

General Terms and Conditions of Purchase

I. General

1. Unless expressly agreed otherwise, all orders of GoGaS Goch GmbH & Co. KG (hereinafter called "GoGaS") - including those placed in future - shall be governed by these Terms and Conditions.
2. Deviating (and or supplementary) general terms and conditions of business of the Supplier shall not apply unless and insofar as GoGaS has expressly declared its consent to application of them or parts of them in writing. Nor shall the placing of an order by GoGaS or the acceptance by GoGaS of an order confirmation or delivery without any reservation on GoGaS's part be understood as implying any recognition of terms and conditions which deviate from or are supplementary to these Terms and Conditions.

II. Order

1. Orders shall only be valid if placed in writing. Anything agreed orally by way of supplement to an order shall only have binding force if and insofar as it has been confirmed by GoGaS in writing. The same shall also apply to any amendments or additions made after the order has been placed.
2. If the Supplier does not accept the order within two weeks from receipt of it, GoGaS shall have the right to revoke the order without incurring any costs.

III. Delivery and Shipment

1. Times and/or dates for delivery specified in the order are firm. Authoritative for compliance with such times or dates shall be the time of arrival of the goods at GoGaS's place of business or other specified place of performance.
2. Except where GoGaS has issued express instructions relating to transport, the Supplier must always choose the means and mode of transport that is most favourable for GoGaS. Deliveries must be packed in such manner as to prevent transport damage.
3. The Supplier may supply part-deliveries or part-services only with GoGaS's prior written consent.
4. The Supplier has a duty to inform GoGaS without delay in writing if circumstances occur or appear likely to occur which will or may render it impossible for the Supplier to comply with the agreed delivery time or date.

5. If the Supplier fails to effect performance within an additional period of time allowed by GoGaS (or exceeds a time or date for delivery that has been agreed as firm), GoGaS shall have the right, without giving any further warning, to repudiate the contract and to demand compensation in lieu of performance. The additional costs incurred by GoGaS as a result of the delay and in particular through the need to purchase the goods or services elsewhere shall be borne by the Supplier.
6. Signing of a delivery note by GoGaS shall not be deemed tantamount to a recognition of the goods being in conformity with the contract. GoGaS hereby already reserves the right (despite accepting the delivery) to claim an agreed contractual penalty for non-compliant performance (§ 341 BGB [German Civil Code]).
7. If a delivery time or date that has been agreed firm or an additional period of time that has been allowed for delivery is exceeded through the Supplier's fault, GoGaS shall have the right, in addition to the rights set forth in Section III. 5 above, to claim a penalty equivalent to 5% of the order value. In the case of specified damages being claimed in lieu of performance, the aforesaid penalty shall be credited towards such damages.

IV. Execution of Delivery

1. Except for the buying-in of standard parts only, the Supplier may place subcontracts with other suppliers only with GoGaS's written consent. Call-forward notices are firm in respect of the type and quantity of the specified goods and the specified time or date for delivery.
2. Every delivery must be accompanied by a delivery note in duplicate stating the GoGaS order number, the GoGaS article number and a statement of the nature and quantity of the contents.
3. Goods should normally be delivered in standard, non-returnable packing. Where returnable packing systems are used, the Supplier shall provide the packing on loan. Return of such returnable packing systems shall be for the account and risk of the Supplier. Should GoGaS exceptionally agree in writing or other text form to assume the packing costs, the packing must be invoiced at the verifiable cost price.
4. All products must be accompanied, free of charge, by a technical description and a set of instructions for use. In the case of software products, the Supplier's delivery obligations shall not be deemed fulfilled until the complete (technical system and user) documentation has been furnished. In the case of programs created specifically for GoGaS, the program must be additionally supplied in the source format.
5. Where the Supplier supplies goods or provides work or services on GoGaS's works premises, the Supplier has a duty to comply with all notices and instructions relating to safety, security, and environmental and fire protection for visitors as well as the works regulations in the version in force at the time.

