

# GENERAL TERMS OF SALES AND DELIVERY

## I. Conclusion of the contract

1. These General Terms of Sales and Delivery apply to all our contracts, deliveries and services. Our sales terms apply exclusively; we do not accept any contrary conditions of the orderer or such deviating from our sales conditions, unless we have expressly consented to their validity. Conditions of the orderer are hereby explicitly contradicted. They do not bind us if we did not explicitly object to them again after receipt. They do also not bind us if we have still not objected to them even at the conclusion of the contract. Our sales terms also apply if we are aware of contrary conditions of the orderer or such deviating from our sales conditions and conduct the delivery to the orderer without reservation. Our terms of sales and delivery take precedence in case of contradictions between our terms of sales and delivery and any existing performance specifications or service descriptions, technical specifications, technical norms or D-norms, also if these should be agreed upon. Our terms of sales and delivery are considered as accepted at the latest on receipt of the goods resp. provision of the service.
2. Our offers are subject to confirmation. Conclusions and other agreements are only binding by our written confirmation.
3. Oral agreements and warranties, also by our salespeople or representatives, require our written confirmation in order to be effective.

## II. Prices

1. Our prices are quoted excluding the respective legal value-added tax. All prices are calculated exworks resp. ex basis or in case of delivery from the warehouse ex stock plus carriage, packing and if necessary assembly. Our prices are subject to confirmation. The quantity ascertained at the supplying factory resp. the basis resp. at our warehouse is authoritative for the calculation. Prices and conditions are not binding for repeat-orders. Substantial changes in costs, particularly in salaries, material or energy etc. entitle us to demand an adjustment of the prices. Fixed prices require an explicit written agreement.
2. Cost estimates neither oblige us to an acceptance of the order nor to a provision of the services quoted in the cost estimate. Cost estimates are only binding for us if this is specifically mentioned in the cost estimate. Otherwise our cost estimates as well as our offers are on principle subject to confirmation. Cost estimates and offers are issued according to the best know-how. Order-specific circumstances which are not recognisable can not be considered. The additional services connected with the issue of the cost such as e.g. planning, are charged separately. We are not responsible for any project documents provided by our customers, we are in particular not liable for any failings included therein. The customer is liable for the accuracy of the provided samples, drawings, drafts, plans and documents. The customer is furthermore liable for having all rights to similar provided samples, drawings, drafts, plans or documents.

## III. Payment

1. Unless otherwise noted on the front, payment has to be made without deduction by the 15th of the month following the delivery ex works resp. basis resp. stock. In case of non-payment despite maturity we are entitled to calculate default interest to the amount of 3% above the respective effective key interest rate of the European Central Bank at our own choice or to demand compensation due to late completion. In the latter case we are entitled to demand or retain a prepayment if stipulated, but at least 15% of the purchase price resp. the labour as contractual penalty not underlying the judicial mitigation right. This amount is also considered as minimum damage due to non-fulfilment. The customer has to bear all costs of an amicable extra-judicial intervention and costs of a debt collecting agency. As far as no outstanding account held by an unappealable judgement exists against us or anything different was expressly agreed with us, set-offs and the assertion of rights of retention or other rights to withhold performance are excluded.
2. Cheques are only accepted with reservation and are not regarded as payment until their complete encashment (which is the time of the unopposed credit note). Unless otherwise agreed in written form, bills of exchange are not accepted. In case of an agreed payment by bill of exchange the customer bears discount and charges in full, furthermore the charges for obtaining information about the drawees of the bill as well as the costs of collection. Provisions of our invoices have no influence on their maturity.
3. All our accounts receivable are immediately payable irrespective of the term of possibly accepted or accredited cheques and/or bills of exchange if the terms of payment are culpably not observed or a substantial deterioration of the customer's pecuniary circumstances occurs. We are then also entitled to perform still outstanding deliveries only against prepayment or to demand suitable securities according to the contract value or to withdraw from the contract after an adequate grace period or to demand compensation due to non-fulfilment. We can furthermore forbid the resale and processing of the delivered goods and demand their restitution or the assignment of the direct possession to the delivered goods at the expense of the customer and revoke the direct debit authorization according to no. VI.6. The customer authorises us already now to enter his company in the abovementioned cases and take possession of the delivered goods.

