

GF General Purchase Conditions for Services



- 1. General**
 - 1.1. GF purchases Services from Service Provider exclusively on the terms stated in the Agreement. All terms and conditions of Service Provider are excluded, even if they are referred to elsewhere, appended to Agreement or posted on a website.
- 2. Change or Cancellation**
 - 2.1. Changes to scope, price or schedule of Services must be agreed in writing between the Parties and executed with separate change orders. If a change order is not in place, change cannot be invoiced.
 - 2.2. GF may at any time cancel or terminate the Services or the Agreement without cause and without liability by providing Service Provider with a written notice no later than seven (7) days prior to any partial or total delivery of Services.
 - 2.3. If GF cancels or terminates any Services or the Agreement, totally or in part, GF will pay to Service Provider for any completed and approved Services subject to the pricing terms of the Agreement, and for unfinished Services according to the percentage of Services completed.
- 3. Warranty**
 - 3.1. Service Provider warrants to perform Services fully in accordance with descriptions and specifications set out in the Agreement. Services must be of the highest quality, free from defects in design or materials, and fit and functioning for their particular purpose. Service Provider warrants that neither the Services nor GF's use of Services infringe any third party's Intellectual Property Rights.
 - 3.2. Service Provider warrants that Services are provided in accordance with applicable laws, regulations and requirements of any applicable industry standards and best industry practices.
- 4. Personnel**
 - 4.1. Service Provider assigns personnel of appropriate qualification and experience to perform Services under the Agreement. Service Provider agrees to promptly replace any person GF deems lacking the necessary competence or finds difficult to collaborate with.
 - 4.2. Service Provider is fully liable for the employers' obligations pertaining to its personnel. A relationship of an employer and employee will under no circumstances be deemed to arise between GF and Service Provider or Service Provider's personnel.
 - 4.3. Service Provider shall supervise the performance of Services, unless explicitly otherwise agreed. GF's failure to supervise the performance does not relieve Service Provider from this obligation.
 - 4.4. Service Provider may only engage subcontractors to perform parts of Services if approved by GF in writing. Service Provider remains fully liable for the performance of subcontractors.
- 5. Delivery**
 - 5.1. Time is of the essence in the performance of Services. Service Provider must perform Services according to the schedule specified in the Agreement and immediately inform GF of any likely or actual delay and propose a new schedule in writing.
 - 5.2. If Services or parts of it are delayed, GF has the right to terminate the Agreement in whole or in part.
 - 5.3. If Service Provider is in delay other than due to Force Majeure or a reason solely attributable to GF, Service Provider must pay to GF liquidated damages in the amount of two (2) percent of the price of Services for each beginning week of delay, however not exceeding twenty (20) percent of the total price for Services. If mandatory applicable law provides for lower maximum limits on liquidated damages, such lower limits shall apply. GF has the right to deduct the amount of the liquidated damages from any Service Provider's invoice. Nothing in this section 5 limits remedies available to GF, and Service Provider agrees to indemnify GF against any damage due to a delay in full.
 - 5.4. Despite any claim or dispute between the Parties, GF may obligate the Service Provider to continue to perform its contractual obligations, including providing the Services and giving access to Deliverables.
- 6. Acceptance**
 - 6.1. GF has the right to accept Services, if (i) Services conform to all requirements set out in the Agreement, (ii) all errors have been corrected and (iii) all Services have been delivered to GF according to the schedule set out in the Agreement. If GF determines that Services do not meet these conditions of acceptance, GF has the right to reject Services in whole or in part, regardless of whether Services have been paid for ("Rejected Services").
 - 6.2. To remedy the Rejected Services, GF may, at its sole discretion (i) obligate Service Provider to correct the Rejected Services at Service Provider's sole cost and expense within timeframes reasonably required by GF, (ii) cancel the Rejected Services partially or in full or (iii) terminate the Agreement, without prejudice to any other right or remedy of GF under the Agreement or law, including right to claim damages. If GF cancels the Rejected Services or terminates the Agreement as set out in sub-sections (ii) or (iii) above, Service Provider must promptly, and at the latest within 14 days, return any payments made for the Rejected Services without any retention or offset.
- 7. Intellectual Property Rights**
 - 7.1. All right, title and interest in and to all Intellectual Property Rights arising out of or related to Services and Deliverables are the exclusive and sole property of GF. Service Provider must not in any way jeopardise any rights of GF to Services and Deliverables.
 - 7.2. Service Provider must upon request, with no cost to GF or its Affiliates, promptly execute and deliver all documents required to effectuate vesting in or transfer to GF of such rights, including without limitation documents required from Service Provider's employees and subcontractors.
