

## **General Terms and Conditions of Purchase of Goldfuß engineering GmbH**

### **Contents**

<b>§ 1</b>	<b>Scope of application .....</b>	<b>2</b>
<b>§ 2</b>	<b>Conclusion of contract .....</b>	<b>2</b>
<b>§ 3</b>	<b>Subject matter of the service .....</b>	<b>3</b>
<b>§ 4</b>	<b>Models, tools, drawings, sketches, logo .....</b>	<b>5</b>
<b>§ 5</b>	<b>Terms of payment.....</b>	<b>6</b>
<b>§ 6</b>	<b>Prices, dispatch, packaging, delivery.....</b>	<b>7</b>
<b>§ 7</b>	<b>Delivery and performance time .....</b>	<b>8</b>
<b>§ 8</b>	<b>Warranty for defects, limitation period, liability.....</b>	<b>9</b>
<b>§ 9</b>	<b>Rights of cancellation in the event of force majeure.....</b>	<b>12</b>
<b>§ 10</b>	<b>Acceptance .....</b>	<b>12</b>
<b>§ 11</b>	<b>Property rights.....</b>	<b>12</b>
<b>§ 12</b>	<b>CE - Declaration of Conformity / Manufacturer's Declaration / Certificates .</b>	<b>13</b>
<b>§ 13</b>	<b>Confidentiality .....</b>	<b>13</b>
<b>§ 14</b>	<b>Final provisions: Place of fulfilment, place of jurisdiction, applicable law, data processing, contract language, severability clause .....</b>	<b>14</b>

## **§ 1 Scope of application**

1. Our General Terms and Conditions of Purchase apply to all our service purchasing in all our fields of activity. These General Terms and Conditions of Purchase therefore apply to the purchase of goods, to the commissioning of the provision of work and services and to the commissioning of services.
2. Our General Terms and Conditions of Purchase shall also apply to all future transactions and to all business contacts with the service provider, such as the commencement of contract negotiations or the initiation of a contract, even if they are not expressly agreed again or if they are not expressly referred to again.
3. We do not recognize any terms and conditions of the service provider that deviate from or contradict our terms and conditions of purchase. The validity of the service provider's general terms and conditions is expressly rejected.
4. Previous agreements and earlier versions of our Terms and Conditions of Purchase are cancelled by these Terms and Conditions of Purchase.
5. The execution of the ordered delivery/service as well as the settlement of the agreed remuneration shall be deemed as acknowledgement of the validity of these Terms and Conditions of Purchase.

## **§ 2 Conclusion of contract**

1. We place our orders, order amendments and delivery call-offs in writing, by remote data transmission, by fax or by e-mail. In case of doubt, the content of verbal and telephone agreements (discussions) shall only be binding if confirmed by us in writing. Every order, change to an order and every call-off order must be confirmed immediately in writing by the service provider. If this confirmation is not received within six working days after

receipt of our order or order amendment, or if our order is not accepted within a period of six working days, we shall no longer be bound by the order.

2. Order documents, in particular enclosed drawings or sketches, shall remain our property. In all correspondence, the service provider is obliged to quote the company abbreviations given in our non-binding enquiry or in our written order. In any case, our order number, our article number, if already assigned by us, and the name of the contact person in our company must be stated.
3. Any reference to business relations with us in advertising materials or reference documents or the use of trademarks and labelling to which we are entitled shall require our prior written consent.
4. The quotations or cost estimates submitted to us by the service provider are binding. They shall be prepared by the service provider free of charge.

### **§ 3 Subject matter of the service**

1. The service provider is obliged to deliver or perform the delivery/service ordered by us in accordance with the contractual agreements. Deviations are only permitted with our written consent. The supplier shall be responsible for ensuring that the delivery/service is carried out using suitable materials and complies with the recognised rules of technology, the statutory and official safety regulations and the environmental protection regulations which constitute applicable law or which have already been adopted with a transitional period and will certainly come into force.
2. If we order parts which the service provider manufactures according to a drawing, sketch or model specified by us, the service provider shall, at our request, submit a test report with the delivery of the object of performance, from which the product characteristics such as dimensions etc. can be taken.

