

## **GENERAL TERMS OF SALE AND DELIVERY**

- 1.1** Our deliveries and services including subsequent orders on basis of a standing business relationship are subject to these General Terms as amended from time to time. All mutual agreements have to be made in writing. General terms of the customer or divergent counter acknowledgments shall not be binding. Our additional provisions shall apply to contracts for mechanical and thermal labour services.
- 2.1** Our offers are not binding. All prices are quoted as net prices not including VAT at the respective applicable rate unless we are exempted from taxes according to the Turnover Tax Law. All prices are quoted ex warehouse not including packaging and delivery fees, any extra charges for alloys and extra charges resulting from changes in prices of primary products and raw materials as well as from changes of exchange rate parities. If prices are agreed free delivered, free receiving station or free building site, they will apply on the basis of full freights and loads and exploiting the maximum payload. The customer is responsible for prompt and proper unloading. Waiting periods are at the customer's expense.
- 2.2** If no turnover tax is to be charged for deliveries to a buyer in a Member State of the European Union, the buyer shall at our request immediately provide any proofs which we require according to the legal provisions including but not limited to the turnover tax, in order to provide evidence to the tax authorities of the tax exemption of the delivery. This applies including but not limited to the evidence of the introduction of the goods into another Member State of the European Union, to the turnover ID number or a personal exemption of the buyer.
- 3.1** Our invoices become due on the 15<sup>th</sup> of the month following delivery or following the notification to customer of the readiness for dispatch. Payment has to be made net cash or by remittance free of expense Vienna. Bills of exchange and checks are only accepted upon prior express agreement. Discount and collection charges are to be borne by the customer. Cash discount on the freight and on any rebate as specified in the invoice will not be granted. If the customer defaults in payment, we will charge default interest of eight percentage points above the base rate of the European Central Bank that is in force on the last calendar day of the preceding six month period ending June or December respectively not including VAT at the respective applicable rate. In case of default the customer undertakes to reimburse all costs of demand for payment and the legal assertion of claims including reasonable attorney's fees.
- 3.2** We are not obliged to fulfil the contract until such time as the customer shall have fulfilled his obligations according to the contract, including but not limited to the payment of due invoices. The set-off on part of the customer against other than non-appealable claims of the customer as well as rights of retention and any other rights to refuse performance are excluded. At our option we are entitled to set off payments against debts due.
- 3.3** We are entitled to claim immediate payment of all open accounts including invoices not yet due or deferred and to demand payment in advance for all outstanding deliveries and performances if (a) the customer partially or entirely defaults in payment, (b) a bill of exchange is not honoured or a check not cashed, or (c) we receive information according to which granting a loan to the customer is deemed to be critical, or (d) the customer becomes the subject of a petition in insolvency or (e) the customer submits an out-of-court settlement proposal to his creditors. Furthermore, we are entitled to prohibit the resale and processing of the delivered goods and request that they shall be retransferred at the customer's expense.

- 3.4** In the event of a contract concluded in a foreign currency, the conversion shall be affected on basis of the buying rate published by the Austrian National Bank (Österreichische Nationalbank) at the date of our acknowledgment. The currency risk has to be borne by the customer. The purchase price shall be appropriately revalued, if the value of the foreign currency decreases in relation to the Euro until the day of payment.
- 4.1** The content and scope of our obligations are as specified in our written acknowledgment, if such an acknowledgment was issued. Otherwise our delivery notes will be binding. We reserve the right to make changes to the design and changes to the composition of our products as well as other reasonable changes. Unless otherwise stated, delivery periods are calculated from the date of the acknowledgment. Otherwise a time of delivery which is reasonable and customary in trade shall apply. The time of delivery is met if the goods will be shipped or if the customer has been notified that the goods are ready for collection before the expiration of the period. We are entitled to make partial deliveries and to render separate invoices thereof.
- 4.2** In the event of force majeure such as traffic holdup, shortage of goods or energy, plant interruption of any kind, strikes and lock-outs in our plants or in plants related to the fulfilment or hindrances by ordinance of authorities or sanctions imposed by international authorities or epidemics or terrorism, we are entitled under exclusion of any claims for damages of the customer to extend the delivery period or to partially or entirely cancel our delivery obligations through termination of the contract.
- 4.3** We are entitled to refuse performance of the contract or to claim an amendment of the contract or individual contractual provisions, including but not limited to payment in another currency, in application of an escalation clause, modification of terms of delivery, taking into account that circumstances under which the contract was concluded have undergone such a change which leads to the assumption that the contract would not have been concluded or concluded on different terms. Such changed circumstances may also be caused by a change in the structure of the customer.
- 4.4** The customer shall indemnify and hold us harmless from and against any claims that might arise from the execution of the customer's order in cases which, due to the execution of the customer's wishes relating to specific quality and other properties and based on the use of drawings, models, samples, tools etc. made available to us, infringe domestic and foreign intellectual property rights of third parties including but not limited to copyright, patent rights, trademark rights and copyright in designs.
- 4.5** Documents including cost estimates, plans and drawings furnished to the customer will remain our property. The production of photocopies or the disclosure to third parties is only admissible with our express consent.
- 5.1** In the event of refusal to accept the goods the customer has to bear all costs of transport and storage notwithstanding his payment obligations. The purchase price becomes due immediately on default acceptance. At our option we are also entitled to claim damages for non-performance. The customer is not entitled to refuse acceptance due to minor defects.

