

**1. General provisions**

The General Purchasing Terms and Conditions below shall exclusively govern all relations between Nanogate Netherlands B.V. (hereinafter referred to as "Orderer") and the recipient of the order (hereinafter referred to as "Supplier") in respect of all orders for goods and service. Deviating, opposing or supplementary Purchasing Terms and Conditions shall apply only if expressly accepted by the Orderer, in writing.

Acceptance of goods or services or payment shall not imply acceptance of other Purchasing Terms and Conditions.

In the event of the conclusion of specific contracts between Orderer and Supplier, the provisions of such contracts shall take precedence and shall be in writing. Insofar as required, they shall be supplemented by these Purchasing Terms and Conditions.

**2. Conclusion of contract**

Orders shall not be binding unless placed or confirmed by the Orderer, in text form, at least. If the order is still unconfirmed, the Orderer shall be bound by his order for 14 calendar days from its submission.

The Orderer shall have the right at any time to correct clearly erroneous orders or parts of orders by unilateral written statement. The Supplier shall point out obvious errors (e. g. spelling and calculations) and incompleteness of the Order and its documentation for purposes of correction or completion before acceptance.

The deliverables shall be ordered as per the Supplier's offer of goods and services, or as per Orderer's specifications. The Supplier shall ensure that descriptions in the order are correct and that the material will meet the requirements he is aware of. The Supplier shall inform the Orderer without delay should he have doubts about the usability.

The Orderer shall at any time be entitled to change the time and location of delivery and the type of packaging, in writing and with a notice period of at least 2 calendar days prior to the agreed delivery date. The same shall apply to changes to specifications. Insofar as these may be implemented in the Supplier's regular production process without significant additional effort, in which case a notification period of at least 2 weeks as set out above shall apply. The Orderer shall reimburse the Supplier for reasonable and verified additional costs arising from the changed order. Should such changes cause delivery delays that cannot be avoided with reasonable effort and in the course of the Supplier's regular production and business processes, then the originally agreed delivery date shall be correspondingly adjusted. The Supplier shall report anticipated delays in delivery and additional costs within 5 calendar days from receipt of the change order, in writing.

The Supplier shall not pass on orders to third parties (sub-contractors, among other) for fulfillment unless with the prior written consent of the Orderer. Should the Orderer consent, then the Supplier's liability for goods and services shall include the goods and services of the subcontractor also.

The Orderer shall, in cases of framework or standing orders, announce the quantities and types for delivery by individual release order. Such release orders shall be binding unless objected to within 3 calendar days from receipt of the release order and provided no other provision exists.

The Supplier shall be obligated to immediately notify the Orderer should it become evident that an agreed delivery date will not be met, also giving the expected duration of the delay.

**3. Order confirmation**

The Supplier shall confirm the order, at least in text form, within 5 working days. Changes the Supplier may make in the course of order confirmation shall not be valid unless approved by the Orderer.

**4. Prices**

Unless otherwise agreed, the agreed prices shall always be fixed – be it the price in total or per unit. Value added tax or turnover tax shall be shown separately, where applicable.

In the absence of special agreements, the agreed prices shall cover all the services associated with the delivery of the goods, such as packaging and transport to the agreed location (delivery free to Orderer's place of receipt) in particular, including customs duties, fees, taxes, and other ancillary costs.

**5. Date of delivery**

Agreed dates and deadlines shall be binding and be meticulously adhered to. The receipt of goods or supply of services at the Orderer's specified location shall be decisive to such compliance. The Supplier shall notify the Orderer of a potential delay immediately he becomes aware of this. This shall not affect agreed deadlines. The Orderer shall not be obligated to accept partial deliveries or deliveries prior to the agreed date.

Should the Supplier default on the delivery, he shall be liable to the Orderer for a contractual penalty amounting to 1% of the total value of the order per partial week of the delay, limited to 5% of the total value of the order. The contractual penalty shall not be set off against any claims for damages by the Orderer. Should the Orderer be unable to accept delivery of goods and services due to circumstances beyond his control despite reasonable care, then the date of acceptance shall be postponed by the duration of the impediment. Should such circumstances delay acceptance for longer than 3 months, then the Orderer shall be entitled to withdraw from the contract. In this case the Supplier shall not be entitled to claim for damages.

**6. Goods and Services**

The place of performance for goods or services shall be specified by the Orderer. Partial deliveries and advance deliveries are not permitted.

Goods / services shall be free to Orderer's works, unless otherwise agreed. Transport shall be at the Supplier's risk. The Incoterms 2020 DDP or DAP delivery clause shall apply.

Each delivery slip shall include a delivery slip. The delivery slip shall contain the usual detail, including a detailed description, the supplied quantity, the article number, and the clear reference of the Orderer (order number or similar).

If the goods are delivered by rail or forwarding agent, the above data shall also be given on all waybills and / or other goods and customs documents.

Foreign suppliers shipping to the place of performance, shall include customs documents with the usual goods documentation. When delivering hazardous goods, the Supplier shall ensure compliance with pertinent statutory regulations up to arrival of the goods at the destination. All supplied goods shall bear their specific article number in a clearly visible position.

