

1. AREA OF APPLICATION, GENERAL

The latest versions of these terms and conditions of purchase underlie all of our enquiries, orders and potential follow-up orders, even if no explicit reference has been made to this fact or, as the case may be, even if this fact has not been mentioned over the course of negotiations orally or by phone. The general business terms of the suppliers that contradict these terms and conditions of purchase are void, inasmuch as the said terms have not been declared to be valid in writing. Contractual terms that contradict these general terms and conditions of purchase are invalid, even if they appear in the contractual partner's documents. Telefax messages and e-mails are considered to be messages that have been put down in writing.

2. AWARDING OF CONTRACTS

We only consider orders to be legally binding if they have been written out on our ordering forms. Changes made to the order, items that have been added to the order, or oral agreements are only considered to be valid in a legally binding manner after we have confirmed them in writing.

Our orders may only be completely or partially handed over to an external party if we have granted explicit and written consent for such a course of action in advance. In any event, the supplier is responsible for ensuring that his sub-contractors adhere to these terms and conditions of purchase.

3. ORDER ACKNOWLEDGEMENTS, CHANGES IN THE ORDER

Within a period of two working days (Monday to Friday from 8:00 a.m. to 5 p.m.) our order is to be confirmed with a binding quotation of price and a binding specification of the delivery date. We shall be entitled to modify or revoke the order until such time as we receive a proper order acknowledgement. We can also reject delayed order acknowledgements. Any and all consequences of the delay must be borne by the supplier.

If the order acknowledgement deviates from the order, a clear reference must be made to this fact. We shall only be obligated to adhere to a deviation if we had already explicitly approved of the deviation in writing.

4. DELIVERY DEADLINE, CONTRACTUAL PENALTY

The goods must be delivered to the specified delivery address in the correct delivery quantity and at the agreed-upon level of quality no later than the agreed-upon delivery date; in case of a delivery whose scope covers the assembly and/or installation, or in case of situations that involve the execution of certain tasks, the said tasks must be certified by us, on the agreed-upon delivery date, to be free of defects. Otherwise, we shall be entitled to issue a written notice of withdrawal within 48 hours without setting a period of grace. In this case, the supplier is obliged to compensate us for all non-fulfilment damage caused by his delay, including all causally related damage.

The supplier has to promptly inform us in writing of any delays in delivery as soon as he can detect the said delays. Furthermore, he has to specify a new and binding delivery date. We reserve the right to either accept the delay in the delivery (which is equivalent to a one-sided modification of the contract) or withdraw from the agreement on the grounds of nonfulfilment of the contract.

It is understood that if the delayed delivery is accepted, we shall charge a contractual penalty of 1% per each working day of the delay in delivery maximum 15% of the total order value without being obliged to provide evidence for the actual damage. We further reserve the right to claim compensation for any further damage, including financial loss and loss of profit. This shall also apply if a previous partial delivery was accepted by us without reservation.

In case of an early delivery, we reserve the right to either refuse to accept the delivery (in which case the supplier is obligated to bear the associated costs and risk factor) or, if the delivery is accepted, to bill him (the supplier) for the resultant additional expenses (especially the storage costs) and prolong the payment process to match the agreed-upon delivery date.

5. SHIPPING, DELIVERY, ACCEPTANCE, TRANSFER OF RISK

Unless otherwise agreed in writing, delivery shall be made free of all charges at the supplier's expense and risk to the agreed delivery address. The provision DDP, according to Incoterms 2020, shall apply.

The packaging costs and the costs associated with transportation insurance, which should also cover the unloading process, are to be borne by the supplier.

If the agreed-upon pricing term was the factory price or the warehouse price, the products should be dispatched at the lowest possible cost, unless we had explicitly mandated a particular mode of transportation. Additional expenses associated with accelerated transportation that is necessary in order to adhere to the delivery date or minimise the delay in the delivery are to be borne by the supplier. The supplier cedes to us all claims arising from the transportation insurance that relate to damages suffered by the goods during transport and which are directed towards the insurance company that provided the said transportation insurance. He also cedes similar claims that are directed towards the liable party, to us.

