

# General Purchasing Terms and Conditions of GFT Technologies SE

Dated: November 2018

1. **General provisions; scope of application**
  - 1.1. These General Purchasing Terms and Conditions shall apply to all business dealings of GFT Technologies SE and its affiliated companies (pursuant to Section 15 of the German Stock Corporation Act, AktG) that are domiciled in Germany (hereinafter "GFT") with other companies (hereinafter "Supplier"), provided that no separate Master Agreement or individual contract was entered into which explicitly excludes the application of these General Purchasing Terms and Conditions.
  - 1.2. **These General Purchasing Terms and Conditions apply to the exclusion of any other terms and conditions and form part of the contract and any supplements thereto. Supplier's terms and conditions that are in addition to or different from these General Purchasing Terms and Conditions shall not become part of the contract without GFT's express written consent. The preceding provision shall also apply to terms and conditions of business set forth in offers, order confirmations or other documents of the Supplier. The acceptance of the deliveries of goods and/or the provision of services does not constitute any acceptance of Supplier's terms and conditions of business. These General Purchasing Terms and Conditions shall also apply in the event that the delivery of goods and/or the provision of services are unconditionally accepted with the knowledge of terms and conditions that are supplementary to or different from these General Purchasing Terms and Conditions.**
  - 1.3. The written form requirement provided for in these General Purchasing Terms and Conditions is met by signed documents that are transmitted in paper form as a fax or as scan in the E-Mail attachment. The text in an email is not sufficient for the written form requirement, except such email is sent by GFT's Purchasing Department.
2. **Cost estimates; conclusion of contract and amendments to contract; written form requirement; partial deliveries, and partial performance; cancellation of orders; deadlines and time limits**
  - 2.1. Cost estimates shall be binding and not be subject to a charge, unless otherwise expressly agreed between the parties.
  - 2.2. Any orders, contracts entered into, and delivery call-offs, including any amendments and changes related thereto, require written form and are legally binding only if they are made by the Purchasing Department of GFT in writing. Oral or other declarations which are not made by the Purchasing Department, are non-binding for GFT as long as no written order or confirmation has been issued by the Purchasing Department, and submitted to the Supplier.
  - 2.3. Deviations from any purchase orders are only permitted upon GFT's prior written consent.
  - 2.4. In general, partial deliveries and/or partial services are not permitted without GFT's express written consent or unless such partial deliveries and/or services can be reasonably expected to be accepted by GFT.
  - 2.5. Agreed upon deadlines and time limits are binding and must be strictly adhered to. In the event of any non-adherence, GFT shall have the right to withdraw from the contract without having to comply with any further requirements. Notwithstanding the foregoing, the statutory provisions shall apply.
  - 2.6. The actual receipt of the goods at GFT shall be decisive in determining compliance with delivery dates or delivery times. If delivery DDU or DDP, pursuant to Incoterms 2010, has not been agreed upon, the Supplier must provide the goods in a timely manner taking into account the time for loading and shipping, both times to be coordinated with the carrier.
  - 2.7. If it is foreseeable for the Supplier that a date or deadline could probably not be met, he must immediately notify GFT accordingly, stating the impediments preventing timely performance.
  - 2.8. The unconditional acceptance of any late delivery of goods and/or the late rendering of a service does not constitute a waiver of the claims and rights that GFT may be entitled to, which may arise out of such late delivery and/or service.
3. **Provision of free-issue materials and parts; insurance**
  - 3.1. GFT retains all title in free-issue parts or materials furnished by GFT, which shall be labeled, managed, and stored separately and at no cost to GFT. Such materials may be used for the purposes of the relevant contract only.
  - 3.2. The Supplier must obtain sufficient insurance coverage for all free-issue parts and materials provided by GFT against total loss or damage.
4. **Notice of objection and existing impediments**
