

Conditions of Purchase

| | |
|---|---|
| § 1 General Terms –Scope | 1 |
| § 2 Offer – Offer documents | 1 |
| § 3 Prices- Payment terms | 2 |
| § 4 Partial Deliveries – Delivery time – Scope of delivery | 2 |
| § 5 Passing of risk - Documents | 3 |
| § 6 Proofs of origin - proofs under value added tax law - export restrictions | 3 |
| § 7 Inspection of defects - Liability for defects - Safety regulations | 3 |
| § 8 Impediments to performance - Limitation of actions - Legal position of subcontractors | 4 |
| § 9 Product Liability Right of Indemnity Liability Insurance Protection..... | 4 |
| § 10 Trade mark rights | 5 |
| § 11 Use of brand names | 5 |
| § 12 Reservation of title – Provision – Tools – Secrecy | 5 |
| § 13 Invoicing..... | 6 |
| § 14 Security – Assignment – Transfer of contract – Change of company´s name | 6 |
| § 15 Offset and retentions | 6 |
| § 16 Vis Major..... | 6 |
| § 17 Contractual language – Applicable law – Place of jurisdiction –Place of performance | 6 |
| § 18 Privacy..... | 7 |
| § 19 Prohibition of child labour | 7 |
| § 20 Severability Clause..... | 7 |

§ 1

General Terms –Scope

- (1) Our Terms and Conditions of Purchase shall apply exclusively; conflicting or deviating terms and conditions of the supplier will not be accepted, unless we have expressly approved of their validity in written form. Our Terms and Conditions of Purchase shall also apply in case we accept the delivery of the Supplier without reservation in spite of being aware of the Supplier's conflicting or deviating terms and conditions.
- (2) Our Terms and Conditions of Purchase shall also apply to all future business transactions with the supplier.
- (3) Additionally, the BARSP 13-01 standard for surface finish, BARSP 13-02 standard for surface treatment and BARSP 13-03 standard for logistic shall apply.
- (4) Agreements between us and the supplier for the purpose of performance of a deviating agreement are valid only if specified in writing in this agreement.
- (5) Our Terms and Conditions of Purchase apply only subsidiary to General Agreements, which are closed between Gotec and the supplier. This applies particularly to quality assurance agreements.
- (6) Our Terms and Conditions of Purchase shall only apply towards companies in accordance with § 310 clause 4 BGB (German Civil Code).

§ 2

Offer – Offer documents

- (1) The supplier shall be obligated to accept our order within two weeks from receipt thereof by the supplier.
- (2) Deliveries without a written order will not be accepted. In general, we do not send an order confirmation. Only if there are changes in the amount, the price or the date of delivery, an order confirmation will be send with the correct data. We reserve the right to adopt these amendments.
- (3) We reserve the property and copyright titles in all illustrations, drawings, calculations and other documents. The supplier must not disclose them to third parties without our explicit written consent. He may use them only for production according to our order. After completion of our order, he has to

return all such documents to us without having to be reminded. He has to keep all such documents secret from third parties. In addition, § 9 Abs. 4 shall apply. The documents shall not be reproduced or copied in any kind. The documents have to be treated and stored with care and have to be returned completely and cost-free immediately after completion of the order.

- (4) Subcontractors are to be obliged according to the contract.
- (5) We shall be entitled to demand the making available free of charge and without delay of all templates (e.g. models, tools) and documents used by the seller for executing the order. Ownership shall pass to us after full payment of the templates and documents. We shall be entitled, without any special permission, to pass those templates and documents to any outside company in case the supplier is behind schedule or in default if this is necessary to fulfil the contract, for later modifications and for the production of follow-up jobs. If necessary, the supplier has to pass all information that are important to fulfil the contract.

