservation of title to the other mixed or joined items/materials at the time of the joining or mixing. If joining or mixing takes place in such a way that the customer's article is to be regarded as the main item, it is already agreed here and now that the customer transfers pro-rata co-ownership to us. The customer shall keep the jointly held property thus produced in safe custody for us. Furthermore, the same shall apply to the article resulting from such joining or mixing as to the goods supplied subject to reservation of title.
- 6.6. In case of deliveries abroad, if certain measures and / or declarations by the customer are necessary to ensure the effectiveness of the above mentioned reservation of title and / or certain other rights referred to in the paragraphs above, the customer is obliged to inform us accordingly in writing or in text form and to take all necessary measures and / or make all necessary declarations without undue delay at its own expense. If the law of the country of import does not permit to retain the reservation of title to the delivered goods, the customer is obliged to provide another appropriate security to the goods delivered or provide any other equivalent collateral based on equitable discretion (s. 315 German Civil Code - BGB) at its own expense.
- 6.7. We undertake to release, at customer's request, the securities due to us if the realisable value of our securities exceeds the claims to be secured by more than 10%; we reserve the right to select of the securities to be released.

7. Warranty

- 7.1. The Sandvik Warranty applicable at the date of our order acceptance shall apply to the goods supplied by us and shall be made available to the customer at the time of the contract.
- 7.2. Besides the Standard Warranty referred to in Clause 7.1, the statutory provisions shall apply to the rights of the customer with respect to physical or legal defects (including incorrect delivery and short delivery) if nothing to the contrary is determined in the following.
- 7.3. If we have to perform a contract in accordance with drawings, specifications, specimens or figures supplied by the customer, the latter shall bear the risk of the suitability for the intended use.
- 7.4. The customer's right to warranty claims under this contract presupposes that the customer has duly discharged his obligations of inspection and notification of defects in accordance with Section 377 of the German Commercial Code (HGB). If the contractual relationship between us and the customer constitutes a contract for work and services ("*Werkvertrag*"), Section 377 of the German Commercial Code (HGB) shall be applied respectively.
- 7.5. We shall be given the opportunity to examine on site any defect complained about. In case of unauthorized modifications or improper repairs of the goods by the customer or third parties, any warranty claims for this and resulting consequences shall be excluded.
- 7.6. If the delivered goods or the work created is defective, the customer shall be entitled to the statutory rights as follows:
- (i) We are first entitled to either remedy the defect or to supply the customer goods free from defect as we so choose or in the case of a contract for work and services to produce a new work (subsequent performance (*Nacherfüllung*)), notwithstanding our statutory right to refuse to provide subsequent performance in certain scenarios. The customer must give us the necessary time and opportunity for this.
 - (ii) We are obliged to bear all expenses necessary for subsequent performance, in particular transport, labour and material costs if the complaint by the customer was justified. If the customer's complaint was unjustified, we are entitled to charge our costs. The subsequent performance does not comprise the costs of deinstallation/disassembly of the defective product nor its reinstallation/reassembly if the customer was aware of the defect upon installation/assembly or the installation/assembly was not performed properly by the customer; this also applies if the customer was unaware of the defect as a result of gross negligence unless we have fraudulently concealed the defect or have given a guarantee.
 - (iii) In the event of a replacement delivery or new production in the case of contracts for work and services, the customer must return the defective goods to us on request. We are entitled to make the subsequent performance contingent on the customer paying the price agreed for the goods delivered. The customer is entitled, however, to retain an appropriate part of the price.
 - (iv) If the subsequent performance fails, the customer is entitled to rescind the contract or to request a reduction in the agreed purchase price as he so chooses. However, there shall be no right of rescission in the case of a minor defect.
 - (v) Claims of the customer for compensation of damages or replacement of expenses only apply in accordance with the provisions in Clause 11 of these T&C,

7.7. The limitation periods are governed by Clause 12 of these T&C.

8. Intellectual Property

8.1. Sandvik (i.e. Sandvik Mining and Construction AB or any of its operating affiliated companies) is and will remain the sole owner of all Intellectual Property comprised in and/or relating to the goods and/or services and all Intellectual Property created in connection with the performance of the contract.