All deliveries must be furnished with a delivery note containing a precise summary, complete order data (especially the order number and ABC item numbers), all the necessary data regarding export licence regulations (e.g. export control commodity number) and a statement indicating that the goods are not subject to preferential treatment (e.g. movement certificate, declaration of origin).

If the supplier is required to provide material and works certificates, other certificates, test reports, quality documents or other documents as agreed, the completeness of the delivery or service also presupposes the receipt of these documents.

In principle, the delivery quantity should perfectly match the quantities/ numbers of pieces that were specified in the contract. Underdeliveries or over-deliveries must be authorised by us in writing in advance. Otherwise, in case of an under-delivery, the contract shall be considered not to have been fulfilled, and in case of an over-delivery, we shall be entitled to return the excess quantity at the expense and risk of the supplier.

The items that are delivered to us must not be subject to retention of title. Such retentions are considered to be invalid, even if we do not raise any objections against them.

The supplier shall be liable for all damages that arise as a result of improper packaging.

If the shipping documents are missing or incomplete, and especially if the order data that needs to be reported is missing, we shall reserve the right to reject the delivery at the expense and risk of the supplier.

In the case of deliveries of goods, the risk shall pass to us upon confirmed acceptance of the goods at the delivery address specified by us. In case of deliveries whose scope covers assembly and/or installation and deliveries whose scope covers the execution of certain tasks, the risk factor is transferred to us when we accept the service in question. In case of partial deliveries, the risk factor is only transferred to us when the contractual provisions have been fulfilled entirely.

6. BILLING, CESSION

The bill (which should cite all the order data) is to be sent to us immediately

after the delivery has been made or, as the case may be, immediately after the service in question has been provided in its entirety.

We reserve the right to send back bills that do not correspond to our specifications (especially our order data) without processing them. In such a case, the account shall be considered to not have been rendered. Time sheets that have been validated by us are to be attached to bills that relate to job performances or work performances.

Cessions are only valid if we had approved them in writing in advance.

7. PAYMENT

The payment period shall commence as soon as the delivery or work performance has been accepted by us in full and free of defects, and the properly issued invoice has been received.

Unless otherwise agreed, we shall be entitled to make payment at our discretion, either within a period of 14 days with a 3% discount or within a period of 30 days net. The payments shall be withheld until the defects have been rectified, since no settlement date exists. Even if payment is made without reservation, it shall not equate to either an acknowledgement of the correctness of the delivery or service or a waiver of any of our rights.

8. WARRANTY, PRODUCT LIABILITY, COMPENSATION FOR DAMAGES

§ 377 UGB (Austrian Commercial Code) is not used (immediate notice of defects). The warranty-related provisions of the ABGB (General Civil Code) are applicable, along with the following modifications:

The incoming goods inspection (acceptance) – including the inspection for quantity, condition and visible defects – shall take place within 14 days at the latest after receipt of the goods. If sampling-operations indicate that parts of the contents of the delivery do not correspond to our order, the entire delivery can be rejected. Receipts of delivery that certify that we have received the goods in question do not qualify as declarations regarding the condition and the quantity of the delivered goods. Furthermore, they do not amount to a confirmation that the delivery conformed to the contract and was free of defects.

The warranty is governed by § 922 et seq. ABGB (Austrian Civil Code), with a warranty period of 24 months from receipt of goods for movable items and 36 months for immovable items. The limitation period for warranty rights is based on § 933 (3) ABGB.

In case of a defect that emerged after the hand-over, it shall be assumed, over the course of the entire legally-mandated warranty period, that the defect in question existed at the time of the handover.

If we do not receive any written communication from the supplier regarding a future course of action within a period of two working days (Monday to Friday - from 8:00 a.m. to 5:00 p.m.) after the point in time at which the defect-related information was sent to the supplier, we shall be entitled to return the faulty goods to the supplier's address at the expense and risk of the supplier. An acceptance that is issued at the supplier's facility does not release him from his warranty-related obligation that relates to defects that emerge after the goods in question are handed over to us.