§ 3

Prices- Payment terms

- (1) The agreed prices are fixed prices and shall include labelling, packaging and freight costs to our place of use, plus the statutory value-added tax prevailing at the time. If a price is agreed ex works or ex storage, we only bear the freight costs we agreed to. The supplier shall bear all costs up to the point of delivery to the carrier including loading, but excluding transport cost. The method of pricing shall be without prejudice to the parties' agreement as to the place of performance.
- (2) We can only process invoices if they include the order number indicated on the order. The supplier shall be responsible for all consequences arising from his failure to meet this obligation, unless he can prove that he is not responsible for this failure.
- (3) Unless otherwise agreed in writing, we will pay the purchase price with 3% discount within thirteen (30) days of delivery and receipt of invoice or net within ninety (90) days of receipt of invoice..
- (4) We are entitled to legally defined rights of setting off and withholding.

§ 4

Partial Deliveries – Delivery time – Scope of delivery

- (1) Partial deliveries are never permitted unless we have expressly approved them. In case of under deliveries of 5% at the highest, the missing parts are considered to be cancelled. We reserve the right to return over-deliveries at the expense of the supplier. The purchaser reserves the right to accept over or short deliveries.
- (2) The delivery time stated in our order is binding. The supplier commits himself to comply the agreed delivery time.
- (3) As soon as the supplier becomes aware of difficulties with regard to the production, provision of primary material, keeping of appointments or similar circumstances that could prevent him from making a delivery in accordance with the appointment or from delivering in the agreed quality, the supplier must inform us without delay.
- (4) If agreed delivery dates are not kept, the legal regulations apply in principle. We shall especially be entitled to claim damages instead of the performance and to cancel the contract after a reasonable time has expired unsuccessfully. Should we claim damages, the supplier shall be entitled to prove that he is not responsible for the breach of duty.
- (5) If agreed delivery dates are not kept, we have a claim to repayment of all additional costs which arise for us as the result of delays.
- (6) The acceptance without reservation of the delayed delivery or service does not include a renunciation of the claims to compensation to which the purchaser is entitled on account of the delayed delivery or service. In cases of repeating difficulties in meeting the deadlines we shall be entitled to withdraw from the contract even if the supplier is not responsible for the delay.
- (7) In the event of a delay in delivery we shall further be entitled to demand flat-rate damages due to delay in the amount of 0,5 % of the delivery value per completed week, however, not more than 5 %. The supplier shall be entitled to prove that no damages or significantly lower damages were incurred due to the delay. We are able to claim flat-rate damages until finally invoicing even if we did not reserve the right expressly in cases of belated deliveries. Claims for further compensation remain unaffected
- (8) Deliveries which are made before the agreed date require our explicit agreement. We are entitled to send back deliveries which are made before the agreed date at the risk and the expense of the supplier or to value the invoice.

- (9) If the packing remains the property of the supplier, he shall take it back at his own cost.
- (10) In any case, the risks of carriage shall be borne by the supplier.
- (11) The supplier has to care about our shipping interests. We are not obliged to process truckloads before the delivery documents have arrived
- (12) The delivery ensues exclusively by our separate purchasing conditions, transport and packing regulations for suppliers. The purchasing conditions, transport and packing regulations in the currently valid version are part of the general terms and conditions of purchase.

§ 5

Passing of risk - Documents

- (1) If no other written arrangement is made, the shipment is to be free domicile..
- (2) The supplier is responsible for all dispatch and transport risks, up to a proper receipt of the goods at our factory or at an unloading location indicated by us. The risk of loss for any products or items passes to us at the point of delivery to the location indicated by us.
- (3) The supplier is obliged to state our order number on all shipping documents and delivery notes. If he fails to fulfil this obligation, delays in handling will be unavoidable, and we shall not be liable for such delays.

§ 6

Proofs of origin - proofs under value added tax law - export restrictions

- (1) Proofs of origin requested by GOTEC will be provided by the supplier with all the necessary information and made available properly signed without delay. This applies correspondingly to proofs under value added tax law in the case of foreign and intra-Community supplies. In case of non-observance of this obligation, the supplier shall be liable for any further damage resulting from this non-observance. This includes additional demands of import duties, fines and anything like that.
- (2) The supplier will inform the purchaser without delay if a delivery is wholly or partly subject to export restrictions according to German or other law.

