

# Terms and Conditions of Purchasing and Ordering of the GEDIA Group



- GEDIA Gebrüder Dingerkus GmbH, Attendorn, Germany
- GEDIA POLAND Sp. z o. o., Nowa Sol, Poland
- GeNI de Mexico S.A. de C.V, Huejotzingo, Puebla, Mexico
- GEDIA Automotive Systems Nanjing Co. Ltd., Nanjing, China
- GEDIA Michigan, Inc., Michigan, USA
- GEDIA ESPAÑA, S.L., Sta. Margarida, Spain
- GEDIA Hungary Kft., Tata, Hungary
- Gebr. Dingerkus GmbH & Co. KG, Attendorn, Germany

-hereinafter also referred to as GEDIA-

## I. Authoritative Terms and Conditions, Order, Offer

1. The terms and conditions set forth in the following govern any and all orders from the aforementioned member companies of the GEDIA Group. The parties agree to the application of German law and to the exclusion of UN sales conventions and of the UN Limitation Convention. The domestic law of any other country will become proper law of the contract in lieu of German law and in conjunction with the terms and conditions below solely if and when it is a case of domestic orders of our foreign companies and of deliveries to these companies that do not cross international borders, i.e. the parties to the contract have their registered offices in the same country as that in which our foreign company submits the order and receives delivery.

Contrary terms and conditions of sale or delivery are not legally enforceable even if we have not expressly raised objection to their application. The supplier accepts our terms and conditions by accepting the order and/or performing the delivery.

2. Supply agreements (orders, acceptance and call-up orders) as well as modifications, amendments and subsidiary agreements shall not be binding on the parties unless in writing or in text form. The above provision applies equally to any modification of the requirement for written or text form.
3. We are entitled to cancel the order if our orders have not been confirmed in writing within 8 days. Any and all aberrations from our order must be clearly noted. We will then decide whether we wish for the order to stand. The supplier shall notify us immediately of any reservations regarding the type of performance we have requested. Our order number must be shown in any and all written documents.
4. Supplier's offers are free of charge to us and do not establish any obligations for us.
5. We are entitled to request modifications of the design and manufacture of the products within the scope of what is reasonable for the supplier. Any subsequent effects, in particular with regard to additional or lower costs as well as the delivery dates, shall be appropriately regulated.
6. The supplier is not authorised to subcontract our orders or contracts to third parties without our written consent. In the event of the breach of the above obligation, we are entitled to rescind the contract, in whole or in part, and to request damages.

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## II. Delivery, Packaging, Place of Delivery, Passing of Risk

1. Delivery documents issued in accordance with our requirements and containing all of the required information must be issued for each and every consignment. The products shall be labelled in accordance with our requirements. A specified notice of shipment in accordance with the VDA standard shall be transmitted by EDI simultaneously with the dispatch of the consignment.
2. Unless otherwise agreed in writing, delivery will be made at the risk and expense of the supplier, free our works or destination we have stipulated, including packaging, insurance and customs duties (DDP Incoterms 2010). The risk of accidental loss or accidental worsening of the products does not pass to us until the products have been delivered to our incoming goods (place of performance) or to the agreed deviating reception point, e.g. the installation site on a factory floor (which then becomes the place of performance).
3. The supplier is obligated to utilise environmentally friendly products and processes for its deliveries/services as well as for third-party deliveries or subsidiary services as is economically and technologically feasible and in compliance with the EU End-of-Life Vehicles Directive. It is liable for the environmental compatibility of the products and packaging materials it delivers and for any and all subsequent damage or loss resulting from the breach of statutory disposal obligations. Upon our request, the supplier is obligated to present a quality certificate for the delivered products.