## IV. Delivery periods and dates

1. Delivery periods and dates only apply approximately for lack of special agreements. The delivery periods begin on the date of our written order confirmation, but not before complete clarification of all performance details and the production of possibly required certifications by the customer. Delivery periods and dates refer to the time of dispatch ex works, ex basis or stock; they are regarded as observed on report of the readiness for dispatch if the goods can not be dispatched without our fault or negligence of the supplier. The delivery periods extend notwithstanding our rights due to the customer's delay for the period with which the customer is in delay with his/her obligations arising from this or other conclusions. This applies accordingly to delivery dates.
2. If the delivery is not possible and the impossibility is due to the inability of our suppliers, the customer and we can withdraw from the contract if the agreed delivery date is exceeded by three months.
3. The elapsing of specific delivery periods and dates does not relieve the customer who wants to withdraw from the contract or demand compensation due to non-performance from the granting of an adequate grace period for the performance and the declaration that he will reject the performance after expiration of the time limit. This does not apply if we have quoted a binding period or date explicitly and in writing.
4. In the case of force majeure or other unpredictable, exceptional and undebted circumstances – e.g. in case of problems in the materials procurement, business disruptions, strikes, lockouts, lack of means of transportation, magisterial interventions, energy supply problems etc., also if these occur at the pre-supplier, the delivery period extends to a reasonable extent if we are prevented from the timely performance of our obligations. If the delivery is impossible or unacceptable due to the mentioned circumstances we are freed from our delivery commitment. If the delay in delivery lasts more than two months, the customer is entitled to withdraw from the contract. If the delivery period extends or we are freed from our delivery commitment, the customer can not deduce a claim for damages therefrom. We can only refer to these circumstances if we inform the customer immediately.
5. If an inspection and/or examination are stipulated, it can only take place in the supplying factory, the basis or the warehouse immediately after announcement of the inspection and/or examination or readiness for inspection. The customer bears the costs for an expert if one has to be called in. If he fails to conduct the inspection or examination, inequitably delays it or resigns from it, we are entitled to dispatch the material without inspection or examination or to store it at the customer's expenses and risk. The goods are regarded as delivered according to contract at dispatch or storage.

## V. Dispatch, delivery and passing of risk

1. Unless otherwise agreed, the material is delivered unpacked and not protected against rust. If customary in the trade, we deliver packaged. We provide for packing, protection and/or transport equipment as far as our experience goes and at the expenses of the customer without liability.
2. Dispatch type sequence and mode of dispatch are left to our choice for lack of special agreement. Subject to other agreement, we on principle dispatch ex stock or ex production plant freight paid or carriage forward at the contracting partner's risk. If we act as forwarder, the General Austrian Forwarders' Conditions. We are entitled, but not obliged, to insure consignments by order and for account of the customer.
3. The risk (including confiscation of the material) in all cases, e.g. also in fob- and CIF-deals, passes

over to the customer as soon as the consignment is handed over to the person carrying out the transport or has left the plant of the seller for the purpose of dispatch – in fact irrespective of whether the dispatch is conducted from the place of performance and who bears the freight costs. If the goods are ready for dispatch and the dispatch or inspection is delayed for reasons we are not responsible for, the risk passes over to the customer on receipt of the notification of readiness for dispatch.

4. We are entitled to partial deliveries as well as to excess and short deliveries of the concluded quantity customary in the trade; each part delivery is considered an independent transaction.
5. In case of conclusions with continuous dispatch we have to be given calls and type adjustments for about the same monthly quantities. If the contractual quantities are exceeded by the customer's individual calls, we are entitled but not obliged to a delivery of the surplus. We can also charge the excess at the prices valid at the time of delivery.