V. Transfer of Risk / Supplier's Reservation of Title

1. Regardless of the price terms agreed, the risk shall pass to GoGaS in the case of delivery without installation or assembly only on arrival at the delivery address specified by GoGaS and in the case of delivery with installation or assembly only on successful conclusion of the GoGaS acceptance

procedure. The taking into operation or use of the products shall not be deemed tantamount to a declaration of acceptance.

2. Title to the supplied goods shall pass to GoGaS on payment of the components and/or in accordance with the statutory regulations relating to installation/combination or mixing.
3. Prolonged or extended reservation of title of any kind is barred.

VI. Prices and Invoices

1. The prices are firm and binding. They shall include all expenses arising in connection with supply of the goods and work or services by the Supplier.
2. Invoices must be issued in duplicate and sent to GoGaS under separate cover; they must state the GoGaS order number and the GoGaS article number.
4. The Supplier's claim to payment will fall due 45 days after receipt of the goods and receipt of the invoice or, at GoGaS's preference, after 21 days with the deduction of 3% cash discount.
5. Payment by GoGaS shall not be deemed tantamount to any acknowledgment on the part of GoGaS of the goods being in conformity with contract.
6. In the case of defective or incomplete delivery or performance of work and services, GoGaS shall have the right, without prejudice to any other rights it may have, to withhold a reasonable amount of payments which are due under the business relationship until delivery or performance has been effected in a due and proper manner.
7. Except within the scope of application of § 345 a HGB [German Commercial Code], the assignment of money claims of the Supplier against GoGaS is barred. This shall not apply in the case of factoring, of which GoGaS must be informed.

VII. Safety, Environmental Protection

1. The Supplier's deliveries, work and services must be compliant with statutory regulations, in particular the provisions of safety and environmental protection law, including the Regulation on Hazardous Substances ("Verordnung über gefährliche Stoffe"), the German Electrical and Electronic Goods Act ("ElektroG"), REACH and RoHs, and the safety recommendations of the competent German bodies or associations, e.g. VDE, VDI, DIN, VDMA, DVGW etc. Relevant test and other such certificates and documents must be supplied together with the goods or services free of charge.
2. The Supplier has a duty to identify and comply with the latest version of regulations and laws applicable to his components and relating to restrictions on materials and substances. He has a duty not to use prohibited substances. Restricted or hazardous substances as defined in valid laws and regulations must be stated individually and with visual highlighting in the Supplier's specifications. If applicable, safety data sheets (at least in German and English) must be supplied already with offers and, in the case of initial deliveries, together with the delivery note. GoGaS must be informed immediately of any indications of non-compliance with substance restrictions or of delivery of prohibited substances.

3. In making deliveries or providing work and services, the Supplier is solely responsible for compliance with accident prevention regulations. Any safety or protective devices or any manufacturer's instructions specified by the aforesaid regulations must be supplied by the Supplier free of charge.

VIII. Import and Export Regulations, Customs

1. In the case of all deliveries and work or services supplied from an EU member state other than Germany, the Supplier's EU VAT Identification No. must be stated.
2. Imported goods must be supplied duty paid. The Supplier has a duty to furnish at his own expense all declarations and information required pursuant to Regulation (EC) No. 1207 / 2001 and similar or succeeding norms or regulations, to allow checks or inspections by the customs authorities and to provide any necessary official confirmations.
3. The Supplier has a duty to inform GoGaS in detail and in writing of any permits needed for (re-) export, in particular (but not exclusively) under German, European, US and Russian import, export and customs regulations, as well as import, export and customers regulations of the country of origin of the goods and services.

IX. Duty to Inspect and Notify of Defects, Scope of Inspection

In the case of supplies of goods which are subject to the duty to inspect and notify of defects as set forth in § 377 HGB, the period for inspecting the goods and notifying of an evident defect is 10 working days from receipt of the delivery by GoGaS. In the case of hidden defects, the notification period is 10 working days from discovery of the defect. The Supplier undertakes to waive a plea of late notice of defects as far as defects notified within the aforesaid periods are concerned.