- 5.2** The risk passes on to the customer in any case including but not limited to deliveries carriage paid or performances free domicile at the time when the delivery item leaves our factory or warehouse. The risk passes on to the customer on our notification of readiness for inspection or dispatch if the shipment or delivery is delayed at the customer's request or due to other reasons beyond our reasonable control. The customer is obliged to make without delay all payments due in case of delivery or conditional on delivery. We determine the kind and way the goods are shipped and packed. Increases in freight rates occurring between acknowledgment of order and shipment can be separately charged to the customer.
- 5.3** After performance of any agreed inspection of goods the notification of defects which could have been identified at such an inspection is excluded. This also applies if the customer received our acceptance test certificates and waived his right of inspection. The customer is in default of acceptance if the inspection does not take place or does not take place in time or not completely after we have notified our readiness for inspection.
- 6.1** We retain legal title to the delivered goods until the customer shall have completely settled the purchase price including any accrued default interest, dunning charges, collections fees and litigation costs. The customer is entitled to resale the goods being subject to a retention of title clause only in the ordinary course of business. The customer is not entitled to dispose of the goods in any other way including but not limited to pledge or transfer them by way of security. In the event of interferences with our rights by third parties as owners subject to a retention of title clause the customer shall take all necessary measures to protect our rights.
- 6.2** The customer assigns in advance all claims against his customer resulting from the sale of the goods being subject to a retention of title clause in order to protect our claims against the customer. At our request the customer shall at all times notify his customer of the assignment and provide any necessary information thereto and to furnish any documents which are necessary to assert our claims. The customer is only entitled to collect claims resulting from the resale provided that we do not reserve the right to collect the claims.
- 6.3** The customer is entitled to process the sold goods. We remain co-owner of the processed goods in relation of the value of our goods being subject to a retention of title to the final product. If the customer fails to pay the purchase price or to comply with any provision of this contract, we are entitled, which will not be regarded as rescission of the contract, to access the premises and properties of the buyer without prior notice and to remove the delivered goods under retention of title at the buyer's expense and to take possession of them. At our option the buyer shall instead be obliged to send the goods back at his expense. In this event we agree to deliver the goods to the customer again only provided that the fulfilment of his contractual obligations is guaranteed including but not limited to the payment of the purchase price and any accrued dunning charges, collection fees and litigation costs.
- 7.1** For defects of our deliveries and performances we guarantee at our option to repair or to replace the defective goods at our expense within three months. If the repair or substitute delivery fails to be successful, the customer is entitled at his option to cancel the sale or to reduce the purchase price. Deviations of quality, form, colour, weight or equipment which are either customary in trade or of a minor degree or technically unavoidable may not be deemed as a defect and cannot be objected to. This also applies to delivery according to sample and specimen.
- 7.2** Notifications of defects shall be detailed and filed without delay. Defects which cannot be identified at an orderly inspection are to be notified within three days on discovery. If the notification of defects does not meet these requirements, all warranty and damage claims or any other claims due to defectiveness shall be excluded. Within 6 months after delivery the customer has to prove that the defect was existing at the time of delivery. The customer

has to take care that the goods are in the same condition as they were at the time of delivery. In case of contracts for labour services our liability for defective workmanship shall be limited to the amount invoiced by us for wage costs.

- 7.3** Warranty obligations are excluded including but not limited to defects that arose in connection with normal use, improper treatment or storage, defective maintenance, unusual environmental influences or damages caused by transport. Our warranty is furthermore excluded when our products are confused or processed with other products not delivered by us or not recommended by us for use.
- 7.4** Damage claims based on slight negligence, negligent or grossly negligent violation of subsidiary obligations including but not limited to consultancy and information obligations, are excluded. Furthermore, we shall not be liable for any consequential damage or consequential harm caused by a defect nor for loss of profit. Damage claims based on non-performance or delayed performance are excluded. We shall in no event be liable for negligence of sub-contractors or other companies employed by us to fulfil our obligations. Information on possibilities of processing and use of our goods, technical and other advice including but not limited to usability, weights, measures, forms, colours, performance ratings and design shall not be binding. After expiration of the 3 months warranty period any and all warranty claims by the customer are excluded, despite the scope of warranty given by the customer to his customer.
- 7.5** The liability for any property damage caused by defective goods (products) shall be excluded with respect to companies according to the Consumer Protection Act. If the customer resells the goods to another contractor, the customer shall transfer to the contractor the before mentioned exclusion of liability. In the event of failure of such a transfer, the customer agrees to indemnify and hold us harmless and to replace all costs. If the customer is held liable under products liability, he expressly waives his rights of recourse.
- 8.1** Place of performance for our deliveries and performances is our warehouse or factory, the place of performance for the payment obligation of the customer and the exclusive jurisdiction is Vienna. At our discretion we are entitled to bring any disputes before a court of law having original jurisdiction over our customer. The customer agrees to bear any and all accrued dunning costs and collection fees as well as pre-litigation costs for the assertion of our rights. Austrian law and the Incoterms 2000 shall apply. The application of the United Nations Convention on Contracts for the International Sale of Goods, Federal Gazette 1988/96, is excluded.
- 9.1** If individual provisions of these General Terms of Sale and Delivery become void in whole or in part, the remaining provisions shall remain in full force and effect. The parties to the contract agree that such void provision will be deemed amended to achieve as nearly as possible the same economic effect as the original terms.