## VI. Retention of title

1. All delivered goods remain our property until the payment of all our receivables arising from the business relationship, for whatever legal reason, particularly also the respective accounts receivable including the future arising or conditional receivables. This also applies if payments are made to special receivables. If bills of exchange and/or cheques are given in payment, the payment is only carried out when we can dispose of the equivalent value without reservation. In case of an open account the reserved property is regarded as security for our accounts receivable.
2. As long as our retention of title is effective, the customer can only dispose of the goods resp. our performance (work) only with our previous written consent. In case of the disposal of the goods resp. our performance (work) we automatically acquire all receivables and claims which are available for the customer arising from such a disposal. In any case of a mixing or processing of the goods resp. our performance (work) we acquire exclusive ownership of the new goods resp. performance.
3. If our retention of title is lost because the goods delivered by us have become dependent components of a main product due to an amalgamation (combination, mixture) with the product of a third party, the customer has to ensure that the third party grants us co-ownership in proportion of the value of the processed resp. combined, mixed or blended reserved goods and stores them for us free of charge.
4. The receivables of the customer from the resale of the reserved goods are already now ceded to us as security of all our receivables from this business relationship, in fact irrespective of whether the reserved goods are resold without or after processing and whether to one or more customers. As far as a processing with other goods not belonging to us has taken place, the same applies for receivables of the customer from the resale of the reserved goods, in fact to the amount of the value of our reserved goods with all secondary rights and rank before the rest. We accept these assignments.
5. The customer is only entitled and authorised to a resale of the reserved goods on the basis of a contract of sale, contract for work and labour, contract for work and materials or similar contracts if the receivable arising from the resale are vest in us. The customer is not entitled to other disposals of the reserved goods.
6. The customer is authorised to the collection of the assigned receivables. Our authority to collect the assigned debts ourselves remains unaffected by this. In case of a cessation of payment, bankruptcy petition or adjudication, judicial or extrajudicial composition proceedings or other pecuniary deterioration of the customer we can ask the customer to disclose the assigned debts and their debtors, to give full particulars necessary for the collection, deliver all corresponding documents and to inform the debtors about the assignment.
7. If the value of the security existing for us exceeds our receivables by altogether more than 20 % we are, on request of the customer or a third person, affected by our excessive collateral obligated to a clearance of securities of our choice.
8. The customer is obliged to store and label the reserved goods separately, insure them against fire and theft and on request prove the closing of an insurance contract.

## VII. Defects, delivery of goods not in accordance with the contract

We are liable for defects, including the lack of assured qualities as follows.

1. The customer has to examine the received goods or service (work) immediately after arrival for defects, consistence and assured qualities. We have to be notified immediately about defects in written form. The agreed warranty period is six months.
2. In case of justified complaints we choose to either improve defective goods or provide a compensation delivery.
3. The customer has to grant us ex aequo et bono the required time and possibility to correct the defects or provide a compensation delivery, in particular provide the rejected goods, otherwise the warranty is lost.
4. A price reduction or change in the contract on the part of the customer only comes into consideration if he has granted us the possibility to correct the defects resp. provide a compensation delivery according to the preceding point 3 within a reasonable period of time, but it has not taken place.
5. We are not liable for defects arising from improperly conducted changes and/or reinstatement work or other consequences. If the goods show signs of changes compared to the time of delivery, it is assumed that these changes are due to the customer and the defect arose from these changes, unless the customer proves the contrary.
6. The possibility of a special recourse according to § 933 b ABGB after expiration of the warranty period of six months is excluded.
7. Claims for damages against us are excluded unless intent or gross negligence on our part can be proved. In case of an assertion of a claim for damages instead of the warranty claim the customer is for the time being only entitled to improvement of defective goods or compensation delivery according to our choice. Claims for damages against us become statute-barred in six months from the customer's notice of the damage and injuring party.

## VIII. Set-off

A set-off with counterclaims is not admissible, unless we would explicitly accept such a set-off in individual cases in written form.

## IX. Place of performance, jurisdiction, law to be applied

1. Place of performance for our services is in case of delivery ex works the supplying factory, in case of delivery ex basis the basis, in case of delivery ex stock the warehouse.
2. All our contracts are subject to Austrian law under exclusion of the UN right of purchase, unless otherwise expressly agreed. The court in Wiener Neustadt is responsible for all differences resulting from the contractual relationship.

## X. Partial invalidity

Should individual provisions of these terms of sales and delivery become entirely or partly invalid, the other provisions remain fully valid.