 - 7.3. To the extent it is impossible, as a matter of law, to transfer the ownership of Intellectual Property Rights related to Services and Deliverables from Service Provider or its employees or subcontractors to GF, Service Provider grants, and procures its employees and subcontractors to grant, to GF a sole, worldwide, fully paid-up, unlimited, irrevocable and perpetual right to use, exploit, distribute and modify, in all possible ways, Intellectual Property Rights in and to Services and Deliverables.
 - 7.4. GF has the sole right to modify, amend, alter, adapt, sublicense, or copy the Deliverables and GF will own the rights to such modifications, amendments, adaptations, modules, copies, or derivative works resulting from Services and Deliverables.
 - 7.5. GF continues to own all its Intellectual Property Rights, whether under the Agreement or otherwise, and no explicit or implied licenses are hereby granted to Service Provider.
 - 7.6. Service Provider may not assert a claim or otherwise bring a suit before any court or administrative agency against GF, its Affiliates, subcontractors or direct/indirect customers solely pertaining to their use of Services and Deliverables.
 - 7.7. Upon request from GF, Service Provider must give full access to copies of any Deliverables, regardless of their state of completion.
- 8. Payment Terms**
 - 8.1. The payment term for undisputed invoices shall be forty-five (45) days net from the receipt of an undisputed invoice, unless shorter payment term is required by mandatory applicable law. Unless otherwise explicitly agreed in writing, the agreed price is paid upon full delivery of Services.
 - 8.2. Any compensation for travelling must be approved by GF in writing before any travelling costs are generated. GF has no obligation to compensate unapproved traveling costs to Service Provider.
 - 8.3. All amounts payable are gross amounts. GF is entitled to deduct any applicable withholding taxes from payments. Service Provider must comply with any applicable tax, employment, and other legislation and is responsible for any taxes or public payments related to its income or personnel.
 - 8.4. Both GF and Service Provider pay all taxes and levies imposed on either of them under any applicable law, regulation or tax treaty resulting from the Agreement and submit evidence to the other Party on such paid taxes as may be required by either Party to obtain credits available to it.
- 9. Indemnity**
 - 9.1. Service Provider shall defend, indemnify and hold GF, its Affiliates, employees, directors, officers, representatives, subcontractors and direct/indirect customers harmless from and against all claims, liability, damages (incl. indirect, consequential, special, punitive or exemplary damages), loss, costs and expenses (incl. legal expenses) claimed from, incurred or paid by or made, brought or awarded against GF, its Affiliates, subcontractors or direct/indirect customers as a result of or in connection with (i) infringement or alleged infringement of intellectual property rights of third parties attributable to Services or Deliverables or their use, (ii) breach of the Agreement by Service Provider, (iii) negligence or wilful misconduct, or, if applicable, (iv) damage caused by Services and/or Deliverables or their use (incl. liability arising out of personal injury or death or damage to property).
- 10. Termination**
 - 10.1. In addition to Section 2, GF may terminate the Agreement immediately with a prior written notice to Service Provider if (i) the Service Provider materially breaches the Agreement and fails to remedy such breach within fourteen (14) days from the receipt of the respective notice, (ii) there is a significant change in the ownership of the Service Provider, or (iii) the Service Provider becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors or an administrator is appointed over any of Service Provider's business or assets.
- 11. Confidentiality**
 - 11.1. Service Provider keeps Confidential Information secret and strictly confidential, and shall not, without the prior written consent of GF publish, divulge, make available or disclose the Confidential Information to a third party. Service Provider uses Confidential Information only to complete the purpose of the Agreement. Service Provider protects Confidential Information with at least the same degree of care it uses while protecting its own business secrets, which shall not be less than a reasonable standard of care.
 - 11.2. Subject to the foregoing, Service Provider may disclose Confidential Information only to its officers and employees who are advised of these confidentiality obligations and who have a strict need to know for carrying out the Agreement. Service Provider is and remains fully liable for its employees' compliance with the confidentiality and non-use obligations of the Agreement.
 - 11.3. The obligations of confidentiality and non-use do not apply to information that Service Provider can establish (i) was lawfully in Service Provider's possession by being generally available or otherwise in the public domain before it was received from GF; or (ii) is or becomes a matter of public knowledge through no fault of Service Provider; or (iii) is or was independently developed by Service Provider without use of or reference to Confidential Information; or (iv) it is required to disclose by law, court order or a governmental agency, in which case Service Provider must give GF sufficient notice, provide information of the requirement as soon as possible, and disclose Confidential Information only to the extent absolutely required.
