

1. General provisions, area of application

- 1.1 The following GPT form an integral part of our orders (those of Saacke GmbH & Co. KG including the affiliates and associated companies operating on the basis of these GPT) valid for deliveries and services (hereafter "Services") and govern the procurement contracts closed on the basis of these orders. They apply opposite enterprises, legal entities according to public law and public estates governed by public law (hereafter "Suppliers"). They do not apply to contracts with consumers.
- 1.2 By accepting these GPT without contradiction, the Supplier declares his acceptance of their exclusive validity for any order we have placed and for any subsequent business transactions arising therefrom. In the event that special (individual) agreements deviating from these GPT are made for a particular order, these GPT apply additionally.
- 1.3 Even in the event that the Supplier's General Business Terms are transmitted to us via a letter of confirmation or by other means, we hereby declare non-acceptance of same should they deviate from these GPT.
- 1.4. The Supplier undertakes to comply with all rules and regulations of the applicable „Code of Conduct for Suppliers“.

2. Quotation, supplementary agreements, unauthorised advertising

- 2.1 Supplementary oral agreements or the exclusion of, the modification of and/or additions to these GPT are valid only with our express written confirmation.
- 2.2 The use of our orders for reference and/or advertising purposes is subject to our prior written consent.

3. Drawings, models, tools

We reserve the ownership and/or copyright and/or other property rights on all illustrations, drawings, models, samples, calculations, engineering plans and other documents which we have made available or have purchased for fulfilment of the order; these documents may be used solely for completion of the order and may not be reproduced and/or made accessible to third parties without our express written consent . They must be returned to us automatically and free of charge upon completion of the order. The Supplier shall be held liable for any damage incurred by negligent non-compliance with this provision.

4. Responsibility for technical information/ Fitness for Export

- 4.1. Our approval on drawings, calculations and other documents has no effect on the sole responsibility of the Supplier with regard to the Services to be rendered. This also applies to any suggestions, recommendations and any other contributions on our part.
- 4.2. The Supplier warrants that his scope of supply and/or services at the time of concluding the contract and at time of shipment as well as during the warranty period (para. 15.5) comply with all regulations of the Foreign Trade and Payments legislation as e.g. Dual-Use Regulation (Council Regulation 1334/2000 amended by Council Regulation No. 1167/2008) and the applicable Foreign Trade and Payments Order (AWV), the Embargo Regulations at time of shipment and all other relevant laws and regulations which have to be complied with for Im- and Export in and/or from the territory of the EU (see www.BAFA.de). In case any relevant provisions are altered or amended between closing of the contract and shipment which have an impact on the fitness for Im- or Export of the subject matter of the contract we have to be advised immediatly.

Any non-compliance with the warranty given under para. 4.2. above gives us the right to rescind the contract. This right applies also in case of an amendment or alteration of Im- and Export regulations during the warranty period with explicit exclusion of the suppliers` s right of supplementary performance.

In case the aforementioned warranty obligations are violated by the Supplier and we are confronted with claims of any third party as a consequence thereof the Supplier is obliged to indemnify us from such claims including all foreseeable consequential damages and to settle all our claims, the claims of our employees, vicarious agents, customers even in case no fault or liability of the Supplier has been proven.

5. Inspection

With sufficient advance notification, we and/or our staff and/or third parties of our choice shall be awarded access to the production facilities of the Supplier and/or his sub-contractors at any given time in order to verify the stage of the manufacturing process, the use of suitable material, the employment of the necessary specialists and the skilled execution of the Services ordered. Such inspections have no legal effect with regard to any acceptance procedures to follow; an inspection shall neither substitute acceptance procedures nor limit in any way the sole responsibility of the Supplier with regard to his Services. Under no circumstances can an objection be asserted on the grounds of contributory negligence based on an inspection of this sort.

6. Spare parts

The Supplier assures that spare and wear-and-tear parts shall be available for each purchase for a period of at least ten years after expiry of the warranty period.

7. Carriage of dangerous goods, identification of hazardous substances, packaging

7.1 Before accepting the order, it is the responsibility of the Supplier to verify whether the objects and/or components mentioned in it are to be classified as dangerous goods (e.g. paints, adhesives, chemicals or inflammable, oxidising, explosible, combustible, poisonous, radioactive or caustic goods or those prone to spontaneous heating) in the country of origin, the country of destination and/or in any of the countries of transit. In that event the Supplier shall inform us in time and comprehensively. At the latest together with the written order confirmation he shall forward to us, correctly filled out and with a legally binding signature, any declarations required by law for the dispatch of the goods.

