

General Terms and Conditions of Contract and Delivery

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1. Scope of application

- 1.1 Unless otherwise expressly agreed by the parties in writing these General Terms and Conditions of Contract and Delivery shall apply.
- 1.2 Customer agrees that in the event it uses general terms and conditions - even if they are not objected to - the present Terms and Conditions shall be the basis of the agreement. Actions of Contractor in the performance of the contract shall, therefore, not be deemed a consent to contractual provisions which deviate from its own terms and conditions.
- 1.3 The following provisions on the delivery of goods shall apply accordingly to provision of services.
- 1.4 As regards assembly work these GTC shall be supplemented by the Terms and Conditions of Assembly issued by the Association of Austrian Machinery and Steel Construction Industries and/or the Association of the Austrian Electrical and Electronics Industries.

2. Offer

- 2.1 Offers made by Contractor shall be non-binding.
- 2.2 Any and all documents relating to offers, projects, drawings, samples, etc. shall be treated as strictly confidential and must neither be copied nor made accessible to third parties without Contractor's consent. Contractor may at any time ask that they be returned and they shall be returned without delay if the order is placed with someone else.

3. Conclusion of contract

- 3.1 The contract shall be deemed concluded once Customer has received the Contractor's written acknowledgement of order that follows the order.
- 3.2 Any information contained in catalogues, brochures and the like as well as any other written or oral statements of third parties shall only be relevant if expressly referred to in the acknowledgement of order.
- 3.3 Subsequent modifications of or amendments to the contract shall be acknowledged by Contractor in writing in order to be valid. General terms and conditions of purchase of Customer shall only be binding on Contractor if separately accepted by Contractor.

4. Prices

- 4.1 The prices apply ex works or ex warehouse of Contractor, exclusive of packaging, loading and VAT. Any taxes, fees or charges levied in connection with the delivery shall be borne by Customer. If delivery including shipment has been agreed, the cost of shipment as well as the cost of the transport insurance requested by Customer, if any, shall be charged separately but shall not include unloading and distribution. Packaging shall only be taken back if this was explicitly agreed between the parties.

- 4.2 If the order deviates from the overall offer Contractor reserves the right to change the price accordingly.

- 4.3 The prices are based on the costs applicable at the time the price offer is made for the first time. If the costs increase until the time of delivery, in particular due to collective bargaining agreements, increases in the cost of material (e.g. an increase in the respective listings at the London Metal Exchange (LME)), etc. Contractor shall be entitled to adjust the prices accordingly.

- 4.4 Cost estimates shall be prepared against payment. Any payments made for a cost estimate shall be credited to Customer if an order is placed on the basis of such cost estimate.

- 4.5 The cost estimate will be prepared according to best technical knowledge, however, no warranty can be assumed for correctness of the same. If after the first sample moulding costs increase by more than 15% (also due to the provision of defective moulds by Customer), Contractor shall immediately notify Customer thereof. Customer and Contractor shall then enter into new price negotiations with the objective to agree on a price adjustment by mutual consent.

- 4.6 In case of repair orders Contractor shall render the services it considers expedient and such orders will be accounted for on the basis of the expenses incurred. This shall also apply to services and additional services which only turn out to be expedient in the course of execution of the order. In that case no special notification to Customer shall be required.

5. Delivery

- 5.1 The delivery period shall commence as of the latest of the following points in time:

- (a) date of acknowledgement of order
- (b) date on which all technical, commercial and other prerequisites for which Customer is responsible have been fulfilled
- (c) date on which Contractor receives a down-payment or security to be made or provided prior to delivery of the goods.

- 5.2 Official permits and all other permits from third parties required for execution of facilities shall be obtained by Customer.

(Sample) parts and (sample) material, such as castings, already existing casting moulds, etc. shall be made available by Customer on time, however, not later than one week prior to sample moulding.

- 5.3 Contractor shall be entitled to make and charge partial or advance deliveries. If delivery on call has been agreed, the goods shall be deemed called not later than 1 year after the order has been placed.