## III. Delivery Dates, Default of Delivery, Acceptance

1. The agreed delivery dates are binding. If and when the supplier becomes aware that the fulfilment of its contractual obligations, in whole or in part, will not be possible or will not be possible in compliance with agreed deadlines, it shall notify us immediately in writing or text form (e.g. email), including a statement of the reasons and the designation of a new delivery date.
2. Upon our request, the supplier is obligated to maintain a reasonable standing inventory in excess of the delivery quantity in each case at no additional charge to us. Moreover, separate agreements may be concluded for just-in-time delivery and consignment stocks.
3. If and when delivery is not made within the agreed period, the supplier is liable for any and all damage or loss resulting from the default. Moreover, we are entitled to request damages in lieu of performance and/or to cancel the contract, in whole or in part, if and when we have fruitlessly set a reasonable subsequent period for performance or subsequent fulfilment and the supplier does not perform the due service at all or does not perform the service in compliance with its obligations.  
In the event of default of delivery, GEDIA is entitled to request lump-sum damages equivalent to 1 % of the delivery value per completed week of default, however not more than 5 % of the delivery value; further legal claims (withdrawal and damages instead of performance) remain reserved. The supplier is entitled to provide proof to GEDIA that no or significantly less damage has arisen as a result of default. GEDIA is at liberty to provide proof of higher damage.
4. If and when delivery dates are exceeded, we are entitled to stipulate the type of shipment which appears expedient to us; the supplier shall bear any higher shipping and handling costs which may result as a consequence.

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5. Force majeure, industrial action and any other unforeseeable and unavoidable events release the parties from performance of their obligations for the duration and in the scope of the disruption. The parties are obligated within reasonable bounds to provide to the other party the required information in each case, in writing or in text form, and to modify their obligations in accordance with the changes in circumstances. If and when the delivery in compliance with the deadlines is non-negotiable for us, we may rescind the contract, in whole or in part, and request reimbursement of any advance payments which have been made. Default of delivery by sub-suppliers shall not be deemed force majeure.

## IV. Invoices, Payments

1. Our payments will be effected within 30 days after delivery and receipt of the invoice, subject to any longer periods which have been agreed in separate contracts. If we effect payment within 14 days after delivery and receipt of invoice, we are entitled to a cash discount of 3%.
2. Invoices shall be sent to us in duplicate and separately from the products. They must include our order data and any and all other information as required by accounting provisions for the issue of invoices.

## V. Quality Assurance, Documentation, Outgoing Goods and Incoming Goods Inspection

1. If and when quality assurance agreements have been concluded with the supplier, they shall prevail.  
The supplier is obligated to inspect its goods for consistent quality and safety in accordance with state-of-the-art technology and to comply with technical data and standards. Any modifications of the products are subject to our prior written consent. The products must be in compliance with our order, legal provisions, state of technology, current quality requirements (e.g. DIN standards, VDE regulations), GEDIA construction provisions and the Guidelines for Logistics and Quality, Environment and Occupational Health and Safety. These characteristics shall be deemed warranted.

The supplier is to this extent obligated to request any and all materials/documentation related to the aforementioned points or any and all other contractual obligations and references which are not in its possession in text form from GEDIA and to this extent to review itself whether the documents in its possession correspond to the current revision as shown in the contractual agreements and the contractual specifications, provided that this is apparent to the supplier. In case of doubt, the supplier is obligated to clarify the revision status and completeness by submitting a query in text form to GEDIA.

Irrespective of the above provisions, the supplier shall continuously review the quality of the products. The parties will regularly notify each other of any opportunities for quality improvement.

2. The supplier shall conduct and document an outgoing goods inspection.

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3. We are not obligated to conduct a thorough incoming goods inspection. We examine the consignments solely for identity, obvious defects and transport damage during the incoming goods inspection. The values for quantities, dimensions and weights we have determined during the incoming goods inspection are decisive.
4. The supplier shall record in separate records when, using what means and by whom the products have been inspected and what the results of the inspection are. The inspection records shall be archived in compliance with legal statutes, but for no less than 10 years and for no less than 15 years for parts which are subject to documentation obligations, and shall be presented to us as necessary.
5. If and when our customers, institutions, associations etc. request inspection of our production processes and our inspection documents for the purpose of verification of specific requirements, the supplier hereby declares its readiness to grant the same rights to these parties in its facilities and to provide any and all reasonable support.
6. The supplier will permit us to conduct audits of its facilities. The supplier shall automatically submit to us verification of any third-party audits conducted of its facilities. The supplier shall notify us immediately in writing of any withdrawal of certificates by the auditing authority.
7. Upon our request, the supplier is obligated to provide proof of its certification in accordance with DIN EN ISO 9001, 14001 and IATF 16949, in each case as most recently revised. If and when it does not fulfil this verification obligation within a reasonable period, we are entitled, after the fruitless expiration of a reasonable subsequent period we have set, to request damages in lieu of the performance or to rescind the contract.  
Any and all changes in the certification status (e.g. withdrawal) must be communicated to us in writing without delay.

