

**1 Area of application**

These terms are applicable for all our deliveries ousting the customer's general business terms and subject to varying written agreements, even if we do not explicitly refer to in the future. Agreements varying from these terms of sales and from our confirmation of order need to be confirmed in written by us.

**2. Offer and conclusion of orders**

2.1 Our offers are without engagement. The contract regarding delivery is concluded on our written confirmation of order.

2.2 The conclusion of order is effected subject to the right and punctual supply by our supplier. This is only applicable for the case that we are not responsible for non-delivery, in particular when a concurrent covering action is concluded with our supplier. The customer will immediately be informed about the non-availability of the service.

2.3 We are entitled to perform partial deliveries. We reserve explicitly the right to perform additional or short deliveries up to 10% regarding the weight and the quantity which is applicable both for the entire concluded quantity and for each partial delivery.

2.4 As to framework agreements or agreements which require the purchase of materials, we have the right to require the missing planning (e.g. precise delivery quantities for each calling, delivery time, measures and quality features) after three months of the confirmation of order. If the customer does not fulfill this request within two weeks, we have the right to determine an extension of two weeks and to withdraw from the order after this extension and to claim compensation refusing delivery.

2.5 If the customer wants us to perform certain controls that go beyond the usual technical level or which are required for certain purposes of usage, the type and extent of these controls have to be agreed on when the contract is concluded at the latest. If this is not the case, the costs of the controls must be paid by the customer.

**3. Delivery times and delays**

3.1 If the customer does not fulfill his contractual duties - including the duties of participation or additional duties - in time, we are entitled to delay our delivery times and dates appropriately notwithstanding our rights from the delay according to the needs of our production process. We are also entitled to claim compensation for the loss which occurred to us, including possible additional costs.

3.2 The delivery date which may have been agreed on starts when the details of the performance have been clarified and when the customer has fulfilled all conditions. The date of the readiness of dispatch is the date of delivery.

3.3 In case of a delay of delivery the customer may grant us an appropriate extension. If the delivery is not effected during this extension, the customer is entitled to withdraw from the order. Even when a date has been agreed, we are only in delay due to a written reminder. In case of default the customer has to inform us on our request if he withdraws from the contract or insists on delivery.

3.4 Paragraph 10 (liability) of these general business terms is applicable for the customer's claim for damages due to a delay in delivery which we are responsible for.

3.5 Unforeseen circumstances not caused by us such as the interruption of operations, exceeding delivery dates or short delivery by our suppliers as well as the shortage of energy or raw materials - when we have concluded a concurrent covering actions with our supplier - discharge us from the duty of delivery for the duration of the interruption and to the extent of their result. If the delivery has been delayed by more than 3 months, the customer has the right to withdraw from the order excluding any further claims concerning the quantity affected by the interruption.

3.6 The same rights are due to us and the customer in case of force majeure, such as strikes, lock-outs and official decrees which we are not responsible for.

**4. Acceptance**

If the acceptance of our service is agreed on separately, the customer has to perform this on our premises at his own expenses.

**5. Dispatch and passing of the risk**

5.1 Unless another term of delivery has been agreed on, we deliver "ex works" (Incoterms - latest version). The costs for special deliveries desired by the customer (costs for courier, express etc.) have to be paid by the customer unless the special dispatch would have been required by our behaviour which we are responsible for.

5.2 The way of dispatch and means of transportation are subject to our choice unless something else has been agreed on. An insurance for transport is only effected on the customer's explicit request at his expenses and according to a separate agreement.

**6. Packing, measures and weights**

6.1 Packing is performed in accordance with our packing standard. This means we follow the principle of minimising packing material and to employ only materials which are not harmful to the environment. The usage of reusable packing materials (e.g. KLTs) has to be principally agreed on with us and is subject to our special allowance. This is also applicable to packing materials required for the customer's specification. One-way packing cannot be returned to us.