  - 4.1. The Supplier shall notify GFT without undue delay in written form of any concerns regarding the manner of delivery and/or the rendering of services requested by GFT, or in the event that the Supplier considers himself impeded by any third party or by GFT in effecting the delivery and/or in rendering the service.
  - 4.2. If the Supplier anticipates any problems with regard to the production, supply with primary materials, compliance with delivery dates or similar circumstances that could prevent the Supplier from delivering and/or rendering the service in a timely manner or from delivering and/or rendering
5. **Passing of risk, place of performance; cost of transport and packaging**
  - 5.1. In case of deliveries that include setup and installation, the risk passes to GFT upon GFT's acceptance of the completed work.
  - 5.2. In case of deliveries that do not include set up and installation, the risk passes to GFT upon receipt of the delivery at the receiving department designated by GFT.
  - 5.3. In case of services to be rendered, the risk passes to GFT with the acceptance of such services by GFT.
  - 5.4. The costs for transport and packaging are included in the fixed price or are to be paid by the Supplier. Upon GFT's request, the Supplier shall pick up the packaging material from the receiving department and dispose of it at Supplier's expense.
6. **Inspection of incoming goods**
  - 6.1. Upon the delivery of goods, GFT will inspect the delivery to verify if the delivery corresponds to the quantity and type of goods ordered, whether the goods show visible transport damage or other visible defects.
  - 6.2. If GFT detects a defect in the course of the aforementioned inspections, GFT will notify the Supplier of any such defects.
  - 6.3. Complaints in respect of defects pursuant to section 6.1 may be asserted within one month upon delivery. To the extent that any such defect can only be detected at a later time, said time period of one month shall commence from such later time.
  - 6.4. Except for the aforementioned inspection and notification duties, GFT shall owe no additional duties of inspection and notification to the Supplier.
7. **Copyrights and Rights of Use**
  - 7.1. The Supplier grants GFT the exclusive, indefinite, and geographically unrestricted and transferable right to use, exploit, market, copy, and publish not only commercially, but also in every other respect the deliveries and/or services, in whole or in part, and all results and work products obtained therefrom, such as ideas, drafts, records, and documentation (hereinafter "Results") in unchanged or changed form to the exclusion of the Supplier - be it in GFT's own operations or by passing them on to third parties for consideration or free of charge. This also includes the exclusive right to freely reduce to practice any and all inventions made in the course of the provision of services without any additional compensation.
  - 7.2. The transfer according to this section 7.1 also applies to unknown types of use.
  - 7.3. Upon GFT's request, the Supplier agrees to make reference to the aforementioned rights of use to the activity results by including a corresponding copyright notice.
  - 7.4. The Supplier shall ensure that any rights pursuant to Section 12 of the German Copyright Act (UrhG) (author's consent to the publication of his work), Section 13 sentence 2 of the German Copyright Act (recognition of authorship), and Section 25 of the German Copyright Act (access to works) will not be enforced.
  - 7.5. To the extent that Results are capable of independent legal protection (e.g. as patents, designs or copyright), such rights shall be vested in GFT. As far as any rights of the Supplier arise from Section 8 of the German Copyright Act (joint authorship), the Supplier shall relinquish its share in the exploitation rights for the benefit of GFT. GFT shall be exclusively entitled to any earnings derived from the utilization of the activity results. Insofar as the participation of the Supplier is required to protect legally protectable activity results under this section 7.5, sentence 1, the Supplier shall be obligated to support GFT to the necessary extent.
  - 7.6. Upon conclusion of the deliveries and/or services, GFT may request the Supplier at any time to return to GFT all originals and copies of the activity results and to confirm Supplier's full compliance with such obligation in writing.
  - 7.7. With regard to individual rights or all rights granted to GFT, GFT shall be free, without obtaining Supplier's consent, to grant exclusive or non-exclusive rights of use to third parties or to transfer the acquired rights in whole or in part to third parties.
  - 7.8. The payment of the agreed upon compensation includes the granting of the rights mentioned in section 7 above; to this extent, no additional compensation shall be owed.
8. **Third Party Rights**