## **VI. Complaint of Defects, Liability for Material and Legal Defects and Other Breaches of Obligations, Liability Periods, Insurance Cover**

1. Complaints of defects shall be deemed in good time if and when obvious (visible) defects are reported to the supplier immediately — within three workdays at the latest — after receipt of the goods. We may submit complaint of defects which are not obvious or which are hidden at a later time, but immediately — within three workdays — after discovery and determination of said defects.

If and when the domestic law of a country which stipulates longer periods is applicable pursuant to section I (1), said periods shall apply.

2. The supplier is obligated to ensure our possession and ownership of the products free of any material and legal defects.
3. A material defect shall be determined to exist in particular, but not solely, if and when the products (upon the passing of risk) do not have the agreed characteristics and/or are not suitable for the use foreseen by the contract and/or do not maintain the characteristic and/or their usability for the usual duration.

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4. In the event of material and legal defects and of other breaches of obligation, our claims and rights shall be based on the provisions of the German Civil Code (BGB), provided that they are not governed by the laws of another country pursuant to section I (1). The following provisions are agreed in supplement to legal rights. If and when the supplier does not fulfil its obligation to subsequent fulfilment within a reasonable period we have set, we may perform the subsequent fulfilment ourselves at the supplier's expense or engage a third party to fulfil the obligation. The above provision also applies to any sorting costs which may be required. The determination of a period is not necessary if and when the subsequent fulfilment has failed or is unreasonable for us or our customers. If and when work during subsequent fulfilment (e.g. sorting, subsequent improvement) is required at the site or in the works to which the products have been taken in accordance with their intended use, the supplier is obligated to perform the subsequent fulfilment, or cause it to be performed, at this site and at its own expense. The work shall be performed without delay, without necessitating the stipulation of a specific period in addition to the notification, so that any downtime of the production lines can be prevented. We and/or the affected parties in the delivery chain are otherwise entitled to perform this work, or cause it to be performed, at the supplier's expense.
  
5. Our claims arising from material and legal defects and from other breaches of the supplier's obligations will become time-barred no earlier than 3 years from the date of the delivery of the ordered goods/services to us; this provision is subject to longer statutory periods or to periods agreed in specific cases and subject to the regulations in (6) and (7). The limitation period shall be 5 years for a building and for an object which has been used for a building in accordance with its customary application and caused its defectiveness. The period will be extended by the time periods during which the limitation period is suspended.  
If and when the domestic law of a country which is applied pursuant to section I (1) does not provide any opportunity for extension of the limitation periods for the aforementioned claims, and if and when the extension of the limitation periods for the supplier's liability for material and legal defects of the ordered products/services is permissible, the supplier's aforementioned liability shall be extended by up to 5 years from the date of delivery/submission of the ordered products/services to us. Specifically, if and when Polish law is applicable, the warranty rights for material and legal defects of the ordered products/services shall not expire for a period of 5 years, commencing on the day on which the products/services are handed over to us (art. 558, sec. 1 Polish Civil Code in conjunction with art. 568, 576 Polish Civil Code).  
The application of the UN Limitation Convention is excluded.
  
6. If and when claims arising from defects in the products or other breaches of obligation falling within the supplier's sphere of influence are asserted against us, the supplier shall indemnify and hold us harmless from and against any and all claims of our contract partners and third parties; in the event of claims for damages, however, the above provision applies only if and when the supplier does not prove that it is not accountable for the defect or breach of obligation. Our claims for damages and indemnification from any and all damage or loss and expenses extend beyond the liability/limitation periods regulated in (5), but shall not exceed 10 years from the commencement of the statutory limitation period, as long as we are accountable for the products procured from the supplier and for any loss or damage and expenses arising from said products owing to reasons falling within the supplier's sphere of responsibility. Claims based on supplier's breach of obligations about which we have issued complaint within the liability/limitation period shall become time-barred no earlier than three months after the complaint.

