



Conditions of Sale, Status April 2016

1. GENERAL

These general terms of delivery apply, insofar as the contracting parties have not agreed otherwise in writing. The following stipulations concerning delivery of goods apply accordingly for services.

2. CONTRACT CONCLUSION

The contract is deemed to be concluded if the vendor has sent a written confirmation of order following receipt of the order, and this is not verifiably contradicted by the customer within 5 days. Changes and extensions to the contract require the written confirmation of the vendor for their validity. Purchase conditions of the customer are binding for the vendor only if these are separately recognized by the vendor.

3. PLANS AND DOCUMENTS

The specifications included in catalogs, brochures, circulars, advertisements, illustrations and price lists etc. concerning weight, measurements, capacity, price, performance and so forth, are determining factors only if reference is made to them explicitly in the offer or confirmation of order. Plans, sketches, cost estimates and other technical documents, such as samples, catalogs, brochures, illustrations and similar which can also form part of the offer, likewise remain the intellectual property of the vendor. Every utilization, copying, reproduction, circulation and delivery to third parties, publication and presentation, may be implemented only with the explicit approval of the owner.

4. PACKAGING

Unless there is a different agreement:

The indicated prices are understood without packaging.

The packaging is implemented, at the expense of the customer, in a standard manner in order to avoid damage to the goods under normal transport conditions on the way to the stipulated destination, and is taken back only on agreement.

5. LEGAL PASSAGE OF RISK

Unless otherwise arranged, the goods are valid as sold "ex works" (EXW) (readiness to be fetched). In addition, the INCOTERMS apply in the version valid on the day of the contract conclusion.

6. DELIVERY SCHEDULE

Unless otherwise agreed, the delivery schedule begins at the following times, at the latest:

Date of the confirmation of order;

Date of the completion of all technical, commercial and financial prerequisites which are the obligation of the customer, according to agreement;

Date on which the vendor receives an advance payment (to be made before delivery of the goods) and/or a irreversible payment assurance is opened.

The vendor is entitled to carry out part-deliveries and pre-deliveries. If the delivery is delayed due to circumstances which are the responsibility of the vendor, which represents a release basis as specified by Art. 14, then an adequate extension of the delivery schedule is granted. If the customer does not accept the goods, provided according to contract at the location as contractually agreed, or at the time as contractually agreed, and if the delay is not caused through actions or neglect on the part of the vendor, the vendor can demand completion or withdraw from the contract after setting an additional period of notice. If the goods have been specially segregated, the vendor can carry out the storage deposition of the goods at the expense and risk of the purchaser. The vendor has an additional claim to reimbursement of all justified expenditures which were incurred in the implementation of the contract, and which are not included in the payments received. Other than those, designated in Art. 6, claims of the customer against the vendor due to his delay are excluded.

7. ACCEPTANCE TEST

Provided that the customer desires an acceptance test, this is to be arranged explicitly in written form with the vendor in case of contract conclusion. Insofar as no different regulations apply, the acceptance test is to be carried out in this case at the manufacturing location, or at a location to be determined by the vendor, during the normal working time of the vendor. The practice in the branch of industry concerned usually applicable for an acceptance test is the determining factor in this case. The customer has to bear the costs of the approval.

8. PRICE

Unless otherwise stipulated, the prices apply ex-works of the vendor without loading. The prices are based on the costs at the time of the price submissions, provided that nothing other has been arranged. If the costs should change at the time of the delivery, these changes are to the benefit of, or at the expense of, the customer.

9. PAYMENT

The payments are to be made according to the arranged terms of payment. The customer is not entitled to withhold payments because of warranty claims, or other counter-claims not recognized by the vendor. If the customer is in delay with an arranged payment or other performance, then the vendor can either insist on the completion of the contract and defer the completion of his own obligations until the settlement of the outstanding payments;

make use of an adequate extension;

declare the whole purchase price still open as due;

provided that no release basis, as specified by Art. 14, exists on the part of the customer, charge default interest from the due date of payment in the amount of 7.5% above the respective base interest rate of the European Central Bank (see RL/EG for the countering of delays in payment in business transactions, dated 29th June 2000);

or declare his withdrawal from the contract after granting an adequate additional period of notice. In any case, the customer also has to reimburse the vendor for reminder and debt collection costs as further damages caused by delay. If the customer has not provided the owed payment or other performance by the expiry of the additional period of time, in accordance with 9.b, the vendor can withdraw from the contract through written communication. The customer has to return to the vendor goods already provided, on request by the vendor, and reimburse him for the occurred asset value shrinkage of the goods, as well as reimburse all justified expenditures which were incurred by the vendor in the implementation of the contract. With regard to goods not yet supplied, the vendor is entitled to make the finished or processed parts available to the customer, and to demand the corresponding content of the sale price for them.

