

GENERAL BUSINESS TERMS

Based on the General Delivery Terms of the Association of Austrian Machinery and Steel Construction Industries

1. PREAMBLE

- 1.1. These General Terms apply unless otherwise expressly agreed by the parties in writing.
- 1.2. The following conditions for delivery of goods also apply to services.
- 1.3. Installation work and assembly is also covered by the Installation Terms of the Association of Austrian Machinery and Steel Construction Industries.

2. CONTRACT CONCLUSION

- 2.1. The contract is considered to be concluded with the selling party who sends a written order confirmation on receipt of order.
- 2.2. Amendments and additions to the contract are not valid without the written confirmation from the seller. The buyer's purchasing conditions are not binding unless agreed separately by the seller.
- 2.3. The seller's quotations are without commitment. The right to prior sale is reserved.

3. DRAWINGS AND DOCUMENTS

- 3.1. The information contained in catalogues, brochures, mailings, advertisements, illustrations and price lists on weight, dimensions, capacity, price, performance etc. is not material to the contract unless expressly referred to in the order confirmation.

4. PACKING

- 4.1. Unless otherwise agreed
 - a) The prices given are exclusive of packing
 - b) The packing is the standard commercial type to prevent damage to the goods under normal transport conditions en route to the specified destination, at the buyer's expense, and is only taken back by agreement.

5. TRANSFER OF RISK

- 5.1. Unless otherwise agreed, the goods are sold "ex works".
- 5.2. Unless otherwise agreed by the parties, the date of transfer of risk is determined as follows:
 - a) For an "ex works" sale, risk passes from seller to buyer on provision of the goods for shipment
 - b) For a "Rail wagon, road truck or barge" (agreed point of dispatch) or "Free delivered to ..." sale, risk passes from seller to buyer when the means of transportation loaded with the goods is taken over by the first carrier.
- 5.3. If departure from the delivery plant is delayed through no fault of the seller, risk passes to the buyer on the date of notification of readiness for shipment.
- 5.4. The seller is not required to take out insurance unless this has been agreed in writing.

6. DELIVERY PERIOD, DELIVERY

- 6.1. Unless otherwise agreed the delivery period begins on the later of the following dates:
 - a) Date of order confirmation
 - b) Date of fulfilment of all the buyer's technical, commercial and financial obligations.
- 6.2. The seller has the right to make partial or early deliveries.
- 6.3. If the seller is responsible for a delivery delay, the buyer may either demand performance or give notice of rescission of the contract, stipulating a reasonable extension of time for rectification. In the case of custom-made products, the fact that the seller cannot use parts already manufactured elsewhere shall be taken into account when stipulating the extension of time.
- 6.4. If delivery is delayed due to a circumstance affecting the seller constituting grounds for exoneration under article 10, a reasonable extension of the delivery period is allowed.
- 6.5. If the seller culpably fails to comply with the extension of time provided in article 6.3, the buyer may cancel the contract by simple written notice in respect of all the goods not yet delivered and all delivered goods which cannot reasonably be used alone without the undelivered goods.
- 6.6. Claims by the buyer against the seller other than as stipulated in article 6 due to delay on the seller's part are excluded.
- 6.7. If the buyer fails to accept the goods provided under the contract at the point of delivery or on the date agreed in the contract and the delay is not caused by an action or omission of the seller, the seller may either demand performance or withdraw from the contract, setting a deadline for acceptance.
- 6.8. The customer is obliged to comply with all applicable national and international export controls and sanctions regulations, in particular the ones of the United Nations, the European Union, Germany and the United States. Further, the supply of listed dual use items is strictly limited to imports for free circulation into the customer's jurisdiction. Imports into free zones or free warehouses are strictly prohibited. This obligation applies only insofar as it does not lead to a violation against EU or German blocking statutes.

7. PRICE

- 7.1. Unless otherwise agreed, the prices are ex the seller's works excluding packing and shipping. If delivered prices are agreed, they exclude unloading and taking away.
- 7.2. The prices are based on the costs at the time of quotation. Should the costs change before the delivery date, the changes will be to the benefit or disadvantage of the buyer.
- 7.3. If the contract prices are left open, the selling price on the date of delivery is charged.