 - 11.4. Specific Confidential Information, e.g. engineering and design practices, techniques, products, software, operating parameters, is not within the scope of above exclusions merely because it is included in more general information available in the public domain or in possession of Service Provider. In addition, any combination of information is not within the scope of above exclusions merely because its individual parts are in the public domain or in the possession of Service Provider.
 - 11.5. Service Provider acknowledges and agrees that all Confidential Information and rights related to it are and remain the exclusive property of GF and its Affiliates. No license under any trademark, patent, copyright or any other Intellectual Property Right is granted or implied to the Service Provider whether by disclosure of Confidential Information or otherwise.
 - 11.6. Confidential Information or its disclosures to Service Provider do not constitute a representation, warranty, assurance, or other inducement of any kind, express or implied, in particular, with respect to the non-infringement of Intellectual Property Rights or other rights of third parties, or adequacy, accuracy or completeness of the Confidential Information for the completion of the Agreement.
 - 11.7. Service Provider limits the production of notes, sketches, and copies of Confidential Information to a quantity reasonably necessary for carrying out the Agreement and shall return or destroy any Confidential Information disclosed under the Agreement upon written request of GF. Service Provider is not required to return, destroy, or delete copies of computer records containing Confidential Information created pursuant to automated processes such as document retention, archiving or back up procedures, provided that such copies: (i) are kept confidential and cannot be accessed in the regular course of business; (ii) are maintained and archived in compliance with reasonable information security standards; and (iii) are properly deleted as required by the Service Provider's document retention, archiving, or back up procedures.
 - 11.8. This section 11 shall survive expiration or earlier termination of the Agreement for any reason for a period of five (5) years from the date of disclosure of Confidential Information.
- 12. Compliance**
 - 12.1. The Service Provider undertakes to comply (and secure compliance by its employees, agents and further business partners) with all applicable international and national laws, ordinances, regulations, requirements and rules regarding antiribbery and anticorruption, antitrust and fair competition, as well as export controls of all jurisdictions relevant to the Agreement and any direct or indirect business relationship with GF, in force at the time of the Agreement and that may be amended or introduced from time to time.
 - 12.2. The Service Provider undertakes in particular to take all necessary measures to avoid any bribery and corruption activities, and agrees and warrants that no payments of bribes and payoffs, facilitation payments, gifts or other illegal advantages (e.g. deemed to gain an illegal advantage, to exert influence on business partners and representatives of politics, administration, judicial systems etc., or to secure or expedite the performance of a routine or necessary action) will be or have been offered, promised, given, solicited or accepted.
 - 12.3. GF's suppliers, including Service Providers, are expected to meet standards set forth in GF's Code for Business Partners available and as amended from time to time at <https://www.georgfischer.com/en/sustainability-at-gf/code-for-business-partners.html>. GF expects its suppliers to familiarise themselves with and follow the Code for Business Partners.
 - 12.4. The Parties shall, in the course of the performance of the Agreement, exchange and otherwise process any personal data only to the extent permitted by and in full compliance with applicable data protection law.
 - 12.5. On GF's request, Service Provider shall provide GF documents and information that GF needs to comply with statutory requirements (such as those related to supply chain due diligence and cyber security) and customary business practices. GF shall have a right to share such documents and information to public authorities, certifying bodies, customers and supply chain partners.
 - 12.6. During and in connection to the provision of Services, Service Provider is required to ensure a level of cyber security and data security that meets or exceeds relevant industry standards.
 - 12.7. GF has the right to appoint, at its own expenses, an independent third party (e.g. an external auditor) to verify the compliance with the above rules and GF's directives and ethical standards. The Service provider shall grant such third party free access to all information and documents as it may request.
 - 12.8. Any breach of the provisions of this section 12 shall be treated as a material breach of the Agreement and GF shall have an immediate right to terminate the Agreement and request compensation for damages caused by such breach.
- 13. Notices**
 - 13.1. All notices provided in connection with the Agreement will be in writing and will be deemed to have been given (a) when delivered by hand; (b) when delivered if sent by an internationally recognized commercial courier; (c) on the third (3rd) day after the first post-mark of the sender's postal service if sent by first class mail, postage prepaid (return receipt requested, if available) (d) if notice by email is confirmed by the recipient. The notices must be sent to the respective Parties at the address of the contact person set forth in the relevant order, at a minimum.