Supplier warrants that the goods, deliveries and/or services and the usage thereof as envisaged by the contract are not limited by any third party rights, including but not limited to intellectual property rights. Supplier agrees to defend and indemnify and hold GFT harmless from any third party claims of infringement, breach or misappropriation of any third party rights.
9. **Invoices, prices, value-added tax (VAT); incidental costs**

the service in the agreed upon quality, the Supplier shall notify GFT immediately in writing.

- 9.1 For each order, an invoice shall be issued. Invoices for partial payments and final invoices are to be explicitly designated as such. Invoices without any particular designation shall be deemed final invoices.
- 9.2 In compliance with the statutory VAT provisions, the invoice shall include at least the following information: the ordering department, the date of order, the order number, the tax ID-number issued by the tax authority or the Supplier's VAT-ID number, the shipping address, the receiving department, and the purchase order number (PO number).
- 9.3 The price specified in the contract is a fixed price, including all ancillary services and excluding any additional payment demands. The fixed price does not include the Supplier's legally owed VAT. The reimbursement of VAT requires that the Supplier is entitled and obligated under the relevant statutory provisions to separately charge such tax and that this tax is stated separately in accordance with statutory requirements.
- 9.4 If the Supplier has contracted for the setup or the installation, and in absence of any agreement to the contrary, the Supplier shall bear all necessary incidental costs, including, but not limited to, travel expenses, unless otherwise agreed.
- 10. Improvement of price and/or terms**  
If the Supplier reduces its prices or improves its conditions in the time period between its offer and the delivery and/or the rendering of the service, the prices and terms valid on the day of the delivery and/or acceptance of service shall apply.
- 11. Payments, discounts, commencement of the payment term; agreement on partial payments**
- 11.1 Payment will be made by bank transfer to Supplier's bank account, as indicated on the invoice.
- 11.2 At GFT's option, the payment term shall be 14 days, less 3% discount, or 30 days net.
- 11.3 The payment term shall commence upon the receipt of the complete and auditable final invoice, within the meaning of section 9.2, by the department indicated in the order, but not prior to the day of the complete delivery or the unconditional acceptance of the completed service.
- 11.4 In the event of agreed upon partial payments, the payment term shall commence on the date of receipt of an auditable partial invoice, but not before an agreed collateral has been provided.
- 11.5 The timeliness of the payment by GFT is determined by the time of handing over the bank transfer order to the bank/financial institution or the day of mailing the check.
- 11.6 The flat default interest rate applicable in the event of GFT's default, shall be 5 % p.a.
- 12. Liability for defects**
- 12.1 If any defects are detected prior to or upon the passing of risk or should such defects occur during the periods of limitation mentioned in sections 12.7 and 12.8, the Supplier shall be obligated at his own expense to either remove the defects, or re-deliver the goods, or re-perform the service without such defects, in each case at the election of GFT. This also applies to deliveries and/or services, the inspection of which was limited to random samples. The election of GFT shall be made in GFT's reasonably exercised discretion.
- 12.2 If the Supplier does not render the supplementary performance within a reasonable period of time to be determined by GFT, GFT shall be entitled to withdraw from the contract, in whole or in part, without liability to pay damages, or to demand a reduction of the purchase price, or perform such removal of defect or re-delivery itself, or cause it to be performed by a third party, in each case at the expense of the Supplier, and to demand damages instead of the performance. Section 281 subsection 2 and section 323 subsection 2 of the German Civil Code (BGB) remain unaffected.
- 12.3 The rectification of defects can be performed at the expense of the Supplier without setting a time limit, if:
- delivery is made after the Supplier's default has occurred or
  - GFT has a particular interest in the immediate supplementary performance on account of preventing its own default, or on account of any other emergency, and if GFT cannot be reasonably expected to first notify the Supplier with a demand to remove the defect within a reasonable period of time.
- 12.4 Any further or other statutory claims remain unaffected.
- 12.5 Insofar as the Supplier redelivers or removes the defect in connection with its obligation to remove defects, the time limits set forth in sections 12.7 and 12.8 will start to run again.
- 12.6 The Supplier shall bear the costs and the risk of returning defective delivery items.
- 12.7 Liability claims for material defects are subject to a limitation period of three years, unless applicable law provides for longer periods.
- 12.8 Liability claims for defects of title are subject to a limitation period of three years, unless applicable law provides for longer periods.