**7. Prices and payment**

7.1 Subject to varying written agreements all additional costs, such as packing, freight, insurance, duties, charges and expenses of any kind are at the customer's expenses. Our prices do not contain the value-added tax; this tax will be listed separately in our invoice.

7.2 As to orders which are performed more than 4 months after the conclusion of the contract, we have the right to adapt the prices accordingly for deliveries which have not been performed yet for unforeseen and essential changes of the production costs (e.g. costs for material, energy and personal, transport and public charges).

7.3 A minimum order value of EUR 500,- applies for all orders, unless otherwise agreed in writing.

7.4 The customer will receive works certificates according to 2.1. Certificates for free. The certificate of acceptance controls 3.1 / Control reports will be charged with a processing fee of € 60,-. We have to charge costs of € 250,- for complete initial controls of standard parts.

7.5 If there are justified doubts concerning the customer's solvency or creditworthiness we have the right to require payment in advance for deliveries which have not been performed yet and to accelerate all claims from this business relation immediately - notwithstanding all our other rights. Delivery is interrupted as long as the customer is in delay with a due payment.

7.6 Unless otherwise agreed the payment has to be made in advance.

7.7 The customer has only the right of off-setting claims if his counterclaims have been legally determined or recognized by us. The customer can only exert his right of retention if his counterclaim results from the same contractual relation.

**8. Retention of title**

8.1 We reserve the right of ownership of the goods until all claims due to us resulting from the business relation with the customer are fulfilled, including the claims resulting from the current account as well as interests, costs as well as possible claims for damages ("reserved goods"). When payment is delayed, we are entitled to withdraw from the contract and to demand the return of the goods.

8.2 The customer is entitled to sell the reserved goods in proper transactions. He is not allowed to dispose of the goods otherwise.

8.3 It is already now that the customer's claims resulting from the sales of our goods are ceded to us in the amount of the value of the goods delivered by us as a means of security. Apart from us, the purchases is entitled to collect the claims himself as long as he fulfills his obligations of payment, does not default in payment and in particular as long as there has not been an insolvency proceeding opened on his property or the opening of such a proceeding has been rejected for lack of assets or if there is no cessation of payment. As for the cases mentioned above, we may require the customer to quote us the claims ceded to us and their debtors, to give us all the details necessary for collection, to hand us the documents necessary and to inform the debtors (third parties) about the assigned claim.

8.4 The purchaser is obliged to treat the goods properly. In particular, he is also obliged to insure the goods against damages resulting from fire, water and theft sufficiently at the value when new at his own expenses.

8.5 The pledge or chattel mortgage of the goods delivered by us is only allowed after the complete payment of all our claims. We have to be informed immediately about pledges into the reserved goods. We commit ourselves to release the securities due to us at the purchaser's request to the extent that the realisable value of our securities will exceed the claims to be secured by more than 20%. The selection of the securities to be released is incumbent to us.

8.6 The procession or modification of the delivered goods by the purchaser will always be performed for us. If the goods are processed with other objects which do not belong to us we acquire the co-ownership of the new product in the relation of the value of the goods (final amount of the invoice, including value-added tax) to the other objects processed at the time of procession. Besides, the same is applicable for the objects resulting from the procession as for the goods delivered under reservation.

8.7 If the goods are mixed with other objects which do not belong to us inseparably, we acquire the

co-ownership of the new product in the relation of the value of the reserved goods (final amount of the invoice, including value-added tax) to the other mixed objects at the time of the mixing procedure. If the mixing procedure is performed in such a way that the purchaser's object is to be considered as the main object, it is agreed that the purchaser cedes the co-ownership to us on a pro rata basis. The purchaser keeps the sole or co-ownership for us which has come into existence in this way. The purchaser also cedes the claim to us to secure our claims against him which arise from the connection of the delivered goods with a real property against a third party.

8.8 We cannot accept return deliveries of goods which the purchaser is responsible for and which are below the value of € 25,-.

8.9 The purchaser concedes to us a pledge of the material - if he has given us any material - or of the claims replacing the material to secure all present and future claims resulting from the business relation with him. If the purchaser defaults in payment or his credits expire, we have the right to make use of the pledged material at the average Austrian market price on the day of the delay in payment or the expiry of the credit.