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If and when the domestic law of a country which is applied pursuant to section I (1) does not provide any opportunity for extension of the limitation periods for the aforementioned claims, the supplier is obligated to indemnification from and against the aforementioned claims within 10 years from the date of delivery of the ordered products/services to us.

7. The above provisions are without prejudice to claims and longer limitation periods pursuant to laws regarding public liability, from actions in tort, in particular, but not limited to, liability for injury to life, body and health arising from any and every form of fault, from any other wilful, fraudulent or grossly negligent conduct and from warranty.
8. The supplier is obligated to archive any and all design and production documentation related to the delivered products for 11 years and to make the documentation available to us in the event that product liability claims are asserted against us.
9. The supplier covenants to conclude a product liability insurance policy with an insured sum of no less than five million euros per incident of personal injury/material damage. Upon our request, the supplier shall present us with verification of this insurance cover. The above provisions do not constitute a limitation of the supplier's liability.

## VII. Confidentiality, Drawings, Moulds, Models, Tools

1. The parties covenant to treat any and all commercial and technical information which is not obvious and which becomes known to them from the business relationship as confidential and to apply and utilise any such information solely within the agreed and permitted scope for the purpose of the parties' business relationship. Any non-disclosure agreement concluded between the parties shall prevail.
2. Drawings, moulds, models, templates, tools, samples, electronic data and similar items which we make available to the supplier shall be treated as confidential; they may be used solely and exclusively for the performance of our orders and may not be reproduced and made accessible to third parties. We retain ownership of any such items, and they shall be identified as our property by the attachment of our company logo. The products manufactured in accordance with these items may not be passed on to third parties either as unprocessed, semi-finished or finished products. The above provision applies as well to parts that the supplier has developed in accordance with our specifications.
3. The disclosure of information and the provision of the corresponding documents shall not establish any entitlements of any nature to industrial property rights, know-how or copyrights of the party disclosing the information or providing the documents. The parties are in agreement that the disclosure or provision of confidential information shall not constitute prior publication and shall not establish any prior utilisation right within the sense of the Patent Act or the Utility Model Act. If and when the collaboration gives rise to any industrial property rights, the party responsible for the underlying developments shall be entitled to these rights. If and when the parties both contributed to the development, the parties shall be jointly entitled to the industrial property rights. In this case, the details will be regulated in an agreement which will be concluded separately.
4. Subsuppliers shall be obligated mutatis mutandis.

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5. If and when the supplier prepares moulds, models, tools, machinery, drawings, lithographs, data records or other data within the scope of our order, they shall be treated as confidential in the same manner. The parties hereby agree that we will gain ownership of any such items as soon as we have paid the agreed compensation and/or we will gain co-ownership, as soon as we have made a down payment, in the ratio of the agreed compensation to the down payment. The supplier shall safeguard the items on our behalf at no charge. We are entitled to take possession of the items if and when the supplier is threatened by debt execution or petition has been filed for initiation of bankruptcy proceedings against its assets.

## VIII. Intellectual Property Rights

1. The manufacturer/supplier is liable for any and all claims arising during the use of the products in accordance with the contract from the infringement on intellectual property rights or pending applications for intellectual property rights. It shall indemnify and hold us and our customers harmless from any and all claims arising from the use of such intellectual property rights. The supplier's indemnification obligation extends to any and all expenses which we necessarily incur as a consequence of or in relation to the assertion of the claims by a third party.
2. The supplier is liable for any infringement on third-party rights related to the delivered products in the countries of the European Union, in North America or in any other countries in which it manufactures the products or causes them to be manufactured, to the extent that it does not prove that it is not accountable for the breach of obligation.
3. If and when a third party asserts claims against us owing to an infringement in accordance with (1) and (2), the supplier is obligated, upon our first written request, to indemnify and hold us harmless from and against any such claims; we are not entitled — without the supplier's consent — to conclude any agreements, in particular, but not limited to, a settlement, with the third party.
4. The supplier's obligations pursuant to this provision do not apply if and when the supplier has performed its service or manufactured the contracted products in accordance with drawings, models or our descriptions and specifications we have provided, the infringement on the third-party intellectual property rights is solely a consequence of the supplier's compliance with these specifications and the supplier did not know that its compliance infringed on third-party intellectual property rights.