§ 7

Inspection of defects - Liability for defects - Safety regulations

- (1) At the time of passing of the risk, all services and products provided by the seller must meet the quality characteristics specified in our order, must be suitable for the period of use usual for such operations without any restrictions and must fulfil the contractual purpose or, if such purpose is not defined, be suitable for the ordinary application.
- (2) We shall be obligated to inspect the goods within an appropriate period with respect to any deviations in quality and quantity; any notice of defect shall be considered given in time if received by the supplier within two weeks as of receipt of the goods or, in the event of hidden defects, as of discovery. The date of the incoming goods is decisive even if the goods are taken in custody earlier or if ownership has passed already to us, to the carrier or to any third party commissioned by us.
- (3) The Supplier does hereby guarantee that the goods delivered will not manifest any defects that compromise their use or operation, and that they will have the properties stipulated in the agreement or assured by the Supplier, for a period of one year after the initial operation or use, for two years at the highest after passing of risk, and if applicable, also after the correction of any reported defects, even if the defect was not reported on time.. The liability conforms to statutory provisions.
- (4) We shall be entitled to all claims due to defects permitted by law; we shall in any case be entitled to demand of the supplier remedy of defects or delivery of replacement goods at our discretion. We expressly reserve the right to claim damages, in particular damages in lieu of performance.
- (5) In case of imminent danger or particular urgency, we shall be entitled to remedy the defect ourselves at the expense of the supplier.
- (6) In the event of material defects, notwithstanding the statutory claims, we shall have the right to remedy those defects ourselves and to claim advance money even in case of purchase contracts and contracts for work and materials, after expiry without results of a deadline fixed for subsequent fulfilment according to § 637 BGB (German Civil Code). If we are entitled to withdrawal because of contractual or legal requirements in cases of failure to perform or failure to perform properly, it may be limited to this part

while maintaining the rest of the contract if the non-compliance or poor compliance is limited to a definable part of the service.

After exercising the right to terminate due to seller's failure to provide the services or to provide the services properly and in case of claims for damages instead of the services, we shall be entitled to claim advance money to a reasonable amount, to cover the cost to be expected, plus an extra security charge of 50 per cent (%) if an order for the service or the remaining service must be placed with another party, notwithstanding the legal rights. In this case, we shall be obliged to request several proposals only if this does not result or threat to result in considerable time delays or disturbance of the operational, production or business procedures. We will invoice services rendered for own account at market prices usual with third parties.

- (7) The period of limitation shall be 36 months as of the passing of risk.
- (8) The supplier shall take account of the acknowledged rules of technology, the respective valid statutory and official regulations and the purchaser's company rules and regulations. (esp. DIN, VDE, VDI, DVGW). The products have to consider to the above mentioned rules and regulations on the date of delivery, especially to the hardware protection law (Gerätesicherungsgesetz), the conservation and the accident prevention regulations. If the supplier supplies materials which are dangerous according to the dangerous material regulations or if the supplier supplies products, whose use does not rule out the release of such materials, the supplier is obliged the EEC safety data sheet (§14 GefStoffV) available before the delivery without being asked.
- (9) If, in order to monitor the fulfilment of certain requirements, the governmental authorities demand the opportunity to inspect the production processes and the inspection documents of Gotec, the supplier shall declare itself to be willing to grant Gotec the same rights on its operational premises and to provide all reasonable support to Gotec that is required.
- (10) In cases of culpable breach of duties that go beyond the delivery of defective goods, (for example the supplier's obligation to inform, to advise and to investigate), Gotec is able to request, on the basis of this agreement, the claims for compensation in respect of damages consequential to the above mentioned culpable breach of duties as well as the compensation in respect of damages consequential to the damages paid to our customers on the basis of law. The consequential damages are damages that we sustained on other legal interests than from the delivery of defective goods.

§ 8

Impediments to performance - Limitation of actions regarding buyer's claim to performance - Legal position of subcontractors

- (1) In the event that the supplier is impeded or if he believes to be impeded in executing the contract, he shall inform GOTEC without delay in writing, stating the reasons and the expected duration of the impediment.
- (2) The usual limitation period for the buyer's claim to performance is five years from the conclusion of the contract.
- (3) The seller shall be liable for subcontracted goods as he is for his own deliveries. In case of a defect or a damage is suspected in connection with subcontracted parts included in the service which is subject-matter of the contract or with subcontracted services, the seller shall be obliged to provide us information about the subcontractor or the intermediate dealer upon request and to provide any details and information required for asserting claims against the latter.

