

General terms and conditions of supply and payment

1. Basic provisions

a) All deliveries, services and quotes provided by gabo Systemtechnik ("we"/"us") are based exclusively on these terms and conditions of supply and payment ("T&Cs"). We do not accept conflicting customer terms and conditions, even where we supply without specifically stating this, do not expressly object to them or where we refer to letters from the other party in which reference is made to their terms and conditions. Our T&Cs shall also apply to any contracts with commercial undertakings, legal entities under public law and special funds under public law for any future business transactions, even if not expressly agreed to again. Our T&Cs are considered as agreed to by the time the goods are accepted. They do not apply to retail customers.

b) Any customer terms and conditions which conflict with or vary from our terms and conditions shall only apply where we have expressly agreed to this in writing.

2. Contract validity, scope

a) Our quotes are subject to change and are non-binding, except where they are specifically identified as binding or include a specific time for acceptance. Contracts and other agreements shall only become binding upon our written confirmation. We reserve the right to deliver only against payment in advance.

b) The scope is limited to our written confirmation. Any reference to DIN regulations describes performance and is not a guarantee of properties.

c) Our sales staff are not authorised to make additional verbal agreements, assurances or guarantees which go beyond the content of the written contract. Everything agreed under this contract is set out in the written contract documents. No additional verbal agreements are valid, or these become invalid once a contract becomes valid.

d) Information about the item supplied (such as technical data, tolerances, dimensions, weights, illustrations, descriptions, etc.) and any claims made are approximate only, except where specifically stated as binding or where exact conformity is required for use as intended under the contract, and do not constitute any assurances or guaranteed qualities, but are instead merely descriptions of and ways to identify the item supplied, and are only binding where we specifically confirm this. Routine technical or design changes, or variations in the items supplied which are customary in the trade, based on legal regulations or constitute technical improvements, are permitted provided these do not adversely effect use as intended under the contract.

e) We reserve title and copyright over our quote and contract documents, including illustrations, drawings, sketches, calculations, design drawings, samples, cost estimates and similar tangible or intangible company property, regardless of whether these documents are hard copies or electronic. Customers must always treat these as strictly confidential and only use them as intended under the contract. They may not be made available to third parties without our express consent and must be returned to us in full on demand; any copies made must be destroyed if they are no longer required by the customer, or where no contract has been agreed with the customer. In the event of failure to comply with these requirements, the customer shall be held fully accountable in accordance with statutory provisions. Using our name in testimonials and advertising, etc. is only permitted with our prior consent.

3. Pricing

a) Our prices apply to items supplied as listed in the order confirmation and are FCA (Incoterms® 2020), excluding packaging and loading equipment. The customer is responsible for insurance and customs duties.

b) If costs associated with the order alter significantly after the order has been finalised, the parties shall agree to an adjustment.

c) Prices quoted are exclusive of statutory VAT applicable at the time of supply; if the tax rate changes between placing the order and delivery, the new VAT rate shall apply, except where legally stipulated otherwise.

4. Lead times, delivery dates

a) Lead times are approximate and non-binding, except where we have agreed or confirmed that they are binding. Lead times shall commence from the date of our order confirmation, but not before all order details have been clarified in full or – where the order is being processed against payment in advance – before we have received cleared funds in full; the same applies to delivery dates.

b) We may – without prejudice to our other rights accruing from default on the part of the customer – demand from the customer an extension of lead times and delivery dates, or a postponement of lead times and delivery dates for the period when the customer is in default, especially where they fail to perform on their part as previously agreed. This is without prejudice to the defence of failure to perform the contract, as well as additional claims or rights.

c) The point of handover to the forwarding agent, carrier or other third party commissioned with the transport is used to determine compliance with lead times and delivery dates. Where goods cannot be despatched on time through no fault of our own, lead times and delivery dates shall be deemed to have been met upon advising that they are ready for despatch.

d) Correct delivery on time is not a factor where the customer arranges transport. We will notify the customer of any delays. Where our suppliers fail to deliver correctly or on time and we are not responsible for this, the lead time shall be postponed accordingly. We will notify the customer of this immediately, and in such event we may also declare the contract cancelled in respect of any goods not yet

delivered where the lead time is delayed by more than one month due to incorrect or late delivery to us. Where permitted under competition law, we shall assign to the customer our claims against the supplier for failing to deliver in accordance with the contract. No additional claims against ourselves for damages and reimbursement of costs will be valid.