7.2 When packaging, marking and declaring dangerous goods, it is the duty of the Supplier to observe whatever rules apply both nationally and internationally, in particular Sea freight Dangerous Goods Regulation – Sea IMDG Code Air freight UNI-CAO / IATA / RAR / US DOT Railroad CIM / RID as well as Dangerous Goods Regulation – Rail Road ADR as well as Dangerous Goods Regulation – Road General Hazardous Substances Regulation, any national regulations of the country of destination in question deviating from and/or in addition to these shall also be observed if that country of destination is mentioned in the order.

7.3 The Supplier is responsible for any damage resulting from incorrect information given in the required declarations or from non-compliance with existing regulations during the processing (packaging, shipment, storage etc.) of the dangerous goods.

7.4 The Supplier shall take packaging material back for us without charge.

7.5 If delivery is made on wooden pallets and/or other wooden racks or supports, they must be treated and stamped according to IPPC standards.

8. Export licence

It is the duty of the Supplier to inform us without delay in writing whether and to what extent, for the order as a whole or in part, state export licences are required or similar legislative or regulatory stipulations are to be met, or if it is subject to USA export restrictions.

9. Prices, quotation terms, payment terms, delay

9.1 The prices agreed on in the contract are binding. They are quoted without the statutory value added tax.

9.2 Unless otherwise agreed in writing, the prices are quoted FCA (given location) according to INCOTERMS 2000.

9.3 We shall effect payment on the 25th day of the month following the complete and correct fulfilment of the contract and receipt of the invoice minus 3% discount or within 90 days net.

9.4 Where payment in instalments has been agreed on, the term for payment commences only upon receipt of the invoice unless the completion of certain Services and/or the provision of securities has been agreed upon as a prerequisite. Invoices for Services which, as the Supplier is aware, we have promised to a third party are only due for payment when and to the extent that we have been reimbursed for the Services or for parts of them by the third party. In the event that we have provided security vis-à-vis the third party for possible defects, it is the duty of the Supplier to provide us with a security for the same amount and to the same extent. An agreement on payment in instalments shall not release the Supplier from his obligation to list and draw a balance of all of the Services in a specified final account.

9.5 Default in payment after the due date shall commence only upon receipt of an express reminder.

9.6 We shall not be in arrears with payment in the event that we have erred in good faith with regard to the justification of an objection we have raised against the Supplier's claims for remuneration, or of a right of retention we have exercised.

9.7 In the event that our default in payment is due to simple negligence, overdue interest shall be limited to 3 (three) percent above the basic interest rate (§ 247 BGB German Civil Code) unless the Supplier proves that he has suffered damage in excess of that owing to the default.

9.8 Under no circumstances shall our payments represent acknowledgement that the Service has been rendered professionally and to our complete satisfaction in the sense of acceptance of the delivery.

10. Set-offs, right of retention, consolidated clearing

10.1 We are entitled to the right to set-off and retain payments within statutory limits.

10.2 We are also entitled to set-off and retain payments with regard to our accounts receivable from companies affiliated with the Supplier within the meaning of § 15 AktG German Stock Corporation Act.

10.3 Disputes regarding the amount to be remitted to the Supplier shall not entitle the Supplier, even temporarily, to discontinue provision of his Service completely or partially.

11. Delivery time, delayed delivery

11.1 The delivery time given in the order is binding. Deliveries or partial deliveries ahead of time shall require our express written permission.

11.2 It is the duty of the Supplier to inform us immediately in writing if circumstances arise or become evident as a result of which the delivery deadline can not be met.

11.3 We are entitled to demand, in addition to fulfilment, a penalty amounting to 0.2% of the total value of the contract, however not to exceed 15% of the total value of the contract, for each broken calendar day of delay in delivery. This shall not preclude the assertion of further claims on the grounds of delay (including the right to withdrawal and/or compensation in lieu of the Service). Our right to demand the penalty remains in effect up to the date of the final account/payment even if we have not reserved it at the time of acceptance of the Service.

11.4 In addition, and without prejudice to our other rights, after a reasonable extended deadline we have set has expired, or without extending the deadline if owing to the delay the Service is no longer of interest to us, or where there is danger in delay, or to avert further damage, or for the sake of expedition, we shall be entitled to have the Service not yet rendered by the Supplier performed by a third party at the expense of the Supplier. For each Service we initiate as a substitute the Supplier shall, at his expense, procure for us all of the information required and hand over to us all of the documents in his possession as well as acquire for us, to the extent necessary for the substitute Service, the relevant licences and/or save us harmless immediately from any claims which may arise by virtue of his own property rights or those of a third party. By concluding the delivery contract, the Supplier declares his agreement with the use of his property rights for the substitute Service rendered by ourselves or by a third party on our instructions. The claim for payment of the penalty accrued up to performance of the substitute Service by a third party shall be satisfied in any event.

12. Assignment of accounts receivable

Accounts receivable from us may only be assigned with our prior written consent. This does not apply for assignment in the event of extended retention of title. § 354 a HGB German Commercial Code remains unaffected.