§ 9

Product Liability Right of Indemnity Liability Insurance Protection

- (1) To the extent the supplier is responsible for damage caused by a product, he shall insofar be obligated to indemnify us upon first request against any claims for damages by third parties, if the cause lies within his sphere of control and organization and he is himself liable in relation to third parties.
- (2) Under the liability pursuant to sub-clause (1) the supplier shall also be obligated to reimburse any expenses resulting from or in connection with any recall action carried out by us in accordance with Sections 683, 670 German Civil Code or in accordance with Sections 830, 840, 426 German Civil Code. We shall notify the supplier of the content and scope of the recall measures to be implemented - if possible and feasible - and give it an opportunity to express an opinion on the matter.
- (3) The supplier commits himself to enter into a lump sum product liability insurance with an insured sum of 10 million Euro for any personal/material damage; if we are entitled to further claims for damages, they shall remain unaffected.

§ 10 Trade mark rights

- (1) The supplier warrants that no rights of any third parties are violated in connection with its goods delivered.
- (2) We shall retain all copyrights to new features that are ours, especially in cases of grant of patent or entry as utility patent.
- (3) Products which are manufactured according to documents drafted by GOTEC such as drawings, models and similar materials or according to our confidential information or with our tools or duplicated tools may neither be used by the supplier itself nor offered or supplied to third parties.
- (4) If and when a third party asserts a claim against us owing to such an infringement, the Supplier shall be obligated upon first written request to indemnify and hold us harmless from and against any such claims; we are entitled to conclude any agreements of any nature, in particular to conclude a settlement, with the third party without the Supplier's consent.
- (5) The supplier's indemnification obligation shall extend to any and all expenditures which we necessarily incur with respect or in relation to the assertion of the claim by a third party. This shall in particular comprise disadvantages which arise from any required modification of buildings, machinery, plants and data processing systems and -programs and from delays in the construction, project or operational procedures.
- (6) The limitation period shall be 10 years, commencing as of the conclusion of the contract.
- (7) The contractor will notify any use of published and unpublished industrial property rights granted or applied for of his own or licensed by third for the delivery items on our demand.

§ 11 Use of brand names

- (1) If goods that are not accepted or send back are signed with the GOTEC logo or our brand name, it is permitted to sell these goods to third parties.
- (2) If the supplier violates these obligations, GOTEC is entitled to claim payment of a contractual penalty amounting to EUR 2.500,00 for each case of violation.

§ 12 Reservation of title – Provision – Tools – Secrecy

- (1) If we provide materials or parts to the supplier, we reserve the right of ownership to them. Any processing or transformation by the supplier shall be done solely in our name and on our behalf. If the goods to which we reserved title are processed or inseparably mixed with other items not owned by us, we acquire co-ownership of the new item in the proportion which the value of our items (purchase price plus VAT) bears to the value of the other items at the time of processing or mixing.
- (2) If the provided item is inseparably combined with other objects which do not belong to us, we obtain co-ownership of the new item in relation to the value of our item (purchase price plus VAT) to the other processed items at the time of mixing. If the mixing is of such nature that the supplier's item is to be regarded as the primary item, it shall be deemed agreed that the supplier shall transfer proportionate co-ownership to us; the supplier shall safeguard the sole ownership or the co-ownership for us.
- (3) We shall reserve title to tools; the supplier shall use the tools and the means of production only for the purpose of manufacturing the goods ordered by us. The Supplier shall be obligated to insure at his own expense the tools which belong to us at replacement value for damage or loss due to fire, water and theft. At the same time, the Supplier shall now assign all damage claims from this assignment to us; we hereby accept the assignment. The Supplier is obligated to perform any required service and inspection work on our tools as well as all maintenance and repair work at its own cost. He shall inform us with regard to any defects immediately; if he is negligent in this duty, claims for damages shall remain unaffected.
- (4) The Supplier shall be obligated to maintain strict secrecy with respect to any and all pictures, drawings, calculations and other documents and information he has received. They may be disclosed to third parties only with our express consent. The secrecy obligation shall survive the completion of this contract; it shall lapse if and when, and to the extent that, the production knowledge contained in the surrendered pictures, drawings, calculations and other documents enters the public domain

