

Translation

General Conditions of Sale and Delivery

1. Preamble

1.1. These General Conditions of Sale and Delivery shall apply as far as the contracting parties have not, expressly and in written form, agreed otherwise. It is expressly agreed that adverse provisions of general conditions of sale or conditions of purchase on part of our contracting partners shall have binding force on our part only if they have been recognised by us in written form; otherwise they shall be regarded as objected.

1.2. The provisions set out herein on deliveries of goods shall also apply for the provision of services accordingly.

1.3. Should individual provisions be or become invalid or void, the validity of the remaining provisions shall not be impaired thereby.

2. Conclusion of Contract

2.1. The contract shall be deemed as concluded as soon as we have dispatched, upon receipt of the order, our written confirmation of order.

2.2. Alterations and implementations of the contract require our written confirmation for their validity between the parties.

2.3. Obvious errors or faults in offers, confirmations of orders or invoices may be rectified by us. Legal claims based on erroneous representations, which are obviously inconsistent with the remaining sale documentation, are excluded.

2.4. We reserve the right to examine and estimate the technical feasibility of an order received. We are entitled to withdraw from and cancel a contract within a period of 8 weeks should such technical feasibility of an order received not be warranted.

2.5. Should import and/or export licenses, foreign exchange permits or similar permissions be required for the execution of a contract, such licenses or permissions shall be supplied by our contracting partner who shall undertake all reasonable efforts to obtain the required licenses or permissions in time.

2.6. Any permissions or authorities, possibly required by constructional or commercial law, or any other official or magisterial permissions shall be supplied by the Purchaser at his own risk and cost. Should the Purchaser – for whatever reason – be unable to provide such official or magisterial permissions and should the concluded contract not be realisable due to official or magisterial impositions, conditions etc., we are entitled to withdraw from and cancel the contract as well as to claim compensation of the damage incurred.

3. Plans and Documentation

3.1. Any representations on weight, measures, capacity, price, performance, and so forth, indicated in catalogues, brochures, leaflets, announcements, illustrations,

price lists etc., shall only have binding character if they are expressly referred to in the offer and/or the confirmation of order.

3.2. Plans, sketches, cost quotations or other technical documentation as well as samples, catalogues, brochures, illustrations and the like represent our intellectual property. Any commercial exploitation, duplication, circulation, publication or presentation may only occur upon our written approval. Our contracting partners oblige themselves to use such documentation as well as any other material information only for internal purposes within their enterprise and in compliance with the stipulations agreed. Any other disposal, reproduction, circulation or delivery to third parties, publication and presentation may only occur upon our written approval.

4. Packing and Dispatch

4.1. If not agreed otherwise

a) the prices quoted are to be understood net of packing charges

b) packing will occur according to trade usage in order to avoid, under normal transport conditions, damage of the goods on the way to their agreed destination, at the cost of the ordering party, and packing material will be taken back only if agreed so.

4.2. Deliveries shall be carried out "unfree"; any charges and expenses incidental to the transport shall be borne by the Customer/Purchaser.

5. Transfer of Risk

5.1. Risk in respect of delivered goods shall, without exception, pass to the Customer/Purchaser as from the time of taking over the goods from our works. In the case of delay of dispatch due to circumstances within the responsibility of the Customer/Purchaser, the risk shall pass to the Customer/Purchaser from the time of notification of readiness for dispatch.

5.2. Our contracting partners shall be responsible for the insurance of ordered goods.

6. Terms of Delivery

6.1. The terms of delivery indicated by us for our products shall always be understood as approximate and shall read as a guideline. A liability on our part for eventual delays or the exceeding of periods or terms of delivery is excluded. Our contracting partner shall be entitled, though, to cancel and withdraw from the contract in respect of such part of the order that has not been fulfilled yet if the delivery, or partial delivery respectively, exceeds the time of two months.

If not agreed otherwise, terms of delivery shall apply as from the latest of the following dates:

a) date of confirmation of order;

b) date of fulfillment of all technical, commercial and financial requirements incumbent upon the Customer;

c) date at which we have received an advance payment due prior to the delivery of goods, and/or at which a letter of credit, due on part of the Customer, has been established.

6.2. We are entitled to carry out partial or advance deliveries.

6.3. Should there occur a delay of delivery due to circumstances within our responsibility, representing a reason of relief in the sense of Article 12., an adequate extension of the term of delivery shall be allowed.

6.4. Should the Seller be liable for fault in the delay of delivery, the Purchaser may either claim the fulfillment of the contract or, under adequate extension of the original term of delivery, declare his withdrawal from the contract. In the case of specially manufactured or custom-made items the Customer shall, when determining the term of extension of the original term of delivery, take into account appropriately that the Seller, in the specific case, might be unable to otherwise dispose of partial items already manufactured.

6.5. Should the term of extension, provided for in Article 6.4., not have been complied with by the Seller due to his own fault, the Purchaser shall be entitled to withdraw, by written declaration, from the contract in respect of all goods not yet delivered.