- 12.9 The limitation period begins with the passing of risk pursuant to sections 5.1 to 5.3.
- 12.10 In the event of deliveries to locations, at which GFT performs work outside its place of business, the limitation period shall begin, in derogation of section 12.9, with the acceptance by GFT's customer, but no later than one year after the passing of risk.
- 13. Verification of good and clear title/duty to notify**  
GFT considers the delivery of products, which are free of any defects in title, as an essential part of the contract. The Supplier therefore undertakes to verify good and clear title regarding the delivery and the service and to notify GFT of any conflicting industrial property rights of third parties. A violation of these duties is subject to the regular statutory period of limitation.
- 14. Confidentiality**
- 14.1 The Supplier undertakes to comply with the statutory data protection provisions, including but not limited to the DSGVO and the BDSG, and to keep confidential all information obtained from GFT's sphere, in particular business secrets, documents and information about GFT, and all work results and findings obtained in connection with a purchase order and to not disclose them to any third party, publish or otherwise exploit them. This applies in particular with regard to all information arising from the use of technical and human resources that Supplier is not entitled to, and with regard to safety-relevant and personal data that Supplier becomes aware of.
- 14.2 The documents made available to the Supplier and other records and files are to be stored in such a manner as to ensure access only to those of Supplier's employees that were named to GFT in connection with the respective purchase order. The documents are to be returned to GFT after completion of the purchase order. Supplier is not entitled to retain any documents or records, regardless of the legal basis for any such right of retention.
- 14.3 Supplier will obligate according to sections 14.1 and 14.2 all individuals who are entrusted by Supplier with the processing/fulfillment of an order, even for the time following the completion of the order/leaving the employ of the Supplier. The Supplier has to effect these obligations in writing and submit them upon GFT's request. The Supplier will announce the concerned group of people by name upon GFT's request. The Supplier will seek to ensure with all due diligence that this group of people keep any information obtained from GFT's sphere of operation strictly confidential and prevent misuse. GFT is to be informed immediately, if there is any indication that in addition to the mentioned group of people other third parties could have obtained knowledge of information referred to in section 14.1 hereunder.
- 14.4 The Supplier shall immediately notify GFT of any suspected violations of secrecy and/or privacy obligations and indication-based audits by regulatory authorities, if they relate to GFT data.
- 14.5 Furthermore, the Supplier undertakes to maintain strict confidence about the entire contents of the contractual relationship with GFT. The foregoing provision does not apply to Supplier's legal advisors. The aforementioned confidentiality obligations especially includes any reference to the existence of contractual relationships with GFT. If Supplier wants to reference the contractual relationship with GFT, regardless whether online or in print documents, he has to obtain GFT's prior approval. Such approval is at GFT's sole discretion.
- 14.6 All preceding obligations in accordance with this section 14 shall survive indefinitely, even after the completion of a purchase order.
- 15. Passing on of orders to third parties; assignment of work to subcontractors**  
The passing on of orders to third parties and the assignment of work to subcontractors shall not be permitted without the express written consent of GFT and shall entitle GFT to withdraw from the contract, in whole or in part, and to claim damages.
- 16. Assignment of claims**  
Claims against GFT may only be assigned with GFT's prior written consent.
- 17. Deterioration of Supplier's financial position; Supplier's insolvency**
- 17.1 If the Supplier's position should materially deteriorate, and should such deterioration jeopardize the delivery and/or performance, in whole or in part, GFT shall be entitled to withdraw from the contract, in whole or in part, or to terminate the contract, in whole or in part.
- 17.2 If a preliminary liquidator is appointed or an insolvency proceeding is initiated as to the Supplier's assets, GFT shall be entitled to withdraw from the contract, in whole or in part, or to terminate the contract, in whole or in part.
- 18. Certificates of origin**  
The Supplier declares that the goods manufactured by Supplier within the framework of the purchase order were manufactured within the European Union. At the request of GFT, Supplier agrees to submit appropriate tax-relevant certificates of origin, or to indicate the country of origin on its delivery slips.
- 19. Minimum wage**
- 19.1 The Supplier has implemented the statutory provisions of the Minimum Wage Act (Mindestlohngesetz, MiLoG) in any employment contracts between GFT and Supplier, and agrees to comply with these statutory provisions in its employment contracts and to pay its workers no less than the minimum compensation owed under said statutory provisions.