8. PAYMENT

- 8.1. Payments are due according to the terms of payment shown on the order confirmation.
- 8.2. The buyer is not entitled to withhold payments due to warranty claims or other counterclaims not accepted by the seller.
- 8.3. If the buyer is late with an agreed payment or other service, the seller may either insist on the contract being fulfilled and
 - a) defer fulfilment of its own obligations until the late payments or other services are effected,

- b) claim a reasonable extension of the delivery period,
- c) unless the buyer has grounds for exoneration under article 10, charge default interest starting from maturity date according to Art 352 UGB (Commercial Code) being at present 8% above the European Central Bank base rate, or withdraw from the contract upon granting a reasonable extension of time.

- 8.4. If the buyer does not effect the payment or other service due by the end of the extension of time under 8.3, the seller may cancel the contract by simple written notice. The buyer shall return to the seller any marketable goods delivered and reimburse him for the decrease in value of the goods as well as for all justified expenses which the seller incurred in performing the contract. If the goods are not marketable (custom-made products), the seller has the right to supply the finished or worked parts to the buyer and claim the relevant portion of the selling price.

- 8.5. The seller reserves the right to retain title to the goods purchased until the buyer has met all its financial obligations. The buyer shall comply with the necessary formal requirements to protect the retention of title. In the event of pledging or other utilisation, the buyer is required to assert the seller's title and notify the seller immediately.

- 8.6. The buyer is not entitled to offset counterclaims against the invoice amount.

- 8.7. Claims by the seller against the buyer due to its delay other than as stipulated in this article 8 are excluded.

9. WARRANTY

- 9.1. In accordance with the provisions below, the seller is required to correct any deficiency adversely affecting serviceability which is due to a defect in the design, material or workmanship.

- 9.2. The limitation period for warranty claims is 24 months from delivery of the goods.

- 9.3. The buyer may only invoke this article if the seller is notified of the defects in writing without delay. If the defects have to be corrected by the seller under the provisions of this article, the seller may at its discretion:

- a) make good the defective goods on site;
- b) have the defective goods or parts returned to be made good;
- c) replace the defective goods;
- d) replace the defective parts.

The warranty period is not extended due to defect rectification.

- 9.4. If the seller has the defective goods or parts returned for rectification or replacement, the buyer bears the transport cost and risk, unless otherwise agreed. The repaired or replaced goods or parts are returned to the buyer at the seller's cost and risk, unless otherwise agreed.

- 9.5. The seller has only to meet the cost of defect correction by the buyer if it has given its written approval.

- 9.6. The seller's warranty period applies only to defects occurring under the specified operating conditions and in normal use. In particular, it does not cover defects caused by: poor installation by the buyer or its agents, poor maintenance, repairs or modifications carried out badly or without the seller's written approval by a party other than the seller or its agents and normal wear and tear.

- 9.7. The seller is only liable for the parts of the goods obtained from its suppliers within the limits of its own warranty claims against the supplier. If goods are manufactured by the seller on the basis of the buyer's design information, drawings or models, the seller's liability does not extend to the accuracy of the design, but only to execution in accordance with the buyer's information. In these cases the buyer shall indemnify the seller against any infringement of industrial property rights. The seller gives no guarantee in the event of undertaking repair orders or for alterations or rebuilding of old or third party goods.

- 9.8. From the start of the warranty period the seller accepts no liability other than as provided in this article, including liability for defects caused before transfer of risk.

- 9.9. It is expressly agreed that the seller pays no compensation to the buyer for personal injury, damage to goods not covered by the contract or loss of profit unless the circumstances of the individual case indicate that the seller is guilty of gross negligence.

- 9.10. A lack of due care or skill does not constitute gross negligence; gross negligence only exists if the seller disregards the serious consequences of an action or omission which should normally have been foreseen with due professional care or deliberately ignores the consequences of its actions.

- 9.11. Liability for material damage due to a product defect is excluded for all companies involved in the manufacture and distribution in accordance with § 9 Product Liability Act. Any liability towards a consumer remains unaffected.

10. GROUNDS FOR EXONERATION

- 10.1. The following circumstances are deemed grounds for exoneration if they occur after conclusion of the contract and prevent its performance: labour disputes and any circumstances beyond the control of the parties such as fire, mobilisation, confiscation, embargo, ban on foreign currency transfers, insurgency, lack of transport facilities, general shortage of supplies, energy restrictions.

11. LAW AND JURISDICTION, PLACE OF PERFORMANCE

- 11.1. The legal venue for all disputes arising directly or indirectly out of the contract is the competent court in Steyr. The seller may however appeal to another court with jurisdiction for the buyer.

- 11.2. The contract is governed by the law of the seller's place of business.

- 11.3. The place of performance for delivery and payment is the seller's headquarters, even if the agreed handover takes place at a different location.