8.2. Subject to the full payment of the price, Sandvik grants to the customer a non-exclusive, non-transferable, non-assignable, non-sub licensable license to use Sandvik's Intellectual Property comprised in the goods, strictly limited to the extent necessary for installing, operating and maintaining the goods in accordance with manuals and use instructions supplied by Sandvik and receiving the services. No other licence is hereby granted directly or indirectly.

8.3. Nothing in this contract permits the customer to copy, reproduce, modify, adapt, alter, translate, reverse engineer, 3D copy/print or create derivative works from any goods or services or of Sandvik's Intellectual Property, in all or in part, without Sandvik's prior written consent. If the customer uses any of Sandvik's Intellectual Property in breach of the contract, Sandvik may immediately terminate or revoke such rights, in all or in part in its sole discretion.

8.4. Defined terms used in this Clause 8 shall have the following meaning:

"Intellectual Property" means including but not limited to any and all patents, copyrights, trademarks, trade dress, knowhow, trade secrets, industrial design rights, trade secrets, know-how, designs, inventions, structures and algorithms for machine learning (whether created or obtained through machine learning) and all other intellectual property rights or intellectual property (whether registered or unregistered) anywhere in the world. Intellectual Property shall also include any improvements, enhancements and derivative works based on any pre-existing Intellectual Property

9. Confidential Information

9.1. The customer agrees to only use Sandvik's Confidential Information to exercise its rights and perform its obligations under or in connection with the contract. The information remains the property of Sandvik at all times.

9.2. Each party undertakes that it shall not at any time disclose to any third party any Confidential Information except as set out in Clause 9.3 below.

9.3. Each party may disclose the other party's Confidential Information:

9.3.1. to its Affiliates and/or Representatives who need to know Confidential Information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the contract, provided that the disclosing party takes all reasonable steps to ensure that its Affiliates and/or Representatives comply with the confidentiality obligations contained in this Clause 9 as though they were a party to the contract. The disclosing party shall be responsible for its Representatives' compliance with the confidentiality obligations set out in this Clause 8; and

9.3.2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

9.4. The obligations imposed by this Clause 9 shall not apply to any Confidential Information which is (i) in the public domain other than as a result of breach of an obligation by the other party; (ii) lawfully acquired from a third party who owes no obligation of confidence in respect of the information; (iii) independently developed by the recipient or in the recipient's lawful possession prior to receipt; or (iv) required by mandatory law or by order of a judicial or governmental or regulatory authority.

9.5. Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in the contract are granted to the other party or to be implied from the contract.

9.6. Defined terms used in this Clause 9 shall have the following meaning:

"Affiliate" means any entity which is controlled by a party, which controls a party hereto or which is under common control with a party hereto. For purposes of these Terms and Conditions, "control" of an entity means the direct or indirect ownership of more than fifty per cent (50%) of the shares or interests entitled to vote for the directors of such entity or equivalent power over the management of such entity, for so long as such entitlement or power exists; **"Confidential Information"** means any information or data, in respect of a party or its Affiliates or Representatives or their respective operations, including but not limited to reports, brochures, technical documents, specifications, part-numbers, service manuals, drawings, information, interpretations, production methods, records, operations, processes, plans, product information, price lists, market opportunities and customers containing or otherwise reflecting any information that is or may be proprietary and/or includes, but is not limited to, trade secrets, concepts, know-how, designs, patent applications, inventions, software, (cross)references, processes, business plans, financial information, that a party discloses to the other party or its Affiliates or Representatives in writing, orally or otherwise; **"Representatives"** means any director, employee, officer, adviser, auditor, agent, consultant, distributor or subcontractor of a party or its Affiliate.

10. Data

10.1. The customer agrees that Sandvik may collect, store, analyse and process any Input Data and Output Data in order for Sandvik to:

10.1.1. provide the customer with the Equipment Monitoring Service (including any services in relation to or in connection thereto provided by Sandvik or its Representatives); and

10.1.2. develop Sandvik Data to use for its business purpose.

10.2. Unless otherwise agreed, the customer agrees that Sandvik may allow Sandvik Representatives (such as eg. distributors or dealers) who sell or resell goods and provide Sandvik equipment and services, permission to access and process Output Data solely for the purpose of enabling such third party to effectively conduct services to the

customer within the scope of its dealership, or such other services that the customer have or may subscribe or register for as part of the Digital Service whereby the Sandvik Distributor will provide such service. The services may include monitoring equipment hours, equipment productivity or assisting or conducting aftermarket services or similar.