e) In the event of late delivery, the customer may withdraw from the contract after a reasonable time has elapsed without resolution; in the event that we are unable to deliver, the customer shall be entitled to do this even without allowing extra time. No claim for damages (including any consequential damages) will be accepted, notwithstanding paragraph f) and clause 18, which are not intended to reverse the burden of proof; the same applies to reimbursement of expenses.

f) Where arrangements for delivery by a fixed date have been agreed, we shall be liable in accordance with statutory provisions; the same shall apply where the customer can claim that their interest in performing the contract has ceased to exist due to the delay for which we are responsible.

g) Where despatch is delayed at the customer's request or if the customer is in default as regards acceptance, the customer shall be charged any storage costs incurred, starting one week after notification of being ready for despatch. Clause 10 a) shall also apply in the event of default as regards acceptance.

5. Part deliveries, supply contracts and call-off orders

a) We are entitled to make part deliveries to an extent that is reasonable for the customer provided that we have given the customer the opportunity to comment and no major customer interests are adversely affected, that the part delivery can be used by the customer within the scope of the purpose intended under the contract, that the customer does not incur any significant additional work or additional costs as a result (unless we agree to cover costs accordingly) and that delivery of the remaining goods is guaranteed. Each part delivery is considered a separate transaction.

b) If, in the case of call-off delivery contracts, the customer does not call off or schedule the goods on time, we shall be entitled, after giving reasonable notice, to schedule the goods ourselves and deliver the goods or withdraw from that part of the delivery contract that has not yet been completed, and to claim compensation for any loss suffered as a result. These consequences must be pointed out in the notice period.

6. Force majeure and other impediments

In the event of force majeure, we may postpone delivery for as long as the disruption lasts plus a reasonable start-up time, or cancel the contract in whole or in part in respect of any part which has not yet been delivered. Force majeure includes sanctions, export or import bans that apply to gabo or the buyer, strikes, lockouts, pandemics, material shortages or logistics problems or other unforeseen circumstances, e.g. operational disruptions, breakdown of machines and production facilities and reworking, which make it impossible for us to deliver on time despite reasonable efforts; we must provide evidence of this. This shall also apply if the above impediments occur during a period of delay or at a subcontractor.

b) The customer may invite us to confirm within 2 weeks whether we wish to withdraw from the contract or deliver within a reasonable time. If we do not confirm, the customer may withdraw from the outstanding part of the contract. As far as legally permissible, no claims for damages on the part of the customer can be accepted.

7. Inspection process, acceptance

a) If the customer wishes us to carry out necessary inspections, we must be notified accordingly. The type and scope of the inspections must be agreed before the contract comes into effect.

b) If technical acceptance is desired, the scope and terms must be defined before the contract comes into effect. Acceptance must be carried out at the supplier's premises at the customer's expense immediately after notification of being ready for acceptance. Should the goods not be accepted, or not on time or not in full, we shall be entitled to despatch the goods or to store them at the customer's expense and risk; the goods shall then be deemed to have been accepted.

8. Dimensions, weights, quality

a) Variations in dimensions, weight, quantity or quality are permissible within the scope of normal commercial tolerances or in accordance with the relevant standards; they do not give grounds for complaint.

b) Delivery weights and quantities as determined by us shall be used in calculations.

9. Packaging and loading equipment

Except where normal commercially or agreed separately, goods are not delivered in packaging and not protected against rust. If appropriate, we shall provide normal packaging and loading equipment (wooden supports, scaffolding, covers, etc.) at the customer's expense or charged for. These are to be returned at the customer's risk and expense on demand.

10. Despatch and transfer of risk

a) Except where stated otherwise in our order confirmation, deliveries shall be made ex-works and at the customer's risk. The customer must accept goods notified as ready for despatch immediately – no later than 7 calendar days following receipt of notification; otherwise we shall be entitled to despatch them at our own discretion at the customer's risk and expense or else to store them – in the open if necessary; we shall also be entitled to the latter course of action where the despatch we have

agreed to cannot happen through no fault or blame of our own. One week after being put into storage, the goods are deemed to have been delivered and can be invoiced. In this case, we shall not be liable for damage to or the cost of the goods unless we acted intentionally.

b) In the absence of specific instructions, the choice of the means of transport and the transport route shall be at our reasonable discretion.

c) If shipment cannot be made to the port of destination, we shall be entitled to deliver to an alternative one – where possible and provided we notify the customer. Customers are responsible for the cost of transit insurance. The customer is responsible for additional costs incurred for particular shipping methods or routes (such as particular vehicles, urgent or express goods) as well as other special costs (such as free delivery, special transport, low water surcharges).

d) We shall only insure the goods at the express request and expense of the customer. We are not liable for the consequences of failure to send despatch notes on time.

e) Except where risk has previously been transferred in accordance with clause 10 a), risk shall pass to the customer at the beginning of the loading process onto the railway, the forwarding agent or carrier, but no later than when goods leave the factory or warehouse, except where we have agreed to deliver the goods. If we merely arrange transport for the goods at the customer's request, this shall not affect the provisions regarding the transfer of risk in the goods in accordance with the agreed Incoterms® 2020, except where we have agreed otherwise with the customer in terms of transport of goods and/or transfer of risk.