The Purchaser shall be entitled, in such a case, to the reimbursement of all payments made in respect of the goods not delivered. A claim for the compensation of damages exceeding such payments can be raised only in the case of gross negligence on part of the Seller. Items already delivered that are of no usage for the Purchaser, have to be returned to the Seller. Any further claims beyond those described hereinbefore against the Seller on the grounds of delay of delivery are excluded.

6.6. Should the Purchaser not accept goods which have been dispatched and delivered in accordance with the contract, at the agreed place or at the agreed date, and should such delay of acceptance not be caused by an act or omission, that is by fault, on part of the Seller, the Seller shall either be entitled to claim fulfillment of the contract or declare, under adequate extension of the original term of fulfillment, his withdrawal from the contract.

If goods have been segregated, the Seller may arrange for the storage of the goods at the cost and risk of the Purchaser. The Seller shall, in addition, be entitled to the reimbursement of all justified expenses which he had incurred in the course of the execution of the contract and which are not covered by payments already received.

6.7. Any further claims on part of the Purchaser beyond those described in Article 6. against the Seller on the ground of his delay are excluded.

7. Prices and Conditions of Payment

7.1. The prices are, if not agreed otherwise, to be understood as "ex our works" (or "warehouse", respectively).

7.2. All prices indicated are net prices.

7.3. Payments have to be made within 30 days from the submission of account.

7.4. We reserve the right to alter our prices at any time. There is no obligation of delivery on our part. The amounts indicated in our price list and in our technical specifications can be altered without any advance notice. We do not accept any liability for printing errors.

7.5. The Customer/Purchaser shall not be entitled to withhold payments on the ground of warranty claims or other counterclaims not recognised on our part, or to set off such counterclaims against our claims for payment.

7.6. In the case of delay of payment default interest is agreed at the rate of 8% p.a. above the base rate at the time.

7.7. Should it prove necessary to employ, in the case of delay of payment, a debt collection agency or a law office, the Customer/Purchaser agrees to reimburse the costs and fees charged by the same.

7.8. Should the Customer/Purchaser be in delay in respect of the agreed payment or any other part of performance, we shall be entitled to either insist on the fulfillment of the contract and

a) extend the fulfillment of our own obligations until the time of payment of the overdue amount or other overdue parts of performance,

b) claim an adequate extension of the original term of delivery,

c) call in the total purchase price still open for payment,

d) declare, under adequate extension of the original term of delivery, our withdrawal from the contract.

7.9. Should there arise, after conclusion of a contract, justified doubt with regard to the solvency, capacity to pay or credit standing of our contracting partner, we shall be entitled to demand, at our discretion, advance payment or adequate security. Should the Customer/Purchaser refuse to do so, we shall be entitled to withdraw from the contract without the Customer/Purchaser being entitled to raise any claims against us. Besides, we shall be entitled, in this case, to call in all outstanding accounts immediately.

8. Reservation of Proprietary Rights

8.1. We reserve title and all proprietary rights with regard to all goods delivered by us until all our claims have been fully settled. Any use of such goods for providing real security in the form of a pledge, mortgage, etc., shall not be allowed as long as title and proprietary rights in the goods are reserved for us.

8.2. In the case of delay of payment we shall be entitled to make use of such title and proprietary rights and to collect the goods concerned.

8.3. The Customer/Purchaser shall be entitled to re-process or manufacture the goods in the agreed manner or to commercially distribute the goods covered by such reservation clause only under the condition, that the claims of the Customer arising from such distribution are assigned to us, as of this date already, up to the value of the delivered goods covered by the reservation clause inclusive of any incidental costs. No additional or specific legal act of transfer shall be required therefor.

8.4. We shall be entitled, for the purpose of safeguarding our rights, to enter the storage and business premises of the Customer/Purchaser at any time. Should the Seller exercise his agreed rights, in particular his right to re-collect delivered goods in pursuance of the agreed reservation clause, the Purchaser waives any right of action for trespass or for forbearance on that ground, and also waives the objection the delivered good or item might be unabandonable for the maintenance of his business; finally he waives his claim for compensation of damages due to loss of profits. Any cost or charges which arise by these means shall be borne by the Customer/Purchaser.

8.5. In the case of judicial distress or any other claims of seizure raised by third parties in respect of the goods, the Purchaser shall be obliged to assert our title and proprietary rights to the same as well as to notify us immediately.

9. Warranty

9.1. The Customer/Purchaser shall examine the goods delivered by us immediately upon their arrival and shall notify to us eventual deficiencies immediately, that is within three days from the arrival of the goods, by registered mail, at the latest. Hidden deficiencies also shall be notified to us within three days from their discovery, by registered mail, in default of which the Customer/Purchaser shall forfeit all claims of warranty and compensation of damages.

9.2. Deficiencies in respect of quantities shall only be accepted if they have been noted on the certificate of delivery.

9.3. Warranty claims shall be restricted to such deficiencies which had been existing at the time of delivery. Besides, it is expressly agreed that any warranty obligations shall expire after the period of six months from the date of delivery.