- 10.3. All rights, title and interest in and relating to the Sandvik Data will be retained by Sandvik.
- 10.4. All rights, title and interests in or relating to the Input Data and Output Data will be retained by the customer to use for its own internal business purposes. Except as permitted by Sandvik in writing in advance, the customer agrees not to disclose Input Data or Output Data, in whole or in part (regardless of format), to any third party outside the customer's group of companies; provided, however, that the customer may disclose such information to third party service providers (to the extent necessary for such service provider to be able to provide service of the goods to the customer) having signed reasonable confidentiality undertakings with the service provider. During the term of the Equipment Monitoring Service, Sandvik shall, upon the customer's written request provide a copy of any customer-specific Input Data and/or Output Data stored by Sandvik from time to time. The customer will not install any third party hardware or software in or onto the goods, nor connect it to any third party computer or automation system without the prior written consent from Sandvik.
- 10.5. Sandvik shall apply the same security and confidentiality standards to the Input Data and Output Data as it applies to its own commercially sensitive data.
- 10.6. The Equipment Monitoring Service is a service provided by Sandvik based on Input Data sent by customer to Sandvik. If and to the extent Input Data and/or Output Data contains any Personal Data, both parties agree to comply with all applicable requirements of the Data Protection Legislation. For the purposes of the Data Protection Legislation, the customer is the data controller and Sandvik is the data processor for such Personal Data. For the avoidance of doubt, the customer is solely responsible to ensure that it has provided all necessary notices to relevant data subjects and, if deemed necessary by the customer, that appropriate consents have been obtained to enable the lawful transfer and processing of Input Data and/or Output Data by Sandvik and its subcontractors as described in the contract. The customer hereby agrees that Sandvik, at its discretion, may engage any subcontractor inside or outside the EU/EEA as a sub-processor for the processing of Personal Data hereunder; provided that Sandvik shall remain responsible in relation to customer for the acts and omissions of such subcontractor.
- 10.7. The customer acknowledges that the Equipment Monitoring Service is based on Input Data sent to Sandvik. Sandvik cannot guarantee that the Equipment Monitoring Service completely reflects the factual condition of the Connected Equipment and it is the customer's sole responsibility to review the information in relation to the Equipment Monitoring Service and confirm the actual condition of the Connected Equipment accordingly.
- 10.8. Sandvik warrants any hardware and Service in accordance with the contract and otherwise in accordance with the Sandvik Warranty. Sandvik makes no separate representation or warranty or statement concerning the Equipment Monitoring Service or Software, its use, performance, results obtained, integration, satisfactory quality, suitability for any customer requirements or given or intended purpose or situation, or information technology systems or its virus-free, error free or uninterrupted operation, or that the Equipment Monitoring Service or Software will not affect or disrupt any information technology systems. Sandvik does not provide any representation or warranty as to the accuracy of any Input Data and/or Output Data and makes no statement about the suitability of the Equipment Monitoring Service for a given situation. Unless otherwise agreed, Sandvik shall be under no obligation to store any customer specific data except for Input Data.
- 10.9. The Customer agrees to indemnify and keep indemnified and fully reimburse Sandvik from and against any and all actions, claims (including counterclaims), proceedings, costs (including all reasonable legal costs), losses, damages, fines, penalties (including punitive or exemplary damages) and all other liabilities resulting from any obligations, acts and/or omissions by the customer under Clause 10.6 except where and to the extent that such violation is due to Sandvik's breach of its obligations under Clause 10.6.
- 10.10. Defined terms used in this Clause 9 shall have the following meaning:

