

Terms and Conditions of Purchasing (Version 05/08)

1. Coverage

- 1.1. For all orders of the party ordering exclusively these terms and conditions shall apply provided no other agreements have been made in writing in the order.
- 1.2. Any diverging commercial terms of the contractor and/or supplier shall be excluded explicitly even when mentioned in his order confirmation and not objected. All agreements shall be made in writing. By accepting this order, the contractor agrees to these terms and conditions also for future orders and without using this form.

2. Offer

- 2.1. The quantity and quality quoted by the contractor shall be in exact accordance with our inquiry and any differences shall be pointed out explicitly. If our inquiry referred to approximate quantities ("circa"), the contractor agrees to slight up and down deviations of our orders with regard to the total order value. Offers, quotations, plans, test certificates for technical devices and the like always shall be provided to us free of charge.

3. Order

- 3.1. Notwithstanding the quotations handed out, only the content of our orders shall be binding if they have been made in writing by the purchasing department of the party ordering.
- 3.2. Orders made orally, by phone or e-mail as well as supplements to or modifications of orders already placed, shall be binding for the contractor only upon written confirmation.
- 3.3. The order date is the date the order has been sent and in case of an oral order it is the dispatch date of the written confirmation.

4. Order confirmation

- 4.1. The order shall be confirmed or rejected without delay in writing (preferably by e-mail). If the contractor's confirmation does not arrive at the party ordering within ten days from order date, the contract shall be concluded with the content of order. Unless the order has been concluded by an order confirmation accepting the order fully, the party ordering shall be entitled to cancel the order without any statement of reasons. This cancellation is in due time when dispatched before receipt of the order confirmation.
Differences with regard to the order shall be made evident clearly and to take effect they are subject to the written agreement of the party ordering. The unconditional acceptance of goods shall not be considered as agreement.
- 4.2. Unless prices, delivery times etc. are indicated in the order, these data shall be completed by the contractor in his order confirmation. In the contrary case, the contract shall not be concluded. If the order is supplemented by the contractor, the party ordering shall be entitled to cancel the order within ten days after receipt of the order confirmation without statement of reasons. By submitting a quotation or by acknowledging the order, the contractor declares having checked all data and information handed out to him by the party ordering or by thirds attributable to the party ordering, and he guarantees their correctness and completeness.

5. Delivery term, inspection, storage

- 5.1. The delivery or service term starts with the order date. The delivery date is the day of arrival of the item ordered at the delivery address indicated in the order. Unless a term is agreed, delivery or service shall be made without delay. Any delay in delivery or service shall be advised by the contractor immediately in writing indicating the reasons and the presumable time of delay. In this case the delivery or service date only shall be postponed upon express written agreement of the party ordering. Stipulated penalties, if any, will not forfeit through a mutually agreed prolongation of the delivery or service date and they shall be charged from the new date of fulfillment of the service. In case of delay, even partial delay, to be repaired by the contractor within the additional period of time of reasonable length granted by the party ordering, the party ordering shall be entitled to withdraw from the contract in part or fully.
- 5.2. A delivery and/or service shall be considered in due time upon complete fulfillment of contract. According to the scope of supply and service stipulated, this may include in particular the due mounting, the supply of the agreed and/or of sufficient documentation, training / instructions etc.
- 5.3. The party ordering shall be entitled to visit upon previous notice the production site of the contractor as well as of its subcontractors and suppliers in order to seek information on the status of the jobs ordered and on their quality, to view the corresponding documents or in order to accept the delivery at the contractor's works.
- 5.4. A delivery or service rendered before the date agreed, only shall be admissible upon the consent of the party ordering. In any case the stipulated date shall prevail for all legal consequences (terms of payment, warranty, transfer of risks etc.). Up to the stipulated date, the party ordering only shall be liable as depositary.
- 5.5. The contractor ensures to the party ordering the storage of the item ordered for at least three months at his cost and risk if the party ordering postponed the dispatch date.