9.4. Should there be deficiencies within our responsibility, we shall be entitled, at our discretion,

- a) to remedy the deficiency on the premises,
- b) to have the deficient goods or deficient parts returned for subsequent improvement,
- c) to replace the deficient goods,
- d) to replace the deficient parts.

An extension of the term of warranty shall not ensue from such a remedying of deficiencies or subsequent improvement.

9.5. Should we demand to have the deficient goods or parts returned for the purpose of subsequent remedying, improvement or replacement, the Purchaser shall, if not agreed otherwise, bear the cost and risk of the transport.

9.6. The cost for remedying of deficiencies carried out by the Customer/Purchaser himself, shall only be reimbursed by us if we have given, in written form, our prior consent thereto.

9.7. In the case of processing, installation or mounting, or other manufacturing of the products purchased from us the Customer/Purchaser or the third party, to which our product had been distributed, shall be obliged to examine the product delivered by us in detail and to manufacture the goods in appropriate manner and in pursuance of the guidelines and Ö-Norms (Austrian Rules on Technical Standards). As soon as the product delivered by us has been processed, manufactured, installed or mounted, etc., by the Customer/Purchaser, we shall be discharged from any liability, claims for compensation of damages or claims of warranty.

9.8. For those goods which we have obtained from sub-contractors we principally accept liability only within the limits within which we are entitled to warranty claims against such sub-contractor; our liability shall be restricted to the assignment of the warranty claims, or other legal claims, to which we are entitled against such sub-contractor. In this respect, too, the restrictions on compensation of damages, liability and warranty, as provided in these General Conditions of Sale and Delivery, shall apply.

9.9. In the case of acceptance of orders of repair or modifications or in the case of measures of reconstruction, in particular in the case of processing goods of third parties or usage of such goods, any warranty or liability whatsoever shall be excluded unanimously.

9.10. Should we have manufactured a product according to constructional specifications, drawings or patterns or models of the Customer/Purchaser, our liability shall not pertain to the suitability or fitness of such construction, but only to the issue of whether our processing occurred in compliance with the instructions of the Purchaser. The Purchaser shall be obliged, in such a case, to indemnify us should claims for infringement of rights of protection be raised against us by third parties.

10. Liability

10.1. It is expressly agreed that we are not liable towards the Customer/Purchaser for the compensation of damages based on the injury of persons, for damages of material goods, which are not subject of the relevant contract, for other damages and for loss of profits, unless it is established from the circumstances of the individual case, that we were at fault in the grade of gross negligence.

The shift in respect of burden of proof, provided in § 1298 ABGB (Austrian Civil Code) shall be excluded.

10.2. Any liability and any responsibility for compensation of damages on our part shall principally be excluded if we were at fault in the grade of slight negligence only.

10.3. The object of any contract shall afford such extent of safety only which is to be expected in accordance with admission instructions, operating instructions, instructions of the Seller on the handling of the item forming the object of the contract – in particular, in view of examinations or tests, prescribed in the specific case – and any other indications from the side of the Seller.

10.4. Should we take back a damaged workpiece, a used workpiece or a workpiece in respect of which we have to remedy deficiencies or make improvements, the feasibility, or the successful performance respectively, of such order will be combined with considerable uncertainty. In such a case any liability for compensation of damages shall unanimously be excluded.

10.5. All claims for compensation of damages founded on defects or deficiencies in respect of deliveries and/or services from our side shall – unless the defect or deficiency has been expressly recognised by us – have to be raised by legal action brought into court within one year from the expiration of the term of warranty provided herein; failing this such claims shall become extinct.

11. Consequential Damages

11.1. Any liability on our part towards the Customer/Purchaser on the grounds of standstill of production, loss of profits, loss of usage, loss or reduction of earnings or on the ground of any other economic or indirect consequential damage, shall be excluded.

12. Grounds of Relief

12.1. We shall be relieved, totally or partially, from the fulfillment of a contract within the agreed terms of performance or delivery, if we are prevented therefrom by events of "force majeure". Events of "force majeure" shall exclusively mean events which are

unforeseeable and inevitable for us and have not ensued from our sphere. Strikes and labor disputes, however, shall be deemed as an event of "force majeure".

13. Protection of Data Privacy

13.1. We shall be entitled to record, transfer, re-process and delete personal data of our contracting partners in the ordinary course of business.

13.2. The contracting parties undertake to maintain absolute secrecy with regard to any knowledge derived from business relations towards third parties.

14. Place of Jurisdiction and Performance, Applicable Law

14.1. The agreed place of jurisdiction for any legal disputes arising, directly or indirectly, from the contractual relationship between us and the Customer shall be the competent Austrian Court in 6900 Bregenz.

14.2. The contract itself as well as the total legal relationship between the parties shall be governed by Austrian law. The "United Nations Convention on Contracts for the International Sale of Goods" of April 11, 1980, Fed. Gaz. 1988/96, is expressly excluded.

14.3. For deliveries and payments our corporate domicile shall be the agreed place of performance which shall also apply if the parties have agreed on another place of delivery.