"Connected Equipment" means equipment, including goods, which have remote monitoring hardware and/or software installed, connected, and activated by Sandvik for the customer pursuant to a contract; **Data Protection Legislation** means (i) if directly applicable, the General Data Protection Regulation ((EU) 2016/679), and/or (ii) any national laws, regulations and legislation in relation to data privacy, as amended or updated from time to time; **"Equipment Monitoring Service"** means the services provided by Sandvik in connection with receiving Input Data as further detailed in the contract which may include, but is not limited to, availability to Connected Equipment data via a web managed (or similar) subscription service received following online acceptance of relevant web portal terms and conditions; **"Input Data"** means data that is generated, collected, recorded or uploaded either by, from or in connection with, the Connected Equipment, including utilization information regarding the Connected Equipment and the standard industry data SAE J1939 but excluding any data or information regarding Sandvik's equipment control systems including how to achieve functional performance; **"Output Data"** means Input Data that has been processed by Sandvik in order to provide deliverables to the customer as part of the Equipment Monitoring Service which always excludes any data or information regarding Sandvik's equipment control systems including how to achieve functional performance; **"Personal Data"** has the meaning given in the General Data Protection Regulation ((EU) 2016/679); **"Sandvik Data"** means aggregated and/or anonymous data which is created, generated, derived or produced by Sandvik based on (i) Input Data and/or Output Data, or (ii) otherwise created through the use of the Equipment Monitoring Service, such data never to contain any Personal Data.

11. Software and Computer Control Systems

- 11.1. Where the sale of any goods/services and or Connected Equipment comprises also software or systems ("Software") the customer is granted, during the term of a contract, a non-exclusive, non-transferable, non- sublicensable, and revocable right to use the relevant Software in accordance with the terms set forth in the contract, while title to and any and all rights relating to the Software shall always remain vested in Sandvik.
- 11.2. The customer must not, without the prior written consent of Sandvik, modify any Software or remove it from the goods or Connected Equipment, make copies of the relevant Software or sell, licence, transfer or otherwise dispose of or distribute the Software or use it for any other purpose to the extent necessary for installing, operating and maintaining the goods. The customer shall ensure that also its Representatives comply with this provision.
- 11.3. The customer acknowledges that the Equipment Monitoring Service is exclusively provided to the customer and cannot be assigned without Sandvik's prior written consent. The customer undertakes to notify Sandvik if the customer sells, leases, rents or otherwise assign or transfer the Connected Equipment and/or notify the new customer and/or user that the Equipment is connected.
- 11.4. Other than the Connected Equipment, the customer must have computer and network infrastructure that meets the requirements specified by Sandvik at the time of conclusion of the contract ("Minimum Technical Requirements"). The customer acknowledges and agrees that the performance of the service is dependent upon the customer's information technology equipment meeting the Minimum Technical Requirements. The customer must throughout the term of the contract ensure that its network infrastructure meets the Minimum Technical Requirements.
- 11.5. Where third party or open-source software is supplied the terms and conditions of such licence will form part of the contract and such license terms shall, unless otherwise expressly stated in the contract, apply in lieu of these T&C as regards the customer's use of such third party software. Sandvik does not warrant any third party or open source software and expressly excludes any liability for the same, including without limitation with regard to any infringement of any third party intellectual property right. Where customer has other Software and hardware, the customer's warranty rights shall be contained in the relevant enduser licence Contracts.
- 11.6. Any license granted or implied under the contract can be revoked at any time.
- 11.7. The customer will at all times indemnify Sandvik and hold harmless and defend Sandvik and its Representatives from and against all liabilities, costs and expenses suffered or incurred by any of those indemnified or a third party including, without limitation, all reasonable legal fees, arising out of or in connection with the delivery of or use of the Software by the customer, except to the extent that any liability, loss or damage is solely and directly caused by negligence of Sandvik.

12. Liability

- 12.1. Subject to the provisions in Clause 12.2, we are only liable for damages – in the case of contractual, non-contractual or other damage claims, irrespective of the legal reason, in particular due to defects, default and impossibility, culpa in contrahendo and tort – in case of wilful intent and / or gross negligence, including wilful intent and / or gross negligence on the part of our representatives or vicarious agents. In addition, we are also liable in the case of mild negligence, including mild negligence of our representatives and vicarious agents, for damages arising from the infringement of an essential contractual duty, i.e. a duty, the satisfaction of which makes the due implementation of the contract possible and which the customer can therefore usually expect to be satisfied by us (cardinal duty). If and to the extent that we are not liable for wilfully infringing a duty, the liability for damages shall, however, be restricted to the foreseeable, typical damage.
- 12.2. Claims for damages arising from injury of life, limb and health as well as claims of the customer pursuant to the German Product Liability Act as well as other mandatory statutory liability regulations shall not be affected by the liability exclusions and limitations set out in Clause 12.1. The above liability exclusions and limitations shall also not apply insofar as we have fraudulently concealed a defect or insofar as we are liable because of the assumption of a guarantee or of the risk of procurement ("*Beschaffungsrisiko*").
- 12.3. Clauses 12.1 to 12.2 shall also apply if the customer demands replacement of useless applications instead of a claim to reimbursement of the damage.
- 12.4. Insofar as our liability of damages is excluded or limited, this shall also apply with regard to personal liability for damages of our employees, representatives and vicarious agents which is based on the same legal reason.