6. Prices, terms of payment

- 6.1. The prices are to be understood as per terms of delivery, item 7.1, inclusive documentation, packaging and all additional costs, however, without VAT and they are fix prices.
- 6.2. Unless stipulated differently in the order, payment is within 45 days after receipt of invoice and acceptance of goods with 3% discount or 90 days net. The party ordering shall be entitled to full retention of payment until complete repair of deficiencies whereby the right of discount remains fully unchanged. The right of discount for payments settled within the

discount term shall not be abrogated by the fact that other payments (especially partial payments) are settled beyond the discount term. For the warranty period, the party ordering may claim a liability escrow of up to 10% of the order value.

6.3. The party ordering shall be entitled to settle payment at his option either by means of bank transfer and/or by e-banking or by means of a trade acceptance free of charge for the contractor or by means of cheque. The term of payment is fulfilled when the transfer order or the trade acceptance and/or the cheque have been brought to the post office or bank within the term and/or when the e-banking order has been made within the term.

6.4. Should the contractor esteem, for whatever reason, to be entitled to payments beyond the order value, this claim must be announced in writing to the party ordering immediately after having notice of the circumstances, both reason and amount, on which the entitlement is based.

7. Conditions of delivery, shipping, packaging

7.1. Unless stipulated differently in the order, delivery/service shall be free of charge at the contractor's cost and risk to the delivery address fixed by the party ordering (CPT for national deliveries and DDP according to INCOTERMS, recent version, for international deliveries). For deliveries to building sites, discharge shall be at the contractor's cost and risk. C.O.D. "cash on delivery" shall not be accepted. The consignment shall contain a delivery sheet with all order data such as order number, parts number, exact designation of goods, order position and, for deliveries from abroad, non EU countries, the customs number and article number etc. A consolidated delivery of various positions of different orders with one delivery sheet only shall be admissible if the delivery documents contain clear instructions and references to the different orders and order positions. For deliveries to different consignees designated by the party ordering, the contractor shall supply along eventual delivery documents made available by the party ordering. In case of individual delivery stipulations, e.g. free carrier, FCA, the shipping instructions of the party ordering shall be observed. Should these instructions be missing, the contractor shall demand them at the party ordering or he shall make a proposal and seek the approval of the party ordering.

7.2. Partial deliveries, deliveries of a bigger or smaller quantity than ordered shall be allowed only upon explicit written approval through the party ordering.

7.3. Delivery of the goods to the acceptance of the delivery address shall be made at the acceptance times mentioned in the order.

7.4. Special product-related regulations such as chemicals subject to notification according to the Austrian Law, shall be labeled, packed and identified duly. The safety data sheets prescribed by law shall be annexed and all relevant regulations shall be observed at the contractor's charge.

7.5. The party ordering is entitled to pass on, as far as required, to customers or end users technical documents of the contractor and/or of its subcontractors and subsuppliers.

7.6. The contractor shall pack the item ordered commercially and duly at his charge. The national contractor shall observe the applicable version of the regulation on packaging. The "ARA license number" (Austrian Waste Recycling Service), the "packaging fractions" and weights shall be indicated on the delivery sheet. Unless the contractor calls upon third parties, he shall point out in the order confirmation and he shall pick up the packaging material at the place indicated by the party ordering without delay and at his charge according to the regulation on packaging. In case of any delay of the contractor, the party ordering shall be entitled to store, to discharge or to have discharged the packaging material at the contractor's cost and risk. The contractor shall take back and discharge at his cost and risk residues or recyclings of goods supplied which are to be considered "waste" and/or "dangerous waste" after conventional use.

8. Invoicing, certificates on work performed

The invoice shall be sent to the address indicated by the party ordering and it shall contain the order number as well as all other order and delivery data, the ARA license number (Austrian Waste Recycling Service) and the VAT identification number for deliveries from the EU. Invoices shall be broken down and/or issued separately per order and/or per delivery so that their comparison with the order and their assignment to the corresponding order are clear. The amount of invoice and/or the breakdown of prices shall correspond to the order, the number of pieces, the weights and quantities shall correspond to the actual scope of supply and/or service. Only invoices issued according to these criteria shall release the term of payment and/or of discount. For working hours and mounting jobs, the original of certificates of working time and material confirmed by the person in charge at the party ordering shall be annexed to the invoice. Invoices contrary to these conditions and terms are considered "not issued" and they do not release any date when payment falls due.