3. If the service provider makes changes in the type of composition of the processed material or in the design of its products or services compared to similar deliveries or services previously provided to us, it shall be obliged to notify us of this circumstance without delay. Changes shall always require our consent.
4. The service provider must fulfil the orders assigned to him in his own company. The passing on of orders to third parties requires our written consent. If our contract with the service provider relates to consultancy services or other services whose content is based on personal performance by a specific person, the service provider shall be obliged to perform the services personally by the respective person.
5. If we commission the service provider with the provision of non-physical services such as design, consulting or programming services, we shall acquire the exclusive, spatially and temporally unrestricted right of use to the services provided upon handover or fulfilment of the contractual obligation. Inventions in connection with the provision of services must be communicated to us and the exclusive rights to these inventions must be transferred to us. Personal rights of the inventor remain unaffected.
6. If we commission the service provider with the creation of copyright-protected services, the service provider shall grant us an exclusive, worldwide, transferable right of use to the protected service, unlimited in terms of time and content. The right of use includes the right to reproduce the work in physical form, to distribute it, to exhibit it, to transfer it to image and sound carriers and to reproduce it publicly in non-physical form and make it publicly accessible. The granting of the right of use includes in particular the right
  - 6.1 of reproduction and distribution of the work in print media (e.g. in advertising brochures, business cards, company brochures, business letters, newspapers, journals, magazines, brochures, books, on posters and signs);

- 6.2 The storage, reproduction and distribution of the work on sound or data carriers (e.g. magnetic, optical, magneto-optical and electronic carriers such as CD-ROM, CD-i and other CD derivatives, DVD, floppy discs, hard disks, RAM, microfilm, video cassettes), irrespective of the transmission, carrier and storage techniques;
- 6.3 The making available to the public by wire or wireless means of digital or analogue electronic distribution, irrespective of the technology used, via telecommunications and data networks of all kinds (e.g. online services, Internet, intranet, cable systems, satellite systems, via mobile services such as mobile phones, WAP services, teletext or navigation systems), including the right to allow users to "download";
- 6.4 To reproduce the work publicly, in particular to exhibit it publicly;
- 6.5 To transfer all rights of use individually or as a whole to third parties or to grant third parties rights of use to the work. The Provider hereby agrees to the transfer of rights of use to third parties.

#### **§ 4 Models, tools, drawings, sketches, logo**

- 1. If we provide the supplier with models, samples, production equipment, tools, measuring and testing equipment, drawings, works standard sheets, print templates or other materials to be provided as part of a delivery/service, these shall remain our property. They shall be stored by the supplier with the care of a prudent businessman free of charge and separately from other items in his possession, labelled as our property and used by the supplier only for the fulfilment of our delivery/service. Models and tools made available to the supplier shall be insured by the supplier against catastrophes such as fire, water, theft and loss at the supplier's expense.
- 2. the supplier is hereby informed that drawings or sketches may be protected by copyright and that our logos may be protected by trade mark law. The service provider therefore undertakes not to pass on our logo, the drawings or sketches and data, as well as the tools and models produced on their basis, to third parties without our prior written consent or to use them for purposes other than those specified in the contract. For each case of culpable infringement of copyrights or

trademark rights to which we are entitled, we shall be entitled to claim liquidated damages in the amount of EUR 10,000.00 (in words: ten thousand Euros); the service provider shall be free to prove that we have suffered no or less damage. If the proof is successful, there shall only be a claim for compensation for the damage actually incurred. We reserve the right to claim demonstrably higher damages instead of or in addition to the lump-sum compensation.

3. The service provider shall transfer to us all order-related production equipment, tools and models manufactured by him at our expense upon production of his service or dispatch of his delivery. We accept the transfer of ownership. If these remain with the supplier, the transfer shall be replaced by the production equipment and tools being loaned to the supplier for the fulfilment of the order.
4. Insofar as the supplier produces goods on our behalf and with our assistance - e.g. by providing models, drawings etc. - the goods of the type in question may be produced exclusively for us and delivered and sold to us.