13. Statute of limitations

- 13.1. Claims of the customer arising from any factual or legal defects shall become statute-barred within one year from delivery or from the date of final acceptance (if the contract envisages a final acceptance by the customer).
- 13.2. Mandatory provisions on the statute of limitations shall not be affected. The facilitation of limitation set out in Clause 13.1 shall therefore not apply to claims based on an injury of life, limb or health, to claims based on wilful intent and gross negligence and to claims based on an assumption of a warranty or the risk of procurement ("*Beschaffungsrisiko*"). The longer limitation periods pursuant to Section 438 (1) No. 1 of the German Civil Code (BGB) – third party rights in rem; Sections 438 (1) Nr. 2, 634a (1) No. 2 of the German Civil Code (BGB) – constructions (*Bauwerke*), construction materials and construction components as well as planning services for a construction, and Sections 438 (3), 634a (3) of the German Civil Code (BGB) – fraudulent concealment.
- 13.3. The limitation periods resulting from Clauses 13.1 and 13.2 for claims due to material and legal defects shall apply mutatis mutandis to competing contractual or non-contractual damage claims of the customer which are based on a defect to the contractual goods. If, however, in an individual case the application of the statutory limitation

rules lead to an earlier statutory limitation of the competing claims, the statutory period of limitation shall apply to the competing claims. In any case, the statutory periods of limitation pursuant to the German Product Liability Act shall not be affected.

- 13.4. Insofar as pursuant to Clauses 13.1 to 13.3 the limitation period for claims towards us is shortened, this shall apply mutatis mutandis to any claims of the customer against our statutory representatives, employees, authorised representatives and vicarious agents which are based on the same legal reason.