**7. Tools / Devices / Models**

The aids which the Orderer may at times make available shall be handled with care by the Supplier and, unless otherwise agreed, returned in perfect condition after completion of the order. Using or ceding these to third parties is prohibited.

The resources handed over shall be suitably stored and maintained and the Supplier shall insure them against damages at his own cost.

The Supplier shall mark such resources as property of the Orderer and shall as far as possible store this separately from his own property and / or that of a third party. The Orderer shall be notified in writing without delay in case of enforcement of third-party claims on these resources. The resources shall be released to the Orderer on request.

**8. Transport insurance**

Taking out transport insurance for the account of the Orderer requires the latter's prior written approval.

**9. Liability for material defects**

The Supplier shall, with effect from taking into final operation of the supplied object or acceptance of the services provided, offer a 24-month warranty for defects, covering the use of optimal material, proper and good design, appropriate construction, and correct installation. Statutory regulations shall apply in the event of bad delivery. The Orderer shall also have unlimited claims for defects not known as a result of gross negligence on conclusion of contract.

In urgent cases, the Orderer shall be entitled to replace or repair defective parts for the account of the Supplier and remedy damages incurred, or to commission third parties to perform this at the cost of the Supplier.

If the Supplier may be held liable for a defect or failure to meet an assured property, then the Supplier shall also be liable for subsequent damages.

Statutory regulations shall govern the obligation of duly diligent examination and notification of defects, wherein the Orderer's obligation for examination in the course of incoming goods inspection shall be limited to defects in evidence during external inspection of goods and shipping documents (e. g. transport damage, wrong and short delivery) or during quality control by means of spot checks.

The extent to which, in view of circumstances surrounding an individual case, a prudent businessman be expected to carry out examinations, shall for the rest apply. Without prejudice to the Orderer's obligation of examination, his objection (notice of defect) shall be deemed without delay and in good time if submitted within 7 working days from discovery or, in the case of obvious defects, from delivery. The limitation period shall be 36 months from passing of risk.

**10. Defects of title**

The Supplier shall ensure that the provisioning of his goods and services will not result in any infringement of third-party rights.

The Supplier shall, should claims based on the infringement of third-party rights be made against the Orderer, be obligated on first request to fully indemnify the Orderer against such claims. The limitation period shall be 36 months from passing of risk.

**11. Product liability**

The Supplier shall, should he be responsible for damage to the Orderer's products, be obligated upon first request to indemnify the Orderer against claims for damages by third parties, provided, and to the extent, that the cause lies within his organization and control and that he is personally liable to external parties.

**12. Billing**

Bills shall be submitted to the Orderer in duplicate and / or in accordance with the provisions given in the order for each delivery or service.

Bills shall, in addition to the order number, the article numbers of the Orderer and the commission, the invoices must also contain the same data as listed under Section 6.

Should a lack of these data delay processing, then the payment deadline (including discounting) shall also be delayed.

**13. Payment**

Unless otherwise agreed, the Orderer shall be allowed a 30-day period before payment of the agreed price is due, starting from receipt of invoice. He shall be entitled to a 2% discount for payment within 14 days. Payment within 30 days means he shall pay net. Payment shall be by the method of payment as selected by the Orderer. Payment shall not imply acceptance of the goods or services as free from defects or compliant with contractual conditions.

The Orderer shall not owe due date interest. Statutory regulations shall apply to default on payment.

The Supplier shall be prohibited from ceding claims (prohibition of cession) unless with the prior consent of the Orderer. The Supplier shall have no right to set-off or retention unless against uncontested or legally established counterclaims.

**14. Right of withdrawal**

The Orderer shall be entitled to cancel an order, without such cancellation entitling the Supplier to the assertion of any claims, should the Supplier, despite warning, remain in default of his original date of delivery by more than seven days. The Orderer shall in such cases be entitled to claim for damages in lieu of the service, including both his damages suffered and expenses due to fruitless expenditure.

The Orderer reserves the right at any time to withdraw from the contract or the order, against reimbursement of proven costs incurred up to the time of his statement of withdrawal. This shall apply to products and services which can be manufactured, provided and utilized exclusively by the Orderer. No costs relating to standard products and services which may with reasonable effort be distributed or sold elsewhere will be reimbursed.

**15. Property rights and confidentiality**

The Supplier shall assure the Orderer that the goods supplied by him are not in violation of local or foreign property rights (patents, designs, brands, copyrights etc.) and shall guarantee full permission and freedom to trade and use in local and foreign commerce. The Supplier shall indemnify the Orderer against liability for all claims by third parties based on violation of local or foreign property rights to the supplied goods and to compensate the Orderer for any damages suffered.

Order documentation, drawings, models, samples, etc. which the Orderer makes available to the Supplier for purposes of fulfillment of the order shall remain the property of the Orderer and shall not be passed on to third parties or used for the Supplier's own purposes, unless with the written permission of the Orderer. The objects shall be protected from unauthorized inspection or use and shall be returned to the Orderer in proper condition, no later than on termination of the Supplier relationship. The Supplier will not be entitled to produce copies and / or duplications. He is also not entitled to retain such objects.

