

# General Purchasing Conditions of Nanogate Medical Systems GmbH, Kierspe

## Section 1 General – Scope of application

(1)  
The following General Purchasing Conditions (“GPC”) apply exclusively to all our orders. We do not acknowledge any of the supplier’s conditions that are in opposition to or differ from these purchasing conditions unless we have explicitly approved their application in writing. Our conditions also apply if we are aware of the supplier’s opposing or differing terms and conditions and accept the supplier’s delivery without reservations. Payments by us also do not constitute approval of the supplier’s opposing or differing conditions.

(2)  
To be valid, any agreements that differ from the following conditions and any amendments must be confirmed by us, at least in text form (Section 126b of the German Civil Code (BGB)).

## Section 2 Orders, documents

(1)  
All our orders and call-offs must be in writing, unless otherwise agreed in writing in individual cases.

(2)  
The supplier is obliged to confirm our order in text form within one week or to execute it without reservations, in particular by shipping the goods (acceptance).

(3)  
We reserve title and copyright to all illustrations, drawings, calculations, models, molds and other documents that we have provided to the supplier. They may only be used for production on the basis of our order; once the order has been completed they are to be returned to us unbidden, unless otherwise agreed in individual cases.

## Section 3 Prices, payment terms

(1)  
The price on which our order is based is binding. Unless otherwise agreed in writing, the price includes delivery to the address provided by us, all incidental costs and packaging. The return of packaging must be agreed separately.

(2)  
Supplier’s invoices to us must show statutory sales tax correctly as well as our order number and article number.

(3)  
Unless otherwise agreed, we pay the invoiced amount following delivery within 14 days of receipt with a discount of 3 % or within 30 days of receipt without deductions.

## Section 4 Deliveries

(1)  
Agreed dates and periods are binding.

(2)  
The supplier is obliged to notify us in writing without delay if circumstances arise or are evident that suggest the agreed delivery date cannot be met.

(3)  
Even the acceptance without reservation of a delayed delivery does not constitute a waiver of the statutory and/or contractual rights available to us due to the delay. Our statutory rights are available if the delivery is delayed. In particular we are entitled to demand damages and cancellation of the contract instead of performance after a reasonable period has elapsed. If we demand damages the supplier is entitled to demonstrate that the breach of obligation is not its responsibility.

## Section 5 Transfer of risk, documents

(1)  
Unless otherwise agreed in writing, the delivery must be made to the address provided by us at no additional expense.

(2)

The supplier is obliged to quote our order number and article number on all shipping documents and delivery notes.

## Section 6 Inspection and liability for defects

(1)  
We are obliged to inspect the goods within a reasonable period for any variations in quality and quantity; any complaint is deemed to be punctual if it is received by the supplier within three working days of the goods being received or in the case of concealed defects, of their discovery.

(2)  
Statutory claims for defects are available to us without restriction; in all events we are entitled to demand at our discretion that the supplier rectifies the defect or supplies a new item. We explicitly reserve the right to claim for damages, especially damages in lieu of performance.

(3)  
We are entitled to rectify the defects ourselves at the supplier’s expense if the supplier is in default.

(4)  
Claims may be made up to 36 months from the transfer of risk, unless the mandatory statute of limitations in Sections 478 and 479 of the German Civil Code (BGB) applies.

## Section 7 Product liability, indemnity, third-party liability insurance

(1)  
Insofar as the supplier is responsible for a product defect it is obliged to indemnify us against third-party claims for damages on first request, if and insofar as the cause originates in its sphere of organizational influence and control and it is liable to third parties itself.

(2)  
The supplier undertakes to take out general product liability insurance with coverage of EUR 10 million for each case of personal/material damage; this does not affect any further claims for damages that we may have.

## Section 8 Title defects

(1)  
The supplier is responsible for ensuring that the delivery does not infringe any third-party rights.

(2)  
If we are faced with claims from third parties based on any such infringement the customer is obliged to indemnify us against such claims on our first written request.

(3)  
The supplier’s obligation to indemnify us relates to all expenses that we necessarily incur from or in connection with the claims from a third party.

(4)  
Claims must be made within 36 months of risk transfer.

## Section 9 Tools, confidentiality

(1)  
We reserve title to all tools; the supplier is also obliged only to use the tools to manufacture the goods ordered by us. The supplier is obliged to insure at its own expense the tools belonging to us for their replacement value against fire, water damage and theft. At the same time the supplier assigns all claims under this insurance to us, and we hereby accept the assignment. The supplier is obliged to carry out in good time all the necessary service and inspection work as well as all maintenance and repair work on our tools at its own expense. It must notify us immediately of any incidents; if it culpably omits to do so this does not affect claims for damages.

(2)

The supplier is obliged to maintain all illustrations, drawings, calculations and other documents and information received from us in strict confidence. They may only be made available to third parties with our explicit written approval. This confidentiality obligation remains in effect indefinitely after all orders have been completed until the confidential information contained in the illustrations, drawings, calculations and other documents provided has become public knowledge.

(3)  
The supplier is obliged to treat all non-obvious commercial and technical details that become known to it via its business relationship with us as commercial secrets. When providing references or making publications the supplier may only mention our company or use our logo (brand) with our prior written approval.

**Section 10 Place of jurisdiction, place of performance, applicable law**

(1)  
The sole place of jurisdiction is at our discretion our place of business, the supplier's place of business or the place of performance.

(2)  
The place of performance is at our discretion our place of business or the location at which delivery is agreed to take place.

(3)  
German law applies to the exclusion of the UN CISG.