## IX. Assignment, Retention of Title

1. Rights and obligations from our orders may not be assigned or transferred to third parties. With the exception of an extended retention of title, the supplier is not entitled to assign any claims against us to third parties.
2. The supplier retains title of ownership to the delivered products until any and all of its receivables from the business relationship with us have been paid (reserved goods). In the case of current invoices, the reservation of title also constitutes security for claims for any balance.

We are entitled to process and resell the reserved goods in the ordinary course of business. The utilisation of the reserved goods for the fulfilment of contracts for work and work performance shall also be deemed resale. We are not authorised to assign the reserved goods by way of security or to pledge them.



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If and when the reserved goods are processed, combined and mixed with other goods, the supplier is entitled to co-ownership of the new product in the ratio of the invoice value of the reserved goods to the invoice value of the other processed goods. We assign here and now to the supplier any and all claims arising from the resale or further delivery, including proportional claims if and when the goods have been processed, combined or mixed and the supplier has gained a right of co-ownership. If and when the reserved goods are resold together with other goods, we hereby assign the receivable arising from the resale to the supplier in the ratio of the invoice value of the reserved goods to the invoice value of the other goods. The supplier covenants to release any securities to which it is entitled if and when their value exceeds the value of the claims being secured, to the extent to which they have not been settled, by more than 10%.

3. The provision in (2) above does not apply to contracts governed by Hungarian law pursuant to section I (1).

## **X. REACH Regulation, Pre-products, Social Responsibility**

1. The supplier covenants to comply with and observe the REACH Regulation (Registration, Evaluation and Authorisation of Chemicals). The supplier will provide us with any and all necessary information regarding the contracted products in good time.
2. The supplier will utilise solely and exclusively products, packaging and/or processes which are in compliance with applicable environmental protection regulations applicable to manufacture, operation and disposal.  
The supplier ensures through the implementation of appropriate measures and warrants that no steels, pre-products or steel products that are contaminated or that are not in compliance with legal requirements are used and that the introduction of any such products in GEDIA's material cycle is therefore excluded.  
The supplier ensures through the implementation of appropriate monitoring actions and promises and warrants to GEDIA that it does not use any of the so-called "conflict minerals" defined in the laws of the USA (section 1502 of the Dodd-Frank Act) during its deliveries to and on behalf of GEDIA.
3. The supplier ensures that the working environment for its associates is safe and not detrimental to their health and is in compliance with legal provisions. The supplier warrants that neither it itself nor any of its affiliated companies engage in business practices which are in violation of the regulations of the Children's Rights Commission.

## **XI. Place of Performance, Venue, Proper Law**

1. Place of performance is the agreed place of delivery; in the absence of an agreement, it is the registered office of the company placing the order.
2. Venue for contracts with merchants and legal entities is the registered office of GEDIA Gebrüder Dingerkus GmbH in Attendorn Germany. The above provision does not apply in the event that the laws of another country are applicable pursuant to section I (1); in this case, the venue is the registered office of our foreign company.



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GEDIA, however, reserves the right to bring an action against the supplier also at the court of competent jurisdiction for its registered office.

3. German law, excepting the UN sales conventions, governs any and all orders, deliveries and services, provided that the law of another country does not apply pursuant to section I (1). The application of the UN sales conventions is also excluded in the event of the application of the laws of another country.

## XII. Final Provisions

1. If and when one party suspends payments or if and when a petition to initiate bankruptcy proceedings against its assets is filed, the other party is entitled to cancel that part of the contract which has not been performed.
2. Contract language is German and/or English; the German version prevails. In the case of domestic orders of our foreign companies which do not include any consignments crossing international borders, the contract language is the language of the specific country or, if both parties agree, English.
3. If and when any provisions of these Terms and Conditions and/or the additional concluded agreements are, or become, invalid, the validity of the contract as a whole shall not be affected. The parties are obligated to replace the invalid provisions by a regulation which comes as close as possible to the commercial and legal intent of the invalid provision.