13. Transfer of risk

The Supplier bears the risk according to the delivery conditions agreed on with him in article 9.2.

14. Documents/Invoices

It is the duty of the Supplier to specify on all shipping documents/dispatch papers/delivery notes our order number as well as the article no., the number of items and their measurements and contractually agreed identification marks. All invoices have to bear a date compulsory and have to specify the VAT together with the applicable VAT ID No.. In case missing details lead to additional efforts in the handling of the documents and/or goods/services supplied we are entitled to charge and to set-off a lumpsum of € 50,- per incorrect document. Our right to claim damages, costs and expenses out of and in connection with the violation of the obligations of the Supplier under this para. 14 remains unaffected.

15. Warranty, notification of defects, recourse

- 15.1 The Supplier guarantees that his Services comply with the accepted rules and the latest state of technology as well as with the standards, regulations and norms (including safety, occupational safety and health, and accident prevention regulations) currently in effect in Germany and in the country of destination, that they possess the qualities agreed upon and the features guaranteed, and that they are otherwise free of material and legal flaws.
- 15.2 It is our obligation to examine the Services according to the circumstances and the climactic and other conditions at the respective place of application immediately for any defects in quality and/or quantity and to then serve notification of any defects immediately upon their discovery.
- 15.3 We shall have unconditional recourse to statutory warranty rights, including the rights arising from § 478 BGB German Civil Code (entrepreneurial recourse). We shall be entitled in any event to claim either remedial action or substitute Service from the Supplier at our discretion; the Supplier shall defray all of the expenses necessary for the remedial action or the substitute Service. After notifying the Supplier accordingly, we shall also be entitled to take remedial action ourselves where there is danger in delay or a particular need for expedition, or if he has failed to meet a reasonably extended deadline previously granted for the remedial action, or a follow-up Service has failed, or if this seems indicated in order to mitigate damages. We shall be entitled to demand payment in advance towards defrayal of the necessary expenditures arising from this course of action.
- 15.4 In the event that we are entitled to take remedial action ourselves according to article 15.3 above, article 11.4 applies with regard to the duties of the Supplier. All costs incurred in connection with the remedial action, in particular for dismounting, mounting, travel, freight, packaging, insurance, customs and other duties, tests and technical approval procedures shall be defrayed by the Supplier.
- 15.5 Unless otherwise agreed in writing, our claims on the grounds of defects expire by limitation after 35 months calculated from the date of the transfer of risk (article 13). In the event that a Service is intended for a building and has caused its defectiveness, the period of limitation shall be five years. Longer statutory periods of limitation remain unaffected; §§ 438 par. 3, 479 and 634a par. 3 BGB German Civil Code also remain unaffected.
- 15.6 Insofar and as long as Services can not be put to their contractual use owing to follow-up work on the part of the Supplier, their warranty period shall be prolonged by the duration of this interruption. For Services repaired and/or replaced within the framework of this warranty, the period of limitation begins anew with the acceptance of the repair and/or substitute Service, not however to exceed five, in the event of building works seven, years from the transfer of risk.
- 15.7 The regulation provided by § 476 BGB German Civil Code applies accordingly, whereby the period is extended to eighteen months.

16. Product liability, indemnification, insurance protection

- 16.1 Insofar as the Supplier is responsible for a product defect or an infringement of legislative/regulatory safety rules, he shall save us harmless from claims for indemnification by third parties upon the first written request. Above and beyond this, we shall be entitled to reimbursement for all expenditures incurred, in particular for those in connection with product recalls we have initiated for this reason; as far as possible and reasonable, we shall inform the Supplier in advance of the type and extent of product recalls. The right to further legal recourse remains reserved.
- 16.2 The same applies insofar as product defects can be traced to Services rendered by the Supplier's pre-contractors or sub-contractors.
- 16.3 It is the duty of the Supplier to be covered adequately by product liability insurance and to provide us with evidence of same, in particular by written confirmation from his underwriter, at any time upon request.

17. Liability for damage to the environment

The Supplier shall be held liable for any damage ensuing in connection with his Services from infringement of environment protection law provisions (such as immission protection laws, waste oil and water balance laws, waste management laws and/or regulations issued in connection with same). He shall save us harmless from any and all claims for indemnification on the part of third parties upon the first written request. Above and beyond this he shall indemnify us for damage suffered on our part.

18. Property rights

The Supplier vouches that no third party rights shall be infringed upon in connection with fulfilment of the orders. In the event that any claims are lodged by third parties, the Supplier shall save us harmless from such claims upon the first written request. This obligation to save us harmless applies to all necessary expenses accruing out of necessity from and/or in connection with such claims.