11. Terms of payment, late payment, right to withhold payment

a) Except where agreed otherwise, our invoices fall due 10 days after invoicing and delivery. Payment must be made in full so that cleared funds reach us on the due date. b) The customer shall only be entitled to a right of set-off where any counterclaim has been legally established, or a ruling is anticipated, or has been accepted by us or is not disputed. The customer is entitled to withhold payment provided any counterclaim is subject to the same commercial contract or we have accepted the counterclaim, or it has been legally established or where this is necessary to safeguard customer warranty claims.

c) If payment terms are exceeded, statutory default interest shall be charged (9 percentage points above the applicable base rate). This does not affect the right to claim for greater loss or damage. In the event of late payment, we shall also be authorised to cancel any rebates, discounts or other benefits agreed. We are entitled to insist on payment in advance for any future deliveries.

d) All amounts outstanding from the customer shall become due immediately where the customer is in arrears, regardless of the time remaining on bills of exchange accepted for payment or other payment agreements. Payment has only been made once we receive cleared funds. In the event of late payment or if insolvency proceedings are applied for or commenced over the customer's assets, we shall be entitled, without prejudice to other statutory rights, to withhold outstanding deliveries, to deliver only against payment in advance or to demand security for outstanding deliveries or, after giving reasonable notice, to withdraw from the contract or claim damages. The same shall apply to the extent permitted by law if we become aware of circumstances which, in our reasonable commercial judgement, are likely to reduce the customer's creditworthiness.

e) If the customer is in arrears with payment, we shall be entitled to disallow further processing of the items delivered, take the goods back, or enter the customer's premises if necessary and recover the goods. Returning the goods does not cancel the contract.

f) In the event of points d) and e) above, we may cancel the direct debit mandate (clause 12 g) and demand payment in advance for any outstanding deliveries.

g) Statutory provisions regarding late payment remain unaffected.

h) We are entitled to offset any amounts we owe to the customer against any amounts the customer owes to ourselves.

i) The customer can avoid the legal consequences referred to in points 11 d) to f) above by providing security for the disputed amount.

12. Retention of title

a) All goods delivered shall remain our property (goods subject to retention of title) until payment has been made in full, in particular the full outstanding balance owing under the commercial relationship. This also applies to any future and contingent payments due, such as from promissory notes.

b) Goods subject to retention of title shall be processed on our behalf as the manufacturer as defined in § 950 of the German Civil Code, without committing ourselves in any way. After processing, goods are deemed to be subject to retention of title as defined in clause 12 a) above.

c) Where the customer processes goods subject to retention of title or combines or mixes them with other goods, we shall be entitled to co-ownership of the new item in proportion to the value invoiced for the goods subject to retention of title against the value invoiced for the other goods used. If our ownership ceases to exist as a result of combining, mixing or processing, the customer hereby assigns to ourselves the ownership rights to which they are entitled over the new stock or item to the extent of the value invoiced for the goods subject to retention of title; in the event of processing this shall be in the proportion of the value invoiced for the goods subject to retention of title to the value invoiced for the other goods used, and these shall be stored on our behalf free of charge. Our co-ownership rights shall be deemed to be subject to retention of title within the meaning of a) above.

d) The customer may only resell goods subject to retention of title in the normal course of business subject to their normal terms and conditions and as long as they are not in default, provided that title is retained and any proceeds from the resale are transferred in accordance with e) and f) below. No authorisation is granted to dispose of goods subject to retention of title in any other way. Using goods subject to retention of title to perform work and service provision contracts also counts as resale.

e) Customer proceeds from the resale of goods subject to retention of title are hereby assigned to ourselves. They represent security to the same extent as the goods subject to retention of title as defined in clause 12 a) above.