9. Delay of delivery and delay of service, contract penalty, cancellation of contract

9.1. The delays stipulated shall be kept strictly by the contractor. The delivery date mentioned in the order is to be understood as date of arrival. The contractor shall provide at his charge for all measures in this context. In case of delay, the party ordering shall be entitled to charge a penalty in the amount of 1% of the total order value for each commenced week of delay, penalty which is independent from the fault of the contractor and is neither subject to the proof of damage, nor subject to the judge's right of moderation. The contractor's obligation to fulfill the contract shall not be affected by this regulation.

9.2. The delay penalty is limited to 10% of the total order value.

9.3. In case of cancellation of the contract for reasons due to the contractor, the party ordering shall be entitled to demand a penalty of 10% of the total order value beside other legal consequences.

9.4. The party ordering reserves to claim damage or other rights beyond the penalty in addition to or instead of this penalty.

9.5. In addition, the contractor undertakes to inform in writing and in detail the party ordering on the risk of a delay immediately after having notice of such a risk.

9.6. Should it be foreseeable already within the contractor's delivery time that he will not be able to fulfill duly his deliveries / services until the stipulated date, the party ordering shall be entitled to take every measure appropriate to avert the risk of delay at the contractor's cost and risk.

9.7. In case of obvious payment troubles of the contractor, the party ordering shall be entitled to cancel the contract even without granting any period of grace. The legal consequences are the same as in case of faulty delay. In this case all additional costs arisen to the party ordering shall be deducted and/or charged to the contractor.

9.8. In case of insolvency proceedings of the contractor or in case of a change of owner, the party ordering shall be entitled to withdraw fully or in part from the contract without prejudice to procedural consequences. The contractor undertakes to inform without delay the party ordering on such circumstances.

10. Acceptance, warranty

10.1. The party ordering undertakes to inspect the items ordered immediately after delivery or to claim defects. Hence the obligation to notify about defects on time according to § 377 of the Austrian Commercial Code shall be excluded.

10.2. The deliveries and services of the contractor shall comply with general and special laws and regulations applicable in Austria, e.g. concerning the protection of employees, environmental protection and safety technique, they shall comply in particular with electro-technical safety regulations, with ÖVE and/or VDE regulations, with Ö and DIN standards as well as with European standards (EN). Above all, the recent technical version shall always be supplied. The contractor undertakes to comply with the regulations on transport of dangerous goods and dangerous waste as well as with special regulations on storage and operation and to inform the party ordering in due time about such regulations.

10.3. For all deliveries and/or services, the contractor shall assume full and unrestricted warranty for the execution according to order and he shall guarantee that the items supplied are free of defects. This warranty extends over a period of three years, and in case of longer legal or contractual warranty terms, the contractor shall assume the same warranty for the relevant period of time. He shall guarantee the compliance with both usually presupposed and guaranteed properties and with all applicable legal rules and regulations of this contract. He shall guarantee furthermore that the execution, the construction, the purpose and the manufacturing technique of the item ordered correspond to the state-of-the-art and that only material of premium and appropriate quality has been used and that the item ordered is appropriate for the intended use.

10.4. The warranty period starts at successful delivery of the item ordered to the customer / end user of the party ordering or – if used at the factory of the party ordering – at the first utilization of the item ordered and after handing out of all documentation to the party ordering. However the warranty period ends four years after delivery at the latest (= delivery of the item ordered to the delivery address agreed) as well as after delivery of all items belonging to the delivery, hence all required test certificates, descriptions, instruction manuals and the like to the party ordering. After repair of defects claimed, the warranty period for the complete delivery item restarts anew. Should there be dispute between the parties whether warranty is given or not, the contractor shall be obliged to repair at his cost the existing defect – at least provisionally – until clarification of this question.