- 19.2 The Supplier further undertakes to enter into an agreement with its current and future subcontractors that corresponds to section 19.1 to comply with the statutory provisions on minimum wage and to obligate them to enter into a similar commitment with their subcontractors.
- 19.3 Upon GFT's request, the Supplier has to demonstrate that its employees are compensated in accordance with the Minimum Wage Act (MiLoG) or to permit and support an appropriate audit performed by a GFT-appointed auditor.
- 19.4 The Supplier shall indemnify, hold harmless, and defend GFT against all claims of Supplier's employees under or in connection with the MiLoG. This also applies to the claims of all employees within the framework of a chain of subcontractors.
- 19.5 In the event of a violation of the provisions set forth in section 19 hereunder by the Supplier or by its subcontractors, GFT shall be entitled to extraordinary termination without notice of all individual contracts entered into with the Supplier.

**20. Code of conduct for Suppliers**

The Supplier undertakes to comply with all laws, rules, and regulations of the applicable jurisdiction(s). The Supplier undertakes in particular not to participate, directly or indirectly, actively or passively, in any form of bribery, violation of the basic rights of its employees or in child labor. The Supplier shall comply and shall ensure his employees shall comply with GFT's Anti-Bribery&Corruption Policy and the GFT Code of Ethics&Code of Conduct in their most recent version (available at: <https://www.gft.com/int/en/index/company/corporate-governance/compliance/>). Furthermore, the Supplier will take responsibility for the health and safety of its employees at their workplace, will comply with all environmental laws and use its best endeavors to encourage and demand from its own suppliers compliance with this code of conduct. If the Supplier culpably violates these obligations in context with the delivery of services/goods to GFT, GFT shall be entitled to withdraw from or terminate the contract, notwithstanding the assertion of any additional claims and remedies that may be available to GFT. If such breach of duty is capable of remedy, GFT's right can only be exercised upon the unsuccessful expiration of a reasonable time limit for the remedy of such breach.

**21. Special provisions regarding Events and Event sponsoring**

- 21.1 For contracts regarding the participation in fairs, trade shows, road shows or similar events (together "Events") or sponsoring of such Events, the following additional special provisions of this section 21 shall apply.
- 21.2 GFT reserves a right to terminate its participation in the Event or sponsoring of the Event until 14 days prior to the Event. In case GFT terminates its participation in the Event or its sponsoring of the Event, any payments already made have to be reimbursed.
- 21.3 In case the Event is canceled by the Event organizer, all payments made by GFT have to be reimbursed, except in case the Event is canceled due to a force majeure event. GFT reserves the right to claim further damages, including but not limited to reimbursement of expenses.
- 21.4 In case submits any marketing materials such as logos, pictures, diagrams and other GFT information to the Event organizer, such marketing materials may only be used in the form submitted by GFT and only in connection with the Event. Any change, revision or deviation to the marketing materials may only be made with GFT's prior written approval. The approval requirement is also applicable for any envisaged usage by the Event organizer not in direct context with the Event.
- 21.5 Any reference to the Event, regardless whether online or offline, in context with a direct and/or indirect nomination of GFT has to be approved in writing by GFT in advance. This includes but is not limited to press releases, references to the Event and publications of pictures.

**22. Supplementary application of statutory provisions**

To the extent these General Purchasing Terms and Conditions do not contain any provisions, the statutory provisions shall apply.

**23. Place of jurisdiction, applicable law:**

- 23.1 Exclusive place of jurisdiction is Stuttgart.
- 23.2 These General Purchasing Terms and Conditions are subject to German law to the exclusion of the United Nations convention on Contract for the International Sale of Goods and of all conflict of law provisions.