- 5.4 If unforeseeable events or circumstances beyond the will of the parties occur, such as, e.g., all events of force majeure, which prevent observance of the agreed delivery period, the same shall in any case be extended by the duration of such

circumstances; events of force majeure shall in particular be acts of God, armed disputes, official interventions and prohibitions, delay in transportation and customs clearance, transport damage, shortage in energy and raw materials, labour conflicts (above all strike and industrial action) as well as non-availability of an essential supplier of Contractor for whom it is difficult to find a substitute. The above circumstances shall also entitle Contractor to extend the delivery period if they occur with Contractor's suppliers.

- 5.5 Contractor shall be liable for damage resulting from a delay provided that concrete evidence of gross negligence on the part of Contractor is provided. Compensation for damage resulting from a delay for which Contractor is responsible, which occurred to Customer and for which concrete evidence has to be provided by him, shall be limited to a maximum of 3% of the value of that part of the total delivery which cannot be used in time or according to the contract due to the delay.

If in case of partial default, interest has only ceased to exist with respect to the part still outstanding and not with respect to the entire contract, Customer shall not be entitled to rescind the contract in whole but shall only reduce its consideration in proportion to the partial service.

Any additional claims under the title of default shall be excluded.

- 5.6 If shipment is delayed at Customer's request or by circumstances for which Contractor is not responsible Customer shall be charged the cost incurred in connection with storage as of one month after readiness for shipment has been announced, in case of storage at the plant of Contractor, however, at least 1.5% of the amount invoiced for each month commenced.

6. Passing of risk and place of performance

- 6.1 Shipment shall in any case be effected on the account and at the risk of Customer.
- 6.2 Benefits and risk shall pass to Customer as of dispatch of the consignment ex works or ex warehouse, respectively. This shall also apply to partial deliveries, if delivery is made within the scope of an assembly or if transport is carried out or organised and managed by Contractor.
- 6.3 The place of Contractor's registered office shall be the place of performance with respect to delivery and payment, even if delivery is effected at a different place as agreed between the parties.

7. Inspection

- 7.1 If Customer wishes that an inspection be made, this shall expressly be agreed in writing with Contractor at the time of conclusion of the contract. Unless deviating regulations have been provided for, the inspection shall be carried out at the place of production or at a place to be determined by Contractor during normal working hours of Contractor. The inspection shall be carried out according to general practice customary in the branch of industry concerned.
- 7.2 Customer shall be notified of readiness for acceptance in writing. The goods/services shall be accepted within 2 weeks of notification of readiness for acceptance. If this period is exceeded for reasons for which Contractor is not responsible, delivery shall be deemed accepted free of defects upon expiration of the period. The same shall apply in case of early use of the delivery or parts thereof.
- 7.3 Upon completion of an inspection an inspection certificate is to be issued. If the inspection showed that the delivery was made according to contract and that the delivery item is functional without fault this fact shall in any case be confirmed by both parties.

- 7.4 If the inspection shows that the delivery item is not in conformity with the contract, Contractor shall repair any defect without delay and bring about the contractually agreed condition of the delivery item. Customer may refuse acceptance and demand another inspection only in case of a defect which is not a minor one.

8. Payment

- 8.1 Unless deviating terms of payment have been agreed the price shall be due and payable as follows:

Tools and moulds: 40% at the time the order is placed, 40% at first sample moulding, 20% 10 days after the date of the invoice/release, however, not later than 30 days of sample moulding, in each case without any deductions.

Castings: 10 days after the date of the invoice at a 2% cash discount, 30 days after the date of the invoice without any deductions.

- 8.2 If partial invoices are issued the respective partial payments shall be due upon receipt of the respective invoice. This shall also apply to amounts resulting from additional deliveries or other agreements which exceed the original sum at the time of conclusion of the contract, irrespective of the terms of payment agreed with respect to the main delivery.
- 8.3 Payments shall be made in cash without any deduction in the agreed currency into the account advised by Contractor. All interest and charges in connection therewith shall be borne by Customer.
- 8.4 Customer shall not be entitled - except in case of obvious defects - to retain or offset payments if warranty claims or other claims have been asserted. In case of obvious defects other regulations shall apply with regard to a reasonable portion of the amount invoiced.
- 8.5 Payment shall be deemed effected on the date on which Contractor is able to dispose of the amount.
- 8.6 If Customer is in delay of an agreed payment or other service, Contractor shall be entitled (without prejudice to its other rights)
- (a) to suspend fulfilment of its own obligations until the payment or other service has been obtained and make use of a reasonable extension of the delivery period,
 - (b) demand immediate payment of all accounts receivables outstanding and charge default interest in the amount of 8% above the base interest rate per month as of the respective due date plus VAT unless Contractor provides evidence of additional costs.