10.5. Payments do not pass for waiver of the notice of defects and/or of other claims of any kind. In case of a notice of defects or in case of complaint, the price / remuneration may be retained completely.

10.6. The party ordering shall be entitled to choose either between price reduction or repair free of charge or exchange free of charge and (in case of non-minor defects) partial or full cancellation of the contract. An eventual repair or replacement shall be carried out at the contractor's cost and risk without delay but not later than 10 days after the party ordering's notice of defects at the place of storage or installation of the item ordered (provided this place has been advised to the contractor at the conclusion of contract). Should auxiliary expenses be required from the party ordering (traveling, mounting and dismounting costs etc.), these costs shall be assumed by the contractor. Where delay would be prejudicial, the party ordering shall be entitled to repair or have repaired defects at the contractor's cost without granting any period of grace but not affecting herewith in any way the claims of the party ordering.

10.7. For engineering-, consulting-, software- or documentation services as well as for the visit of personnel, the contractor shall assume unrestricted warranty for the correctness and completeness of his written and oral information and instructions.

10.8. In case of delivery of bigger or smaller quantities or of different quality, the contractor shall reimburse the party ordering for expenses arisen through additional checks, packaging, return or storage of goods and the like. The return of items not ordered or of excess quantities always will be at the contractor's cost and risk.

10.9. The contractor shall guarantee furthermore to carry out maintenance-, repair- and overhaul works for the items supplied at standard prices and he shall guarantee subsequent-, replacement- and wear parts deliveries for a period of 10 years from the date of performance of contract.

10.10. It is renounced on the objection of delayed claim of the right of recourse according to § 933b, par 2 of the Austrian Civil Code.

11. Training, documentation

When technical equipment and devices are supplied, training of the operators and maintenance personnel of the party ordering and/or of the customer / end user shall be carried out free of charge. The contractor shall carry out on demand subsequent and repeated training at standard prices for up to 10 years from the date of performance of contract. When the equipment and devices supplied are to be mounted by a third party or by the party ordering, the required assembly drawings (including all connections, eventual structural requirements etc.), data sheets, mounting instructions, processing instructions, storage-, service- and maintenance regulations, lists of spare and wear parts, CE declarations and/or hints on characteristic features of the item ordered shall be supplied along. Inscriptions shall be made in German language (also for deliveries from abroad). The operating instructions shall be handed out in two copies in German and on demand of the party ordering in other languages as well.

12. Damages, product liability

12.1. The contractor shall be liable according to the legal regulations.

12.2. Should the supplied item ordered have any defects for which the party ordering is held responsible, the contractor shall indemnify the party ordering.

12.3. The contractor shall be obliged towards the party ordering to keep all documents required and to observe the product thoroughly. If required he shall undertake furthermore to recall defective items at his cost, to hand out the manufacturing documents and to provide any support conceivable in order to defend claims of whatever kind and to name the producer and/or importer within 10 days.

13. Subcontractors and suppliers

13.1. Except for standard parts, all subcontractors and suppliers related to the performance of contract shall be advised shortly after order placing to the party ordering. However no legal link between the party ordering and the subcontractors and suppliers of the contractor shall rise thereof.

13.2. The contractor shall be liable for subcontractors and suppliers as for his own action and/or as if he had made himself the complete item supplied.

13.3. The contractor shall be responsible to pass on to his subcontractors and suppliers all relevant requirements out of our order papers if this information was needed for the correct execution of the works ordered.

14. Industrial property rights

14.1. With the sales price/remuneration, the acquisition of patent rights, of protected designs, of trademark- and industrial design rights or of copy rights for free exploration and (repeated) re-sale of the item ordered is settled by the party ordering. In case of infringement of industrial property rights related to the delivery / service ordered, the contractor shall indemnify and hold harmless the party ordering.