f) If the customer resells goods subject to retention of title along with other goods, the proceeds from the resale shall be assigned to us in proportion to the value invoiced for the goods subject to retention of title against the value invoiced for the other goods. In the event goods in which we have a co-ownership interest are sold in accordance with c) above, a share of the proceeds corresponding to our co-ownership interest is hereby assigned to ourselves. The same shall apply mutatis mutandis where the customer connects the goods supplied by ourselves to a property as part of a work or service provision contract. We hereby accept all assignments as referred to in this clause 12.

g) The customer is entitled to collect proceeds from the resale except where we have cancelled the direct debit mandate in the circumstances set out in 12 e) above. If we so demand, the customer shall be obliged to notify their customers immediately where a debt is assigned to ourselves – unless we do this ourselves – and to provide us with the information and documents required for collection. Under no circumstances is the customer authorised to assign to third parties any amounts already assigned to ourselves; this also applies to all types of factoring, which the customer is not permitted to do in view of our direct debit mandate.

h) The customer must notify us immediately of any seizure or other distraint by third parties.

i) If the total value of the existing securities exceeds the debts secured by more than 10%, we are required to release securities at our discretion where the customer so requests.

13. Defects, delivery of non-conforming goods

a) We shall be liable as follows for defects in the delivery which do not constitute a defect of title as per clause 14, provided the customer is a business:

b) Our liability for defects is subject to the proviso that the customer has complied with all obligations to inspect and give notice of defects as per section 377 of the German Commercial Code. If there is a defect in any item purchased, we are obliged and entitled, at our discretion, to remedy the defect (rectification) or deliver an item free of defects (replacement) (corrective action). We are entitled to make at least two attempts to rectify a defect. The customer shall support us in analysing faults and remedying defects, in particular by specifically describing any problems that arise, providing us with comprehensive information and granting us the time and opportunity required to remedy the defect. We are entitled to remedy the defect at a location of our choosing. If one or both types of corrective action are impossible or disproportionate, we are entitled to refuse. We can refuse corrective action where the customer has not yet met their payment obligations to us corresponding to that part of the service considered free of defects, or provided the customer does not have a right to withhold payment on other grounds in accordance with clause 11 b). As part of the replacement option, the customer is obliged to accept delivery of a new, equivalent item which does not have the defect, where it is reasonable to do so. In the event of a replacement, the customer must return the defective item to us in accordance with the statutory provisions.

c) In the event of corrective action, we shall be responsible for the necessary costs associated with the corrective action, in particular transport, travel, labour and material costs, only up to the amount of the purchase price, provided this is not higher because the item purchased has been taken somewhere other than the place of delivery; responsibility for costs shall not apply where additional costs are incurred as a result of the item being taken somewhere other than the place of delivery. If, in the course of rectification work, it turns out that we are not to blame for the defects reported, we shall be entitled to demand reimbursement of our expenses on the basis of payment according to time spent in accordance with our price list valid at the time. Where a customer remedies a defect themselves, they shall only be entitled to demand reimbursement of the associated costs from us following prior written agreement from ourselves.

d) If the corrective action referred to in point b) is not possible or fails, the customer shall have the option of either reducing the purchase price accordingly or withdrawing from the contract in accordance with the statutory provisions; this shall apply in particular in the event of delay or refusing corrective action where we are to blame, as well as if this fails for the second time. In the event of minor defects, however, the customer shall not be entitled to withdraw from the contract.

e) Additional claims from the customer on whatever legal grounds shall be governed by clause 17.

f) No warranty is given for defects arising from the following: Unsuitable or incorrect use, faulty assembly by the customer or third parties, natural wear and tear, faulty or negligent handling, excessive loading, unsuitable operating materials, defective construction work, unsuitable building ground, chemical, electrochemical or electrical influences (where we are not to blame), unauthorised modifications or repair work carried out by the customer or third parties without our prior authorisation, where the defect is solely attributable to this.

14. Third party rights

a) In the event that the item supplied infringes a commercial property right or the copyright of a third party, we shall, at our discretion and at our expense, modify or replace the item supplied in such a way that the rights of third parties are no longer infringed, but the item supplied continues to perform its function as intended under the contract, or else procure a right of use for the customer by taking out a licence agreement. If we fail to do so within a reasonable time, the customer shall be entitled to withdraw from the contract or to reduce payment accordingly. Any claims for damages on the part of the customer are subject to the limitations of clause 17.

b) Where products from other manufacturers which we have supplied infringe any rights, we shall, at our discretion, assert our claims against the manufacturers and upstream suppliers on behalf of the customer or assign them to the customer. In such event, claims against us shall only be valid if enforcing the above claims against the manufacturers and upstream suppliers through the courts was unsuccessful or is pointless, for example due to insolvency.