## **§ 5 Terms of payment**

1. Payment periods shall run from the agreed date of delivery or performance, at the earliest from the date of receipt of the goods or the date of complete performance, acceptance of the same - if agreed or provided for by law - and proper invoicing.
2. Unless the parties have agreed otherwise, the supplier shall grant a 3% discount on payments within 14 days of receipt of the goods, otherwise payment shall be made net within 60 days. Should defects in the delivery occur or be discovered within this period, we shall have a right of retention and the supplier's claim shall not become due until the defect has been finally remedied or a faultless replacement delivery has been made. We shall also be entitled to deduct a discount in this case.

3. We are entitled to make payments by cheque or discountable bill of exchange, the discount charges and taxes for which shall be borne by the supplier.
4. The settlement of an invoice shall not be deemed to be a waiver of complaints. In the event of defective delivery, we shall be entitled to withhold payment on a pro rata basis until proper fulfilment.
5. We shall be entitled to rights of set-off and retention to the extent permitted by law.
6. The service provider is not authorised to assign its claims for payment of its remuneration to third parties without our prior written consent. We shall not unreasonably withhold such consent.

## **§ 6 Prices, dispatch, packaging, delivery**

1. The agreed prices are generally fixed prices. If no prices are stated in the order, the list prices of the service provider shall apply with the usual commercial deductions. If the supplier reduces the prices for the ordered products before delivery, the reduced prices shall apply. Unless otherwise agreed, goods shall generally be shipped carriage paid, insured in Germany: CIP (Incoterms 2020) or delivered from abroad, insured and duty paid: DDP (Incoterms 2020) to our specified delivery address.
2. Packaging
  - 2.1 Packaging costs shall be at the expense of the service provider.
  - 2.2 The supplier shall take and dispose of transport and outer packaging at his own expense, unless otherwise agreed.
3. Packing slips must be enclosed with all deliveries, the respective shipping documents must be sent in on the day of dispatch of the goods. Complete order and article numbers must be stated in dispatch notes, consignment notes, parcel addresses, delivery notes and invoices.

The VAT ID number of the service provider must be recognisable. Invoices must contain invoice numbers. Deliveries without sufficient accompanying documents shall be deferred in handling and payment until clarification and shall be stored by us exclusively at the expense and risk of the service provider until they have been corrected. The service provider shall be solely liable for damages and costs incurred due to inadequate observance of and non-compliance with these terms and conditions.

## **§ 7 Delivery and performance time**

- 1.** Agreed dates and deadlines are binding. Decisive for compliance with the delivery date or the performance period is the receipt of the goods or the provision of the service by us. The supplier is obliged to inform us immediately in writing if circumstances arise or become recognisable which indicate that the agreed delivery or performance time cannot be met. This notification shall not release the supplier from its liability for default.
- 2.** The service provider may only invoke the absence of necessary documents or information to be provided by us or materials to be provided by us as an obstacle to performance if he has sent us a written reminder regarding the handover of the documents, information and materials and - insofar as we are obliged to provide them - has not received them within a reasonable period of time.
- 3.** Premature deliveries shall have no influence on the agreed due date for payment. Partial deliveries shall only be accepted by express agreement. The remainder of the delivery shall be specified in the delivery documents to be listed. If partial deliveries have not been agreed, the agreed due date for payment shall be calculated from the date of complete delivery at the earliest.
- 4.** The service provider shall be in default of delivery, even without issuing a reminder, as soon as the respective bindingly agreed delivery date is exceeded.



5. If the service provider exceeds the contractually agreed delivery deadline, it shall pay a contractual penalty of 0.2% of the delivery price (excluding VAT) for each working day of culpable delay, up to a maximum of 5% of the delivery price (excluding VAT). A forfeited contractual penalty can be claimed up to the final payment.
6. If the delay in delivery is due to the fault of the service provider, the latter shall be liable without limitation for all damages incurred by us as a result of the delayed delivery; the forfeited contractual penalty shall be offset against the damage caused by the delay.
7. The acceptance of a delivery shall not constitute a waiver of claims for damages arising from delayed delivery.