In any case Contractor shall be entitled to charge pre-procedural costs, in particular dunning and collection charges and cost of legal counsel that have to be incurred for appropriate collection.

9. Retention of title

- 9.1 Contractor retains title to all goods delivered by it until full payment of the amounts invoiced plus interest and costs.
- 9.2 Title shall remain with Contractor even if the property is permanently connected with or has been installed in the property of Customer.
- 9.3 For the purpose of securing Contractor's purchase price claim Customer hereby assigns to Contractor its claim under a resale of goods to which title is retained even if the goods were processed, recast or mixed and undertakes to include a respective note in its books or on its invoices. Upon request Customer shall inform Contractor about the assigned claim including the debtor and make available all information and documents required for collection of the claim and notify the third-party debtor of the assignment. In the case of attachment or other seizure Customer shall be

obliged to indicate Contractor's title and to notify Contractor immediately.

10. Warranty and liability for defects

10.1 In compliance with the agreed terms of payment and according to the provisions set forth below Contractor shall be obliged to repair any defect impairing functionality which exists at the time of delivery and is the result of an error in the design, of defective material or execution. No warranty claims may be deduced from statements contained in catalogues, brochures and advertising leaflets nor from written or oral statements that have not been included in the contract according to clause 3.2.

10.2 The warranty period is 12 months unless special warranty periods have been agreed for individual delivery items. This shall also apply for deliveries or services permanently connected with a building or land. The warranty period shall commence as of the date on which the risk passes according to clause 6.

10.3 Customer may only assert a warranty claim if it immediately notifies Contractor of the defects that have occurred in writing. Customer shall always have to prove that the defect existed at the time of delivery. The assumption rule of Section 924 ABGB [Austrian General Civil Code] shall be excluded. Contractor, if notified as described, shall, if a defect subject to warranty according to clause 10.1 exists, at its option:

- (a) improve the defective goods on site;
- (b) have the defective goods or parts returned to it for improvement;
- (c) replace the defective parts;
- (d) replace the defective goods;
- (e) reduce the price reasonably.

10.4 If Contractor has the defective goods or parts returned to it for improvement or replacement, Customer shall bear the cost and risk of transport unless otherwise agreed. Contractor shall then return the improved or replaced goods or parts to Customer at its cost and risk unless otherwise agreed.

10.5 If goods are produced by Contractor on the basis of designs, drawings, models or other specifications of Customer, Contractor's liability shall be limited to execution as agreed. This shall also apply if a drawing made by Contractor has been accepted or if a design proposal of Contractor has been released by Customer if the latter obviously has the necessary technical knowledge.

As regards material third-party products warranty of Contractor shall be limited to assignment of the accounts receivable to which it is entitled vis-à-vis the contractor of the third-party products.

10.6 Defects resulting from arrangement and assembly not caused by Contractor, insufficient set-up, non-observance of installation requirements and conditions of use, excessive use of the parts beyond the performance indicated by Contractor, negligent or improper use and use of improper operating materials shall be excluded; this shall also apply to defects attributable to material provided by Customer. Warranty shall not apply to replacement of wearing parts. If used goods are sold Contractor shall assume no warranty.

10.7 Warranty shall forfeit immediately if Customer itself or a third party which has not expressly been authorised by Contractor modifies or repairs the delivered items without the written consent of Contractor.

11. Rescission of contract

11.1 Unless a more specific regulation has been provided for, Customer may rescind the contract on the condition that a delay in delivery occurs which was caused by gross negligence of Contractor and a reasonable grace period

granted has fruitlessly expired. Rescission is to be declared by registered letter.