19. Subcontracting, partial invalidity

- 19.1 The Supplier requires our prior written consent before exercising the right of retention vis-à-vis his sub-suppliers. To prevent the Supplier's post-contractors from exercising rights of retention, we shall be entitled to make direct payments to post-contractors which, insofar as they concern justified receivables to the post-contractor, shall be considered payment in lieu of performance with relation to the Supplier. Should we err in good faith with regard to the justification of any of the post-contractor's claims receivable from the Supplier, these shall nonetheless be considered to be justified in the intendment of the previous sentence. In any event, third parties, in particular sub-suppliers and sub-contractors of whom the Supplier makes use for the fulfilment of his obligations arising from the order or who are otherwise involved by him in connection with his Services, are vicarious agents of the Supplier.
- 19.2 In the event that any of the individual conditions of the procurement contract should be legally ineffective, the legal effectiveness of the remaining conditions remain unaffected. It shall be the duty of the Supplier to replace the ineffective condition(s) immediately by supplementing the contract with an agreement of which the economic effect is as close as possible to that of the ineffective condition(s).

20. Special provisions for continuous obligations

In the event that our order concerns Services in the form of performance within the framework of a contract covering a longer (in excess of two months) period of time, in addition to the other provisions of these GPT the following apply:

- 20.1 The duration of the contract shall never extend beyond one year unless a longer period of time has been expressly agreed on in writing.
- 20.2 The contractual relationship ends upon expiry of the term of one year automatically without notice. The right of termination for just cause and, if so agreed, the right of termination by serving notice, remain unaffected. In the event of higher grade Services, § 627 BGB German Civil Code applies.
- 20.3 The Supplier shall be held liable for damage he himself or persons acting on his instructions inflict upon our property or assets while rendering the Services. This does not apply only where the Supplier proves that the damage could not have been prevented even with extreme care. It shall be sufficient proof that the Supplier is the originator of the damage if we can prove that it was most probably caused by him or those acting on his instructions.

21. Special provisions for shipping contracts

In the event that our order refers to shipping and forwarding contracts, in addition to the other provisions of these GPT the following apply:

- 21.1 No transport insurance whatsoever shall be taken out unless we have placed an express, written order for same.
- 21.2 The forwarding agent we contract shall be held liable according to freight law even if an agreement has not been made on the costs before the shipment has commenced.
- 21.3 **The indemnification shall amount to 40 SDR/kg** to cover loss and damage during carriage and/or temporary storage, whether commissioned or owing to circumstances during shipment. Proof of the premises of § 435 HGB German Commercial Code shall entitle us to claim further damages.
- 21.4 With closure of the contract, the forwarding agent/transport contractor we have contracted assigns his claims vis-à-vis his liability insurance underwriters and those vis-à-vis his subcontractors. Nevertheless, we are entitled at any time and without reservation to claim damages from the forwarding agent/transport contractor to the extent to which whatever loss/damage has been sustained is not covered by the indemnification received from his liability underwriters and/or sub-contractors.

22. Special provisions on contracts for manufacturing services

In the event that we have contracted the Supplier to do manufacturing work for us on objects we have put at his disposal only, the GPT shall be extended to include the following provisions:

- 22.1 The Supplier's account shall be receivable only after we have officially accepted the Services in due form.
- 22.2 Putting the object of delivery into operation does not constitute our acceptance.
- 22.3 It shall only be considered that acceptance has taken place when we have so stated in writing.

22.4 The remaining provisions of these GPT including the provisions on follow-up fulfilment/warranty as well as the deadlines for same apply accordingly.

23. Orders for software

23.1 In the event that the order concerns the supply of software, the provisions of these GPT apply insofar as it involves standard software.

23.2 In the event that the order consists solely of or includes programming Services along with the supply, the following also apply:

23.2.1 The prices agreed on for the programming Services are fixed prices. Invoicing these programming Services according to the effort involved shall require our prior express written consent.

23.2.2 Programming Services shall be subject to acceptance procedures. The provisions covering manufacturing Services according to article 22 apply accordingly.

23.2.3 It is the duty of the Supplier to deliver the source codes on a CD in a legible form permitting further processing. The Supplier's account receivable shall not be due until the source codes have been handed over.

23.3 The provisions of these GPT, in particular article 11 and article 15, apply accordingly.

24. Place of fulfilment

Place of fulfilment for the Supplier's Services is the location agreed upon for their use; for payments to be made by the principal it is his place of business.

25. Place of jurisdiction, law applicable

25.1 Insofar as the Supplier is a merchant, a legal entity according to public law or a public estate governed by public law, the place of jurisdiction for all manner of proceedings shall be our place of business in Bremen. We also reserve the right to take legal action against the contractor at his general place of jurisdiction.

25.2 The law of the Federal Republic of Germany applies without exception; the applicability of UN Unified Purchase Law (CISG) is not excluded for foreign Suppliers and may be applied in addition.