**9. The purchaser's duty of control, notice of defects, rights of material defects**

9.1 The purchaser has to make a written complaint about recognizable defects of any kind immediately, after 8 working days after receipt of the goods at the latest. Otherwise, the goods are accepted. The purchaser has to inform us about latent defects within 8 working days after discovery at the latest; otherwise, the goods are accepted despite these defects.

9.2 Any further processing of the parts which the purchaser may complain about is not allowed until the clarification of the possibility of usage. Some of the parts complained about have to be returned to us immediately at our request. We also have to be given the opportunity to check the defects complained about in situ. The defective goods must not be modified without our consent, otherwise the warranty claim will be lost.

9.3 The period of prescription for claims resulting from defects is principally one year. The period of prescription is two years for violations of life, body or health which we are responsible for as well as in the cases of intent or gross negligence. The period of prescription for claims resulting from defects is five years for goods which have been used for a building conforming with their usual way of usage and which have caused the defectiveness of this building.

9.4 If the delivered goods are defective, the purchaser may require the removal of the defect (repair) or the delivery of faultless goods (substitute delivery) as a subsequent performance, however, the choice between these two options is due to us. If we replace defective goods, we acquire the ownership of the replaced parts. If we are not ready or not in the position to repair or give a substitute delivery, in particular if this repair or substitute delivery is not done within an appropriate period for reasons which we are responsible for, or if the repair/substitute delivery fails in another way, the purchaser has the right to withdraw from the contract or to reduce the purchase price if the attempts of subsequent performance are unreasonable for him.

9.5 We are only liable for damages which have been caused otherwise due to default of the delivered object to the extent mentioned in article 10 (liability).

9.6 There is no claim for defects resulting from abrasion or for damages resulting after the passing of risk due to incorrect or careless treatment, excessive usage, inappropriate operative means or due to special external impacts which are not agreed on according to the contract. If the purchaser or third parties perform modifications or repairs inappropriately, there is no claim for defects for them nor for the consequences resulting from them.

9.7 It is agreed that only the contents of our product description principally corresponds with the quality of the goods. However, public opinion, recommendations or advertising by us or by other parties do not represent the description of quality of the goods according to the contract.

9.8 If reference samples are produced and sent to the purchaser for control, we will only be liable for the case that the delivery will be performed according to the reference sample taking possible corrections into consideration. It is solely the reference sample or our drawing of performance sent to the purchaser for control and trial which are relevant for the performance, the measure, weight and aptness.

9.9 The purchaser's claim as to the expenses necessary for the purpose of subsequent performance, in particular those for the costs of transport, way, labour and materials are excluded if the expenses have increased because the subject of the delivery has been subsequently transported to a different place from that of the place of delivery, unless the transport corresponds with its usage in accordance with the regulations.

9.10 The purchaser is obliged to declare us within an appropriate period at our request if he wishes to reduce the purchase price or to withdraw from the contract because of the failed subsequent performance.

9.11 If not otherwise agreed upon, the EN/DIN standards as well as the GGB specifications apply to the quality of the products. Differences from measures as well as from technical values which are justifiable for the purpose of use do not give the right to complaints.

**10. Liability**

10.1 We are liable in accordance with the regulations of the law of product liability as well as in the cases of justifiable inability and justifiable impossibilities. In these cases, we are liable damages in the case of intent, gross negligence as well as for violation of life, body or health according to the legal regulations which we are responsible for. By the way, if we violate a duty which is an essential part of the contract or a cardinal duty due to simple negligence (i.e. duties of which the fulfillment do only make the orderly performance of the contract possible or the purchases may regularly rely on the fulfillment of those duties as well as duties of which the violation endangers the achievement of the contractual way), our liability to compensate is limited to the damage which is typical for the contract and foreseeable.