The Supplier undertakes to hold technical data and other commercial and technical detail he may become privy to in the course of his business relations with the Orderer in confidence. Such information shall be used exclusively in connection with the execution of orders for the Orderer and shall not be disclosed to co-workers unless they have a need to know due to their engagement in the processing of the order. Such co-workers shall be obligated to secrecy. The obligation to confidentiality will only lapse if and when the content of the specific confidential documentation becomes public knowledge.

Should the Supplier produce tools, drawings, or other manufacturing devices by order and for the account of the Orderer, he shall then retain such objects for use exclusively under the contract and ownership of such objects shall be transferred to the Orderer immediately after manufacture. The Orderer shall obtain co-ownership of the object pro rata his contribution to the cost if cost sharing was agreed on.

The Supplier shall be obligated to diligently care for such manufacturing devices at own cost, until revocation. The Orderer shall obtain all rights of use to the manufacturing devices. The Supplier shall not be entitled to utilize such devices beyond the scope of the order, unless with the consent of the Orderer.

The manufacturing devices shall be marked in such a way that ownership by the Orderer is documented also vis-a-vis third parties. The Supplier shall not be entitled to retain such devices.

**16. Material procurement by the Orderer**

Materials made available to the Supplier shall remain in the ownership of the Orderer. The Supplier shall waive obtaining ownership. Such materials shall be stored clearly separate from other materials, identified as property of the Orderer, adequately insured for the account of the Supplier against fire, water, theft and disaster and shall be used only as intended.

Processing and assembly of orders shall be on behalf of the Orderer. It shall be agreed that the Orderer will be co-owner of the goods manufactured with the provided materials, pro rata the value of the supplied materials to the value of the overall product; the latter shall be stored by the Supplier free of charge.

**17. Reservation of title**

Any reservation of title shall lapse in the event that machining or processing turns ordered material into products of the Orderer.

The transfer of ownership of goods to the Orderer shall be unconditional and regardless of payment of the price. If the Orderer by paying the purchase price accepts a conditional offer of the Supplier, then the Supplier's reservation of title shall lapse on payment of the purchase price at the latest. The Orderer shall be authorized in the course of proper business to resell the goods prior to paying the purchase price, subject to advance cession of the arising claim (alternatively recourse to reservation of title, ordinary and extended to cover resale).

**18. Right of lien**

The Orderer shall be entitled to set claims against the Supplier off against outstanding accounts.

**19. Partial nullity**

Nullity, ineffectiveness and / or lack of feasibility of individual provisions of these General Purchasing Terms and Conditions shall have no effect on overall effectiveness; provisions that are null and void, invalid, ineffective, or unfeasible shall be replaced by statutory regulations. In the absence of statutory regulations, the parties shall agree on a reasonable, effective, and feasible provision to substitute the invalid, ineffective or unfeasible provision, whereby the agreed provision shall as closely as possible approach what the parties would have agreed upon had they considered this point at the onset. This shall correspondingly apply to any gaps in the General Purchasing Terms and Conditions.

**20. Consent to data processing**

The Supplier agrees that the Orderer will save and process his personal data.

**21. Social responsibility**

The Supplier shall be obligated to comply with the applicable statutory regulations on working with his members of staff, on occupational safety and on the protection of the environmental and animals. He shall ensure that any negative effects the performance of his tasks may have on humans and the environment will be minimized. The Supplier undertakes in the course of executing the contract to observe the UN Global Compact initiative guidelines and the principles adopted by the International Labor Organizations (ILO) in the "Declaration of fundamental principles and rights at work".

The Supplier assures that the applicable laws governing general minimum wages will be complied with and that he will also obligate subcontractors commissioned by him to compliance. The Supplier will on request provide proof of compliance with the above assurance. The Supplier shall in the event of violations of his assurance, exempt the Orderer from third party claims and shall undertake to pay any imposed fines in this respect.

The Supplier shall neither actively nor passively, neither directly nor indirectly, participate in any form of bribery or corruption, not violate human rights, or discriminate against his co-workers and not engage in forced labor or child labor.

**22. Force majeure**

The Orderer shall, in the event of force majeure such as industrial disputes (strikes, lockouts), riots, regulatory action, natural disasters and other unforeseeable, unavoidable, and serious events, be entitled to cancel an order, fully or in part, or to demand postponed delivery or execution of such placed order; the Supplier shall not, as a result, be entitled to additional claims against the Orderer. The Supplier shall, in the event of loss of production capacities or loss of ability to deliver due to force majeure, be obligated to continue supplying the Orderer, at the least pro rata the remaining production capacity or ability to deliver. The Supplier shall, in addition, be obligated to make all technically possible and economically reasonable efforts to ensure fulfillment of the order, even in the event of force majeure.

**23. Disputes**

The exclusive place of jurisdiction for all disputes arising from or in connection with this business relationship is the court having jurisdiction for the Orderer's business location. The Orderer shall, however, be entitled to sue the Supplier also at his place of business.

**24. Applicable law**

All legal disputes arising from orders or other agreements are governed by the law applicable at the Orderer's business location, in exclusion of CISG (Vienna Convention on Contracts for the International Sale of Goods).