10. RESERVATION OF OWNERSHIP

Until the complete fulfillment of all financial obligations of the customer, the vendor reserves the right to ownership of the purchased object. The vendor is entitled to make his ownership to the supplied objects externally identifiable. The customer has to comply with the necessary formal requirements for the protection of the reservation of ownership. In case of attachment or other claims, the customer has to validate the right of ownership of the vendor, and to give notification of this immediately. The extended reservation of ownership of the vendor applies.

11. GUARANTEE

The vendor has to pay for the costs of a deficiency elimination carried out by the customer himself only if he has given his written approval for this. The guarantee duty of the vendor applies only for those deficiencies which occur subject to compliance with the planned operating conditions, and in case of normal use. In particular, it does not apply for deficiencies which are based on the following: inferior installation through the customer or his agent, inferior maintenance, repairs implemented badly or without written approval of the vendor, or changes by a person other than the vendor or his agent, or normal wear and tear. The vendor is liable for those parts of the goods, which the vendor acquired from subcontractors prescribed by the customer, only within the framework of the warranty claims being made by himself against the subcontractor. If goods are produced by the vendor based on construction specifications, drawings and models of the customer, the liability of the vendor does not include the accuracy of the construction; rather the design was implemented in accordance with the specifications of the customer. In case of any miscellaneous violations of industrial property rights, the customer in such cases has to exempt the vendor from damages and any legal action. In case of acceptance of repair orders, or alteration or conversions of old, as well as other goods, including delivery of used goods, the vendor does not give any guarantee. From the beginning of the warranty time period, the vendor does not assume any further liability other than as determined in this article.

12. LIABILITY

It is considered as explicitly arranged that the vendor does not have to reimburse the customer for any claims for damages for injuries to persons, for damage to goods which are not the subject matter of the contract, for other damages and for loss of profit, provided that this does not result from the circumstance of an individual case where the vendor is guilty of gross negligence. The shift of the burden of proof pursuant to § 1298 ABGB is excluded. The purchased object offers only that level of security which can be expected based on licensing regulations, operating instructions, specifications of the vendor concerning the processing of the purchased object - in particular with regard to prescribed verification if need be - and other references provided.

13. ENSUING DAMAGE

Subject to contrary determinations in these conditions, the liability of the vendor to the customer is excluded with respect to production standstill, loss of profit, loss of use, contract forfeiture or any other economic or indirect ensuing case of damage.

14. RELEASE BASES

The parties are exempt from on-time contract performance, completely or in part, if they are prevented from this by force majeure events. To be considered as force majeure, events must have been unforeseeable and unavoidable for the parties, and must not originate from their sphere of influence. However, strikes and labor disputes are considered as force majeure events. If a force majeure circumstance lasts longer than four weeks, customer and vendor will seek a regulation for the technical handling by negotiation. If no agreed solution should be reached in this case, the vendor can withdraw from the contract completely or in part.

15. DATA PROTECTION

The vendor is entitled to store, send, re-work and delete personal data of the customer, within the framework of the business. The parties are obliged to absolute confidentiality with respect to third parties regarding information made available to them from the business relations.

16. PLACE OF JURISDICTION, APPLICABLE LAW AND PLACE OF PERFORMANCE

The Austrian court locally responsible for the seat of the vendor is place of jurisdiction for all disputes arising directly or indirectly from the contract. However, the vendor can also refer to the court responsible for the customer. The parties can also arrange the responsibility of an arbitration court. The contract is subject to Austrian law, subject to exclusion of the Accord of the United Nations concerning contracts involving international goods purchase, dated 11.04.1980, BGBl. 1988/96. The seat of the vendor applies as a place of performance for delivery and payment, also in the case where the transfer is implemented to another location, according to agreement.