X. Warranty/Notice of Defects

1. Where the Supplier is required to supply or provide performance in accordance with plans, drawings or other special requirements stipulated by GoGaS, conformity of the goods, work or service with the requirements is deemed expressly warranted.
2. Notwithstanding the provisions of this Section X, GoGaS shall be entitled without curtailment to the claims for defects specified by law. As remedy for the defect, GoGaS may choose either repair of the defect or – except where a duty to supply a specific item is involved – supply of a defect-free item. Defective work or services must be re-performed until defect-free.
3. Repair of a defective delivery or defective work and services shall (except where a duty to supply a specific item is involved) require the consent of GoGaS. During the time in which the goods, work or services are not in the custody of GoGaS due to undergoing remedy, the Supplier shall bear the risk.
4. If the Supplier fails to remedy the defect within an additional period or time allowed to him, GoGaS may, at its option, repudiate the contract or reduce the payment due and in either case additionally claim compensation.

5. The limitation period for claims of GoGaS for quality defects shall – except where § 438 Para. 1 No. 1 or No. 2 BGB applies – be 36 months from the transfer of risk as set forth in Section V.1. Running of the limitation shall be suspended for the period starting at the time of dispatch of the notice of defect and ending on fulfilment of the claim for defect.
6. In the case of repudiation of the contract, the Supplier shall bear the costs of removal and return freight and shall have responsibility for disposal, if disposal should be necessary, as well as the costs therefor.
7. The Supplier shall have liability for replacement deliveries and repairs in the same scope as for the original item of delivery. He shall, therefore, have liability e.g. for (but not limited to) transport, travel and labour costs. The warranty period for replacement deliveries shall begin at the earliest on the day of arrival of the replacement delivery at GoGaS's premises.
8. If the Supplier recalls goods already supplied, he shall have a duty to bear the costs therefor.

XI. Repeated Defective Performance

If, after being issued with a prior written warning, the Supplier once again supplies goods, work or services of essentially identical or like kind in defective condition or with a delay, GoGaS shall have the right to repudiate with immediate effect all contracts relating to such goods, work or services.

XII. Indemnification for Quality Defects and Defects of Title

The Supplier undertakes to indemnify GoGaS against all claims made by third parties – on any legal grounds whatsoever – against GoGaS due to a quality defect, defect of title or other fault or defect to a product supplied by the Supplier, and to refund GoGaS for the necessary costs of legal action incurred in connection therewith.

XIII. Technical Documents, Tools, Means of Production

1. Technical documents, tools, works specification sheets, means of production etc. provided by GoGaS shall remain the property of GoGaS; immediately after execution of the order, they must be returned to GoGaS unrequested, together with all duplicates made; the Supplier is therefore not entitled to assert any withholding right in respect thereof. The Supplier may use objects of the aforesaid kind for execution of the order only and may not make them available to, or allow access to them by, any unauthorized third party.
2. Duplication of the aforesaid items is only permitted to the extent necessary for execution of the order.
3. All patents, utility models, design patents, trademarks, copyright and other intellectual property rights shall remain the property of GoGaS.
4. Where the Supplier produces any of the items referred to in Section XIII.1. Sentence 1 for GoGaS partially or wholly at the expense of GoGaS, Section XIII.1. shall apply accordingly, whereby GoGaS shall have (co-) title to the items so produced proportionate to its share in the production

costs. The Supplier shall keep and preserve such items for GoGaS free of charge; GoGaS may acquire the rights of the Supplier to any such item at any time through payment for any not yet amortized expenses incurred and demand surrender of the item.

5. The Supplier has a duty to care for and maintain any such items and to remedy normal wear and tear, all without charge for GoGaS. If, in execution of an order by GoGaS, the Supplier commissions a subcontractor to produce tools and samples, the Supplier hereby already assigns to GoGaS his claims against the subcontractor to transfer of title to the tools and samples.