14. Miscellaneous

- 14.1. No waiver by GF of any breach of the Agreement by Service Provider shall be considered as a waiver of any subsequent breach of the same or another provision.
- 14.2. If any provision of the Agreement is held to be invalid or unenforceable, the validity of the other provisions of the Agreement shall not be affected.
- 14.3. Service Provider shall not transfer the Agreement to a third party without prior written consent of GF. GF may transfer the Agreement to a third party without the prior consent of the Service Provider.
- 14.4. Sections 1, 3, 5.3, 7, 9, 11 and 13 survive any termination of the Agreement.

15. Governing Law and Disputes

- 15.1. The Agreement is governed by and construed in accordance with the laws of the country where GF has registered place of business, excluding the country's rules on choice of law.
- 15.2. Place of venue and jurisdiction shall exclusively be the state or federal courts within the state of the registered office of GF.

16. Definitions

"GF" means the Georg Fischer Group company purchasing Services under the Agreement.

"Affiliate" means an entity that (i) directly or indirectly controls a Party, (ii) is under the same direct or indirect ownership or control as a Party or (iii) is directly or indirectly owned or controlled by a Party.

"Control" means the direct or indirect ownership of fifty percent (50%) or more of votes in such entity, or the power to control the affairs, composition of the board of directors or equivalent body in such entity.

"Agreement" means any agreement or purchase order these General Terms and Conditions are attached to. The Agreement includes these General Terms and Conditions as per definition.

"Confidential Information" means information GF or GF's Affiliates, consider confidential or proprietary, whether in written, oral or other tangible or intangible form. For clarity, also Services and Deliverables and prices paid by GF for Services are considered Confidential Information.

"Deliverables" means all results, materials and data in whatever form produced during and resulting from, the provision of Services.

"Force Majeure" means an unforeseeable event beyond the control of the affected Party, that makes it impossible for a Party to perform its obligations under the Agreement either temporarily or permanently, and is either fire, flood, war, mobilization, embargo, blockade, riot, government restriction, third-party industrial action, or insurrection.

"Intellectual Property Rights" means copyrights, patents and other intellectual property rights.

"Party" means GF or Service Provider. "Parties" mean GF and Service Provider together.

"Service Provider" means the entity or individual who provides Services to GF under the Agreement.

"Services" means all services provided by Service Provider to GF and identified in further detail in the Agreement, including Deliverables meaning all results, materials and data in whatever form produced during and resulting from, the provision of Services.