- (5) The supplier is obligated to keep all our manufacturing methods in this context secret, even after completion of the order. The supplier shall not use our manufacturing methods for any production or delivery to our competitors.
- (6) If and when the security rights to which we are entitled pursuant to Subsection (1) and/or Subsection (2) exceed the purchase price of all of our reserved goods for which payment has not been made by more than 10%, we shall, upon the Supplier's request, be obligated to release the security rights at our discretion.

§ 13 Invoicing

- (1) Invoices shall be issued separately for each purchase order. The invoice must fulfil the requirements of the applicable tax laws, in Germany especially the turnover tax law, and shall describe the services rendered in a clear and understandable manner, stating our order number. If an acceptance is agreed, the acceptance protocol has to be added.
- (2) Calculation is grounded exclusively on the quantity and number of items established by us prior to sending the goods. In the case of weight differences, we only accept the weight determined by our check weighmen.

§ 14 Security – Assignment – Transfer of contract – Change of company's name

- (1) If we do make any deposits on the order, we shall be entitled to demand a chattel mortgage of the suitable materials, especially of the ordered objects that are in production, at any time.
- (2) The supplier shall not be permitted to cede his claims against us resulting from this business relationship partly or wholly without first having obtained our prior written consent; we do not decline Consent without important grounds
- (3) As far as assignments due to extended reservation of title are concerned, the consent shall be deemed as granted provided that we reserve all rights towards the assignee which would be due to us towards the supplier without the assignment. We do not accept direct debit authorisation for collection.
- (4) The supplier shall not be permitted to transfer the performance of certain contractual duties in whole or partly to third parties without our prior written consent. If this approval is granted the supplier remains responsible to us as a co-debtor.
- (5) The supplier shall inform us of any passing of contract by virtue of law and of any change in his company.

§ 15 Offset and retentions

- (1) The supplier may only offset against claims that are undisputed or which have been determined as legally valid.
- (2) Rights of lien are entitled to it only, as far as they are based on the same contractual relation. The purchaser can offset all the claims which the supplier has against him against all the claims to which he is entitled against the supplier.

§ 16 Vis Major

Force majeure and strikes, lockouts, operational disruption, official orders and all other circumstances beyond our control that result in substantial reduction of consumption, entitle us to withdraw entirely or partially from the contract.

§ 17 Contractual language – Applicable law – Place of jurisdiction –Place of performance

- (1) The contract language is German.
- (2) Only German law is applicable on this contract - with the exception of the UN-sales rights.
- (3) The place of performance for delivery and payment shall be the place specified in the order as the place where delivery is to be effected.

- (4) If the supplier is a salesman, our headquarter is our venue of jurisdiction; however, we are authorized to bring suit against the supplier at the court in his area of residence.

§ 18

Privacy

- (1) Any data accruing in connection with the contractual relationship shall be stored in files and exchanged between companies of the same group.
- (2) Any use of our requests, orders or company for advertising purposes is permitted. We reserve the right for permission in certain cases.

§ 19

Prohibition of child labour

The supplier commits himself not to employ children. The supplier ensures that his suppliers do not employ children as well. "Children" are understood as people under the age of 15. In exceptions, children can be employed at the age of 14 years, if this is authorized by law in the producing country.

§ 20

Severability Clause

If one of the aforementioned agreed clauses proves to be wholly or partially invalid, the effectiveness of the remaining conditions of purchase shall not be affected thereby. The Parties agree that a regulation should apply in this case, which approximates to the meaning of the agreed provision as closely as is legally possible and its intended economic objective. The recourse to sections 133, 157, 242 of the German Civil Code is possible.

Changes or additions to the above terms and conditions require writing. This also applies to the written form requirement itself.

These General Terms and Conditions of Purchase correspond with the German Version "Allgemeine Einkaufsbedingungen". In case of inconsistency the German Version is applicable.