15. Working in plants / on building sites of the party ordering

15.1. Should the contractor carry out works for the party ordering (e.g. in one of the factories of the party ordering, on building sites of the party ordering / the end user etc.), he shall respect meticulously the regulations on fire safety, on protection of employees, on environmental protection and other regulations applicable at the party ordering or at the end user. The contractor shall seek the relevant information by himself or he shall demand the relevant regulations at the party ordering. The contractor shall be liable towards the party ordering for all damages caused by infringement of these regulations.

16. Retention of title, prohibition of assignment, compensation, assignment, transfer of property

16.1. All deliveries to the party ordering shall be free of retention of title and of third party rights. Such reservations are ineffective even without being contradicted explicitly by the party ordering.

16.2. Claims resulting from deliveries to the party ordering shall be assigned only upon prior explicit written approval of the party ordering.

16.3. The party ordering shall be entitled to compensate with counterclaims, even with counterclaims not yet fallen due or with counterclaims from companies belonging to the company group of the party ordering. The contractor shall not be entitled to compensation.

16.4. The contractor must not transfer his rights and obligations resulting from the contract to third parties without the explicit approval of the party ordering.

17. Information, manufacturing devices, confidentiality

17.1. Manufacturing devices such as for instance tools, models etc. as well as printing plates or photos financed by the party ordering as well as drawings, plans and all papers required for order processing, including data transmitted electronically and made available by the party ordering remain or become property of the party ordering already at the moment of manufacture and shall be considered as such. They shall be returned immediately to the party ordering any time upon demand but in any case at delivery / service or at cancellation of the contract. Storage, maintenance and repair of manufacturing devices shall be at the contractor's cost and risk. The contractor shall not be allowed to use them for own purposes and in particular for third parties.

17.2. The contractor undertakes to ensure the secrecy of all pieces of information, not only trade- and business secrets, known to him in correlation with the order placed or from other sources. He shall pass this obligation over to his employees as well as to subcontractors engaged by him. Passing on / making available such information to thirds as well as copying of documents related to this contract require the explicit written approval of the party ordering. In case of contravention, the party ordering shall be entitled to withdraw fully or in part from the contract.

18. Employment of foreigners

The contractor undertakes explicitly to observe imperatively the law on employment of foreigners. The party ordering shall be entitled to check at any time the observance of the regulations of the law on employment of foreigners and to view all documents and papers relevant in this context. In case of infringement of the law on employment of foreigners and of the regulations of this paragraph, the contractor undertakes to indemnify and hold harmless the party ordering.

19. Generalities

19.1. The commercial correspondence shall be addressed exclusively to the person in charge of the purchasing department mentioned on the order and it shall contain the order number.

19.2. These conditions and requirements also apply to messages transmitted by fax, to PDF files sent by e-mail as well as to EDI (Electronic Data Interchange) or similar transmission standards.

19.3. The contractor also shall be liable for the observance by his subsuppliers and/or subcontractors of the purchasing conditions of the party ordering.

19.4. The contractor undertakes to advise without delay and by registered letter any changes of address. By notification of the new address, declarations addressed to the old address are considered to be served. The contractor undertakes to announce without delay to the party ordering any modifications of process- and product definitions influencing the works ordered and to seek, if necessary, the approval of the party ordering.

19.5. Should any of the provisions of this contract be or become invalid or should this contract be incomplete, this shall not affect the remaining content. The invalid provision shall be replaced by a provision that approximates most, from the commercial point of view, the sense and purpose of the invalid provision and which is effective in law. The same shall apply to lacunae.

19.6. The contractor shall inform without delay the party ordering if items ordered are no longer available and/or if such items will not be produced anymore by the contractor in future. The contractor shall make available to the party ordering all drawings and papers necessary for a replacement purchase.

20. Jurisdiction, applicable law

20.1. The exclusive place of jurisdiction for any action arising out of this contract or out of the termination of this contract shall be the court of Graz. However, the party ordering shall be entitled to take legal action against the contractor at an other, for instance a general court.

20.2. This contract shall be governed exclusively by the laws of Austria. The UNCITRAL convention on contracts for the international sale of goods and the submission of the Austrian Private International Law to other rules of law shall not apply.