14. Sanctions, Export Control, End-User Assurance etc.

- 14.1. The customer certifies from the date of the contract on an ongoing basis that: it shall not use, re-export, transfer or retransfer the goods for military end-use or to a military end user; it shall not re-export, transfer or retransfer the goods to a Sanctioned Person; the goods will not be used, re-exported, transferred or retransferred for any purpose connected with chemical, biological or nuclear weapons, or missiles capable of delivering such weapons; and the goods, or any replica of them, will not be used in any nuclear explosive activity or unsafeguarded nuclear fuel cycle. The customer understands and acknowledges that Sandvik is not responsible for any goods or products that are subsequently exported or re-exported by the customer or sold to another person and/or representative, domestic or foreign. In the event of such a post-sale re-export, transfer or re-transfer of the goods, the customer is responsible for complying with all applicable Sanctions, including obtaining export licenses where required.
- 14.2. The customer shall strictly comply with, and adhere to, all applicable Sanctions. Specifically, the customer shall not, directly or indirectly, sell, provide, export, re-export, transfer, divert, loan, lease, consign, or otherwise release or dispose of any goods, equipment, product, commodities, services, software, source code, or technology received under or in connection with the contract to or via a Sanctioned Person or a Sanctioned Territory, or for military end-use or to a military end user without having obtained prior authorization from the applicable Sanctions Authority where required by applicable Sanctions. Neither party shall be required to take any action that would cause it to violate any applicable Sanctions.
- 14.3. If the customer breaches any certification, representation or undertaking described in this clause 14 or, in Sandvik's reasonable opinion any such breach is likely to occur, the parties agree that Sandvik shall not be liable toward the customer or any third party for any subsequent non-performance by Sandvik under the contract and that the customer shall indemnify and hold Sandvik harmless from any claims or losses relating to such non-performance. 14.4. Sandvik shall have the right to terminate the contract immediately without liability by notifying the customer in writing if: the customer becomes a Sanctioned Party; or the customer breaches any certification, representation or undertaking described in this Clause 14.
- 14.5. Defined terms used in this Clause 14 shall have the following meanings:
"Sanctioned Person" means any person: (a) listed on, or directly or indirectly owned or controlled by one or more persons listed on, a Sanctions List; (b) owned or controlled by, or acting on behalf of or for the benefit of, any person on a Sanctions List; (c) a government of any country that is the subject of Sanctions or an agency or instrumentality of, or a person directly or indirectly owned or controlled by, such a government; or (d) that is resident or located in, operating from, or incorporated under the laws of (as applicable) a Sanctioned Territory; "Sanctioned Territory" means Crimea, Cuba, Iran, North Korea, Syria or any other country which, after the date of the contract, becomes the target of comprehensive, country-wide or territory-wide Sanctions; "Sanctions" means any trade or economic sanctions, laws enacted, administered, imposed or enforced by any Sanctions Authority; "Sanctions Authority" means: (a) the United Nations Security Council; (b) the United States of America; (c) the United Kingdom; and (d) the European Union, including the relevant sanctions authorities of any of the foregoing; "Sanctions List" means: (a) the Consolidated United Nations Security Council Sanctions List; (b) the Specially Designated Nationals and Blocked Persons List or the Sectoral Sanctions Identification List maintained by the US Office of Foreign Assets Control; (c) the Consolidated List of Persons, Groups and Entities subject to EU Financial Sanctions; (d) the Consolidated List of Financial Sanctions Targets or List of persons subject to restrictive measures in view of Russia's actions destabilising the situation in Ukraine, maintained by the UK Treasury; or (e) any similar list maintained by, or public announcement of sanctions made by, any other Sanctions Authority.

15. Customer's Performance

If we recognize after our order acceptance that our claim for payment will be jeopardized by insufficient liquidity of the customer, we may suspend delivery or the provision of services (Section 321 of the German Civil Code) or, potentially after awarding an additional deadline, withdraw from the contract. If the order is for special items made to customer's order we will be entitled to withdraw from the contract immediately; the statutory rules on the absence of a requirement to send warning letters or set additional deadlines shall remain unaffected.

16. Customer's right of rescission / right of termination

- 16.1. The customer is only entitled to rescind the contract for a breach of duty on our part other than a defect if we can be made responsible for such breach of duty.
- 16.2. If the contract in question is a contract for work and services in which the contractor undertakes to bring about a particular result ("Werkvertrag") or a contract for work and services in which the contractor supplies the material from which non-fungible movable items are to be made ("Werklieferungsvertrag"), the right of the customer to freely terminate the contract according to Sections 651, 649 of the German Civil Code (BGB) is excluded.

17. General Provisions

- 17.1. Customer shall comply at all times with the essence of the Sandvik Code of Conduct, a copy of which is available on request, and with all applicable laws, statutes and regulations, in particular those related to anti-bribery and anticorruption including the UK Bribery Act 2010 and the US Foreign Corrupt Practices Act as amended from time to time. Failure to comply with this paragraph shall constitute a material breach which will entitle Sandvik to terminate the contract immediately.
- 17.2. Except where prohibited by law, Customer shall require its insurer (if any) to waive all rights of subrogation against Sandvik and/or its insurers.
- 17.3. Should any individual provision of these T&C or any individual provision of any other agreements be or become void or illegal, the validity of the remaining provisions or agreements shall in no way be affected.
- 17.4. The contract and any claims arising out of or in connection with its subject matter or formation shall be governed by the law of the Federal Republic of Germany without taking into consideration the UN sales law (CISG - United Nations Convention on Contracts for the International Sale of Goods).
- 17.5. Any disputes arising out of or in connection with the contract or its validity shall be finally settled in accordance with the Arbitration Rules of the German Arbitration Institute (DIS) without recourse to the ordinary courts of law. The arbitral tribunal shall be comprised of three members. The seat of the arbitration shall be Essen and its language shall be English. However, Sandvik as plaintiff reserves the right to resort to the ordinary German courts of law instead and to commence legal action in the courts of Essen or any other court which may have jurisdiction over the customer or any of its assets.