10.2 In all other cases of liability, the claims for damages due to the violation of a duty arising from the obligation as well as due to unauthorized actions are excluded, so that we are not liable, in particular to this extent, for consequential damage as well as for the purchaser's additional expenses, lost profits or other financial damages.

10.3 To the extent that our liability is excluded or limited due to the regulations mentioned above, the same applies as well to the personal liability of our staff members, representatives and persons employed by us in the performance of this obligation.

10.4 Our proposals as to the construction and materials are made to the best of our knowledge and belief. There is only a possible liability in the framework of articles 10.1 + 10.2 mentioned above.

**11. Export control, obligations of the customer**

11.1 We hereby point out that the shipment/export of goods (merchandise, software, technology) in fulfilment of the contract is subject to European and Austrian foreign trade and payments law, and delivery may be subject to restrictions and bans in accordance with export control law. The relevant legislative provisions are namely the EC Regulation No. 428/2009 (Dual Use Regulation) as well as its annexes, and the Austrian Foreign Trade Law (AußWG). Furthermore, there are European and national embargo regulations against certain countries and persons which ban delivery or which are under reservation of official approval. Goods manufactured in the USA, goods with a share of 10 or 25 % of US goods, goods from US-dominated companies may also be subject to US re-export law, in addition to the above-mentioned laws and regulations.

11.2 The customer undertakes to recognise and comply with European and Austrian export control provisions and, insofar as the export/shipment of the goods is subject to US law, also US (re-) export provisions. In particular the customer undertakes not to allow the goods, whether directly or indirectly, to be used for any purpose which in any way is related to the development, production, handling, operation, maintenance, storage, locating, identification or dissemination of chemical, biological or nuclear weapons and their carrier systems, unless he has the necessary approval. He also undertakes not to allow the goods to be used either directly or indirectly for a military end-use in a weapon embargo country as defined in Art. 4 Par. 2 of EC Regulation No. 428/2009, a country from country list K or the People's Republic of China, unless he has the necessary approval. Furthermore he undertakes not to allow the goods to be used either directly or indirectly for a civil nuclear purpose in the countries specified in § 5 d Par. 1 Austrian Foreign Trade Regulation, unless he has the necessary approval. The customer undertakes not to sell, export, re-export, deliver, pass on or otherwise make the delivered goods accessible, either directly or indirectly, to persons, companies, institutions, organisations or to countries, if this violates European, Austrian or US legislative (re-)export regulations. In the event of the resale/forwarding of the delivered goods, the customer undertakes to point out the relevant export control law provisions to his customer and to pass on the resulting obligations. We may require that the customer give us so-called final destination documents in order to be able to prove the final destination and intended purpose. The customer shall note that the legal provisions specified in Par. 1 are subject to constant modifications and adaptations and are applicable to the contract as amended.

11.3. The customer is fully liable to us for damage incurred by us through the culpable non-compliance of the customer with European, Austrian and US (re-)export regulations.

**12. Trade mark, protected privilege, mark of origin, tools**

- 12.1 It is not allowed to change or remove the marks of origin or the features on our products without our written consent.
- 12.2 The purchaser is not allowed to use the trade marks respectively the marks with which our goods are delivered neither for the products which are processed from them nor for other own purposes (in particular advertising purposes) without our written consent.
- 12.3 We reserve the right of ownership and the copyright of samples, illustrations and drawings and other documents as well as of tools. This also applies when shares in the cost for such objects are refunded by the purchaser.
- 12.4 If the production respectively delivery is performed according to the purchaser's drawing or other data, the purchaser will exempt us from all claims made by third parties.
- 12.5 We have the right to destroy tools, drawings, drafts and other means which are in our possession three years after the last use.

**13. Place of performance, jurisdiction, applicable law**

- 13.1 Vienna is the place of performance and jurisdiction. However, we are entitled to enforce our claims at the purchaser's general jurisdiction, too.
- 13.2 Austrian law is applied, the conflict of laws provisions is excluded. The application of the Convention of the agreed nations on contracts concerning the international purchase of goods of 1 April, 1980 is excluded.