XIV. Supply of Materials by GoGaS

1. Materials supplied by GoGaS shall remain the property of GoGaS and must be stored by the Supplier free of charge and with the care of a prudent businessman; they must be kept segregated from the Supplier's other items and be labelled as the property of GoGaS. The materials may be used for the performance of GoGaS's order only. Damage to materials supplied by GoGaS must be remedied by the Supplier. If materials supplied by GoGaS suffer damage during transport to the Supplier or at the Supplier's place of business, the Supplier must notify GoGaS accordingly without delay in writing. If such notification is not made immediately, the Supplier shall be responsible for any delay caused by restricted utilizability of the materials supplied by GoGaS.
2. Where the Supplier processes or reconfigures the materials supplied by GoGaS, such activity shall be deemed done on GoGaS's behalf. GoGaS shall become the director owner of the new items created as a result of the aforesaid activity. If the materials supplied by GoGaS make up only part of the new items, GoGaS shall have co-title to the new items in proportion to the value of the materials contained in them and supplied by GoGaS.

XV. Non-disclosure

1. The Supplier undertakes to treat all commercial and technical details which come to his knowledge through the business relationship and which are not in the public domain as business secrets.
2. Production for third parties and the display of products made specially for GoGaS and in particular in accordance with our plans, drawings or other special requirements; publications relating to the orders and goods, work or services supplied; and references to this order made towards third parties are only permitted with the prior written consent of GoGaS.
3. The Supplier may advertise the business relationship existing with GoGaS only with the latter's prior written consent.

XVI. Offset/Assignment

1. GoGaS is entitled to exercise rights of offset and withholding within the scope provided for by law.
2. The Supplier is not entitled to assign or otherwise transfer to third parties claims arising from and in connection with the individual deliveries except within the scope of application of § 354 a HGB. This shall not apply to factoring of the customer's pecuniary claims; GoGaS must, however, be informed of any such factoring.

3. The Supplier is entitled to make offset only with claims which are undisputed or have been finally and absolutely established at law.
4. The Supplier is entitled to exercise a withholding right only on account of his own claims which are undisputed or have been established by a court of law.

XVII. Intellectual Property Rights of Third Parties/Data Protection

1. The Supplier warrants that no rights of third parties stand in the way of use of the delivered goods for their intended purpose and in particular that such use will not infringe the intellectual property rights of any third party. Should claims nevertheless be asserted against GoGaS for possible infringement of the rights of third parties (e.g. copyright, patent and other such proprietary rights), the Supplier undertakes to indemnify GoGaS against all such claims and against any performance obligation arising in connection therewith.
2. The Supplier hereby declares his irrevocable consent to personal data provided by him being processed for purposes of the order in compliance with the statutory regulations.

XVIII. Product Damage

Should any claims be made against GoGaS by a customer or other third party on grounds of product liability, the Supplier undertakes to indemnify GoGaS against any such claims and any payment obligations arising in connection therewith if and insofar as the damage has been caused by a fault in the product supplied by the Supplier.

XIX. Place of Performance, Applicable Law and Legal Venue, Severance Clause

1. The place of performance shall be the place which is specified in the contract as the place to which the goods are to be delivered.
2. Where the Supplier is a registered trader, a legal entity organized under public law or a separate asset fund organized under public law, the exclusive legal venue shall be the courts of law having jurisdiction for GoGaS's place of business. GoGaS shall, however, also have the right to sue the Supplier at the latter's place of business or at the place of performance.
3. German law shall apply. Application of the UN Convention on Contracts for the International Sale of Goods as well as the conflict of laws rules of international private law, especially the Rome I Regulation, is barred.
4. Should any of the provisions of these Terms and Conditions be or become invalid or impracticable, all other provisions and the contract as a whole shall remain in full force and effect. The parties hereto shall have a duty to replace the invalid or impracticable provision by one which takes account of the respective interests of the parties and as nearly as possible achieves the economic outcome intended by the invalid provision. The same shall also apply correspondingly to any gaps which may be found in these Terms and Conditions.