#### **§ 8 Warranty for defects, limitation period, liability**

1. We accept delivered goods under subject to inspection for defects. We shall fulfil our obligation to inspect and give notice of defects in accordance with § 377 HGB (German Commercial Code) with regard to obvious defects in the delivery/service if we send a notice of defects within 20 working days of receipt of the delivery. Insofar as an inspection of the delivery is not feasible in the ordinary course of business within this period, we shall notify the supplier of obvious defects immediately after the inspection and recognition of the defect. In this respect, the supplier waives the defence of late notification of defects.
2. If the delivery/service of the service provider exhibits material defects, we shall be entitled to assert statutory claims for defects within 36 months of the transfer of risk. If the law provides for longer limitation periods for claims for defects for certain items or rights acquired by us or for products that we manufacture using delivered items, these longer periods shall also be deemed agreed in relation to the service provider.

3. Insofar as we are entitled to a statutory claim to subsequent fulfilment, the service provider shall, at our discretion, either remedy the defect or deliver a defect-free item.
4. If the subsequent fulfilment fails or if the service provider refuses the selected type of subsequent fulfilment, we may withdraw from the concluded contract, reduce the remuneration claim existing against us or, if the service provider does not prove that he was not at fault for the defects, claim damages instead of performance. The same applies if subsequent fulfilment by the service provider is unreasonable for us. This is particularly the case if the service provider does not fulfil its obligation immediately despite a request to remedy the defect and there is a risk of acute danger or major damage. In such cases, we shall also be entitled to carry out the defect rectification work ourselves or have it carried out by third parties at the expense of the service provider. This applies in particular if major damage - in particular claims by our customer due to delay - can only be avoided by us or a third party commissioned by us to rectify the defect. We shall inform the service provider of this. Further statutory claims - e.g. claims for reimbursement of expenses - shall remain unaffected.
5. The running of the limitation periods shall be suspended for the duration of the service provider's attempts at subsequent fulfilment. The suspension of the limitation periods begins at the time of our notification of defects. The suspension of the limitation period shall only end at the point in time at which the delivery item can be used without defects. For parts newly delivered within the limitation period as part of the warranty for defects, the limitation period shall begin to run again at the time at which the service provider has completely fulfilled our claims for redelivery, unless we had to assume that the service provider's behaviour was such that we may assume that the service provider did not consider itself obliged to take the measure, but only made the replacement delivery or rectified the defect as a gesture of goodwill or for similar reasons.

6. If we take back the item sold to our customer as a result of its defectiveness caused by a delivery/service of the service provider or if our customer reduces the agreed remuneration, we shall be entitled to the rights set out in § 437 BGB (German Civil Code) and § 445a against the service provider without the need to set a deadline.
7. If a material defect becomes apparent within six months of the transfer of risk, it shall be assumed that the item was already defective at the time of the transfer of risk, unless this assumption is incompatible with the nature of the item or the defect.
8. If the service/delivery we receive from the service provider is defective in title, the service provider shall indemnify us against possible claims by third parties, unless the service provider is not responsible for the defect in title.
9. The service provider shall be liable to us without limitation for damages in all forms of culpable breach of duty, irrespective of whether direct or indirect damage, financial loss or other damage items are asserted. In addition, the service provider shall be liable under the Product Liability Act, insofar as its requirements are met.
10. If claims are made against us due to a breach of domestic or foreign or official safety regulations or product liability regulations or due to a defect in our products which are attributable to deliveries or services of the service provider, we can demand compensation from the service provider for the damage caused by its products and indemnification from corresponding claims of third parties. In cases of fault-based liability, however, this shall only apply if the service provider is at fault. If the cause of the damage lies within the area of responsibility of the service provider, he shall bear the burden of proof in this respect.
11. The costs to be reimbursed shall also include the costs of any necessary recall action and the necessary costs of legal action. The service provider shall be informed of the content and scope of the recall action to be carried out. The service provider is obliged to take out producer's liability insurance for its obligations arising from its liability as the producer of the delivery items.

## **§ 9 Rights of cancellation in the event of force majeure**

If events of force majeure, in particular epidemics or pandemics, labour disputes, operational disruptions through no fault of our own, riots, official measures or other unavoidable events occurring after the conclusion of the contract, through no fault of our own, significantly reduce the demand for the ordered goods, we may withdraw from the contract in whole or in part or demand performance at a later date without the supplier being entitled to any claims against us as a result, provided that the specified events are of a not insignificant duration.