11.2 Irrespective of its other rights Contractor shall be entitled to rescind the contract

(a) if execution of the delivery or commencement or continuing of the service becomes impossible or is delayed for reasons for which Customer is responsible although a reasonable grace period has been granted,

(b) if doubts regarding Customer's solvency have arisen and Customer fails to make an advance payment or provide an appropriate security prior to delivery upon Contractor's request, or

(c) if, due to the circumstances listed in clause 5.4, the delivery period is, in total, extended by more than half of the delivery period originally agreed but at least by 6 months.

11.3 Rescission of contract for the above reasons may also be declared with respect to a part of the delivery or service still outstanding.

11.4 If insolvency proceedings are opened over the assets of either party or a petition for opening of insolvency proceedings is dismissed for lack of sufficient assets, the other party shall be entitled to rescind the contract without having to grant a grace period.

11.5 Without prejudice to Contractor's claims for damages including pre-procedural cost, services or partial services already provided shall be accounted for and paid according to contract in case of a rescission of contract. This shall also apply to the extent the delivery or service has not been taken over by Customer yet as well as to preparatory work carried out by Contractor. As an alternative Contractor may demand that already delivered items be returned.

11.6 Other legal consequences of rescission shall be excluded.

12. Liability

12.1 Contractor shall be liable for damage beyond the scope of application of the Product Liability Act only within the scope of statutory provisions if it can be proven that it acted with wilful intent or gross negligence. In case of gross negligence Contractor shall be liable up to an amount of EUR 500,000. Liability for lost profit shall only apply in case of wilful intent.

12.2 Liability for slight negligence, compensation for lost savings, lost interest and damage due to claims of third parties vis-à-vis Customer shall be excluded. Liability for consequential and pecuniary damages shall only arise if it results from damage to property or persons. Damage due to recall actions (recall costs) shall not even in this case be compensated.

A reversal of the burden of proof of Section 1298 ABGB shall be excluded.

12.3 Damages shall be excluded in any case if conditions, if any, for assembly, putting into operation and use (such as contained in operating instructions) or of official permission requirements are not complied with.

12.4 Damages on grounds of default may not be claimed instead of warranty claims.

12.5 If contractual penalties have been agreed, any additional claims under the respective title shall be excluded.

13. Assertion of claims

Any and all claims of Customer in connection with a delivery of goods shall have to be asserted in court within 6 months of the date on which Customer became aware of the damage, however, not later than 3 years of passing of the risk; otherwise such claims shall be forfeited.

14. Industrial property rights and copyright

- 14.1 If goods are produced by Contractor on the basis of designs, drawings, models or other specifications of Customer, Customer shall indemnify and hold Contractor harmless in case of any infringement of proprietary rights.
- 14.2 Execution documents, such as, e.g., plans, sketches and other technical documents as well as samples, catalogues, brochures, illustrations and the like shall always remain the intellectual property of Contractor and shall be subject to the relevant statutory provisions on copying, imitation, competition, etc. Clause 2.2 shall also apply to execution documents.

15. Data protection

- 15.1 Contractor shall be entitled to store, transmit, revise and delete personal data of Customer in the course of business.
- 15.2 The parties undertake to maintain the knowledge obtained from the business relation strictly secret vis-à-vis third parties.

16. Contractual penalty

- 16.1 In the event that Customer violates its duties resulting from clauses 2.2, 14.2 and 15.2, the parties agree on a

contractual penalty in the amount of EUR 200,000. Any and all damage suffered by Contractor that exceeds the amount of the contractual penalty agreed shall also be compensated to the full extent.

17. General

- 17.1 If individual provisions of the contract or of these GTC are ineffective, the effectiveness of the remaining provisions shall not be affected. The ineffective provision shall be replaced by a valid one which comes as close as possible to the objective intended thereby.
- 17.2 If these GTC do not provide for a regulation, the statutory provisions shall apply exclusively.

18. Place of jurisdiction and law

- 18.1 The court having jurisdiction over the subject-matter at the place of Contractor's registered office shall have exclusive jurisdiction over all disputes arising out of the contract, including disputes on existence or non-existence of the same.

However, Contractor shall also be entitled to file an action at the place of general jurisdiction of Customer.

- 18.2 The contract shall be subject to substantive Austrian law. Applicability of the United Nations Convention on the International Sale of Goods of 11 April 1980 shall be excluded.