The supplier has to either rectify any potential defects at his own expense within the time-limit that has been set by us or deliver new goods that are free of defects. In any event, we shall be entitled to demand that the supplier compensate us for all the damages that arose as a result of either the defective delivery or the untimely nature of the rectification of the defects.

In cases involving an especially high degree of urgency, such as cases dealing with the prevention of a delay or cases where the supplier is behind schedule vis-à-vis the rectification of defects, we shall reserve the right to implement an executive fiat or reacquisition at the expense of the supplier without prior notification and without prejudice to our other rights. These costs must be reimbursed in their entirety, even if they are higher than the costs associated with a defect-rectification operation carried out by the supplier.

Regardless of whether or not he is culpable and whether or not his contractor is culpable, the supplier shall be completely liable, in an unrestricted manner, for all the damages that result from the defectiveness of the delivered product and which affect either us or our customers. His liability shall also extend to causal financial losses. Retention as per § 2 Z 1 PHG (general partner) does not apply. In any case, he shall also be liable for damage caused to provided products due to his processing (e.g. surface finishing) (on the basis of the manufacturing costs of the provided products).

9. MATERIALS PROVIDED

Material provided by us shall remain our property and shall be stored, designated and managed separately free-of-charge. Their takeover is to be confirmed at our request. Their use is only permitted for our orders. In the event of damage or loss, the contractor shall pay compensation. Any claims for compensation on the part of the contractor due to failure to provide the goods on time are excluded.

10. DRAWINGS, TOOLS, AUXILIARY MEANS

If drawings and technical computations are necessary, they are to be supplied free of charge by the supplier. Tools, moulds, models, drawings, lithographs, gauges and the like that we have provided to the supplier in order to facilitate the order-execution process remain our property. Neither these items nor new objects that were produced with their help can be transferred to external parties or used for any purpose other than the pursuit of the contractual objectives, unless we have approved such a course of action in writing. Tools, moulds etc. that are either completely or partially manufactured at our expense become our property as soon as they are produced. In the broader sense, all of these objects and contrivances which belong to us are to be stored safely in an appropriate manner and protected from unauthorised access or utilisation. If necessary, they should be repaired or rebuilt. They are to be returned with the delivery or, as the case may be, if the order is cancelled. Subject to our other rights, we can also demand that the said items be returned if the supplier

Under no circumstances the supplier can enjoy a right of retention.

11. NON-DISCLOSURE, DATA PROTECTION

The supplier is obligated to maintain the confidentiality of the information that he receives from us that relates to our order, or the confidentiality of any information that relates to the subject-matter of the order, insofar as the said information was not generally known or legitimately known to him. He is also obligated to maintain confidentiality with regard to the results or partial results that he developed. In particular, the supplier has to protect this information and these results from third-party access and demonstrably prompt any employees of his who work with the said information and results to maintain the confidentiality of the said items.

Any infringement shall result in a contractual penalty of 10 times the contract value, subject to any higher damage. Any statutory judicial right to mitigation is hereby waived.

12. PLACE OF FULFILMENT, LAW, JURISDICTION

The place of fulfilment is 9020 Klagenfurt, Austria or, as the case may be, the point of delivery that has been specified by us.

Irrespective of the place of fulfilment of the main service, the suppliers always have to rectify the defects at one of our locations.

It is understood that all disputes arising from our orders shall be subject to the local jurisdiction of the court in 9020 Klagenfurt, Austria that has the relevant subject-matter jurisdiction. Such issues shall be subject to the sole jurisdiction of Austrian law. The UN Convention on Contracts for the International Sale of Goods does not apply.

13. SALVATORIUS CLAUSE

If individual provisions of our terms and conditions of purchase are or become invalid or unenforceable, it shall have no effect on the other provisions contained in our terms and conditions of purchase. The invalid or unenforceable provision is to be replaced by a valid and enforceable provision that fulfils, as closely as possible and especially from an economic point of view, the intended objective of the provision that is to be replaced.