15. Time limits

a) Time limits are as follows:

(i) except where the item supplied is normally used in building work and has caused a problem there: for claims for a refund of the amount paid following cancellation or a price reduction, one year from delivery of the item supplied, but for defects notified correctly, not less than three months from receipt of valid confirmation of cancellation or price reduction, and for other claims arising from material defects one year; where the item supplied is an item which is normally used in building work and has caused a problem there, the time limit shall be five years

(ii) in the event of claims arising from defects of title, two years where the defect of title is not vested in a third party's right in rem based on which they can demand the return of the items supplied or demand they cease being used;

(iii) in the event of claims for damages or compensation for wasted expenditure not based on material defects or defects of title, two years from when the customer became aware of the circumstances giving rise to the claim or should have become aware of them notwithstanding gross negligence.

b) Time limits shall commence no later than when the maximum periods specified in section 199 of the German Civil Code expire.

c) However, the statutory time limits shall always apply to compensation for damages and costs in the circumstances set out in clause 17 a).

d) The original warranty periods for items supplied shall neither be suspended nor restart due to corrective action.

16. Order-related production equipment

a) Order-related production equipment, such as tools, devices, models and templates provided by the customer shall be sent to us free of charge. We shall only check conformity of any customer-supplied production equipment against contractual specifications, drawings or samples provided to us based on specific agreements.

b) The customer is responsible for the costs of modification, maintenance and replacement of its production equipment.

c) We shall only be liable for deliberate or grossly negligent damage to customer-supplied production equipment. We are not required to take out insurance. We may return any of the customer's production equipment no longer required by us at the customer's risk and expense or, if the customer does not comply with our request to have it collected within a reasonable time, we may dispose of it at our discretion.

d) Order-related production equipment manufactured or procured by us on behalf of the customer shall remain our property even if part-tooling costs are charged. Where the customer has paid for production equipment in full as agreed, we are obliged to procure ownership of this production equipment on their behalf within a reasonable timeframe.

e) The customer can only assert claims arising from copyright or industrial property rights provided such rights are notified to us and expressly reserved. The customer may also only assert claims from when the notice is served as above, and not where these property rights apply to products for the customer.

f) If we sell products so that the customer can use them to manufacture new goods for us, the customer is not entitled to use the products sold for third parties without our written consent.

17. Liability, compensation

a) We shall be liable without limitation only for intent and gross negligence (including on the part of our representatives and agents) and for injury to life, limb and health. We shall also be liable without limitation to honour guarantees and warranties where a defect covered triggers our liability. There is also no limitation in the event of liability arising from dangerous circumstances (in particular under the Product Liability Act). This does not affect any liability in accordance with the principles of corporate litigation under section 478 f. of the German Civil Code.

b) In the event of any other serious breach of material obligations under the contract, meaning those obligations which define the contract and on which the other party may reasonably rely, so which define the conditions for performance of the contract and are indispensable for achieving the objective of the contract, our remaining liability shall be limited to the reasonably foreseeable damage under the contract.

c) All other liability is excluded – regardless of the legal grounds (in particular claims arising from breach of primary and secondary obligations under the contract, unauthorised activity and other liability under the rules of tort).

d) The same (exclusions, limitations and exceptions) shall apply to claims arising from negligence when agreeing the contract.

e) Clause 17 shall apply as appropriate in relation to the reimbursement of costs (with the exception of those under sections 439 II, 635 II of the German Civil Code).

f) Any exclusion or limitation of our liability shall also apply to our representatives and agents.

g) No reverse burden of proof is intended. The defence of contributory negligence is not affected.

18. Point of supply and place of jurisdiction

a) The point of supply is the place of despatch (place of work or storage).

b) The place of jurisdiction is our registered office where the customer is a business, a legal entity under public law or a special fund under public law. The same applies if the customer has no general place of jurisdiction in Germany, if the registered office moves abroad after agreeing the contract or if the registered office is not known at the time action is commenced. We are also entitled to commence proceedings against the customer at other admissible places of jurisdiction.

19. Miscellaneous

a) The law of the Federal Republic of Germany shall apply, to the exclusion of the Uniform Law on the International Sale of Goods and the Uniform Law on the Formation of Contracts for the International Sale of Goods.

b) Should individual provisions of these terms and conditions of supply and payment be invalid in whole or in part, the remaining provisions shall remain in full force and effect.

December 2023 – gabo Systemtechnik GmbH