## **§ 10 Acceptance**

1. If we owe the acceptance of the service within the framework of the respective order, we shall declare in writing that the contractual services of the service provider have been rendered in accordance with the contract.
2. If we do not declare acceptance in due time, the service provider may set us a further reasonable deadline for submitting the declaration. The service shall be deemed to have been accepted upon expiry of this period if we neither declare acceptance in writing nor state in writing which defects still need to be rectified. The service provider shall draw our attention to this legal consequence when setting the deadline.
3. There is no entitlement to partial acceptance.

## **§ 11 Property rights**

1. The service provider shall be liable for ensuring that no third-party rights are infringed in connection with its delivery/service, unless it is not responsible for the infringement.
2. If claims are asserted against us by a third party due to alleged infringement of industrial property rights, the supplier shall be obliged to indemnify us against these claims, unless he is not responsible for the infringement of industrial property rights. The obligation to indemnify relates to all expenses necessarily incurred from or in connection with the claim by a third party.

3. If the supplier already holds industrial property rights to the goods or services ordered or to processes for their manufacture, these must be notified to us on request, stating the relevant registration number, and we shall receive a non-exclusive right of use free of charge for an unlimited period of time.

## **§ 12 CE - Declaration of Conformity / Manufacturer's Declaration / Certificates**

Delivery items must fulfil all regulations, directives and standards relating to the respective goods and must be delivered with the prescribed certificates and confirmations. If a manufacturer's declaration or a declaration of conformity (CE) is required for the goods, the supplier must draw this up and make it available immediately on request at his own expense.

## **§ 13 Confidentiality**

1. The service provider and we ("the parties") undertake, during the term of the contract, to keep secret all information which becomes accessible in connection with the contract and which is designated as confidential or is recognisable as business or trade secrets due to other circumstances ("confidential information") and - unless expressly approved in writing in advance or required to achieve the purpose of the contract - not to record it, pass it on to third parties or exploit it in any way. This confidentiality obligation shall remain in force for a further five years after complete fulfilment or termination of the order.
2. The obligations under No. 1 also apply to business secrets within the meaning of §2 No. 1 GeschGehG (Trade secrets Protection Act).

3. The parties undertake to protect business secrets within the meaning of § 2 No. 1 GeschGehG (Trade secrets Protection Act) as well as other confidential information of the other party from being obtained by third parties by means of confidentiality measures appropriate to the circumstances. The confidentiality measures must at least correspond to the customary level of care and the level of protection that the respective party applies to its own business secrets of the same category.

4. Excluded from this are those confidential information
- which was already known to one of the parties prior to the commencement Of the contractual negotiations or which is disclosed by third parties as non-confidential, provided that these third parties are not in breach of confidentiality obligations,
  - which the parties have developed independently of each other,
  - which are or become publicly known through no fault or action of the parties, or
  - which must be disclosed due to legal obligations or official or court orders.

In the latter case, the disclosing party must inform the other party immediately prior to disclosure. If one of the parties invokes one of the above exceptions, it shall bear the burden of proof in this respect. Further statutory confidentiality obligations remain unaffected.

**§ 14 Final provisions: Place of fulfilment, place of jurisdiction, applicable law, data processing, contract language, severability clause**

1. Place of fulfilment is our registered office in Balingen.
2. The exclusive place of jurisdiction for all disputes arising between the parties from the contractual relationship shall be Balingen, insofar as the service provider is a merchant, a legal entity under public law or a special fund under public law or the service provider has no general place of jurisdiction in the Federal Republic of Germany or relocates its place of jurisdiction abroad. As an exception to this, we are also entitled to take legal action against the service provider at its general place of jurisdiction.

merchant is any entrepreneur who is entered in the commercial register or who operates a commercial business and requires a commercially organised business operation. The service provider has its general place of jurisdiction abroad if it has its registered office abroad.

- 3.** Should a provision in these Terms and Conditions of Purchase or a provision within the framework of other agreements be or become invalid, this shall not affect the validity of all other provisions or agreements.
- 4.** The service provider is aware that data from business transactions, including personal data, must be stored and processed and transmitted to third parties within the scope of business necessity. The service provider agrees to this data collection and processing.
- 5.** The contractual language is German. If the parties also use another language, the German wording shall take precedence in accordance with the agreement.
- 6.** The contractual and other legal relationships with the service provider shall be governed by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.