

Standard Purchasing Terms and Conditions

1. Applicability

- 1.1 These Purchasing Terms and Conditions shall apply exclusively to all orders, purchase orders placed and contracts concluded with us - hereinafter referred to as "purchase order" - regarding the purchase of goods as well as works or services - hereinafter referred to as "deliveries". We hereby expressly reject any deviating or supplementary terms imposed by our suppliers; they are not binding on us. Our Purchasing Terms and Conditions shall also apply exclusively if we do not reject the inclusion of our supplier's terms in a particular case or accept its delivery without reservation with knowledge of contradictory or supplementary terms and conditions imposed by the supplier.
- 1.2 These Purchasing Terms and Conditions shall also apply to all future transactions with the supplier, even if they are not expressly agreed once more.
- 1.3 The invalidity or unenforceability of individual regulations of these Purchasing Terms and Conditions shall not affect the validity of the other regulations. Invalid or unenforceable regulations shall be replaced by the legally valid regulation which corresponds most closely to the economic purpose pursued by the invalid or unenforceable regulation.
- 1.4 These terms and conditions shall only apply to basic agreements concluded before 1 June 2010 as from 1 June 2010; our hitherto existing terms shall continue to apply up until this time.

2. Conclusion of the contract

- 2.1 All agreements between the supplier and us and all purchase orders shall only be binding on us if they are noted down in writing. All amendments, supplements or side agreements before, during or after the conclusion of the contract shall also require our written confirmation. The written form requirement may only be waived in writing. The written form is regarded as being equal to any electronic form of fax, e-mail or electronic data interchange.
- 2.2 If the supplier does not accept our purchase order in writing within a period of 2 weeks after its receipt, we shall be entitled to cancel this. Delivery requests shall be binding if the supplier does not reject them within three (3) days of their receipt. Amendments, supplements or other deviations from our purchase orders shall only be valid if these are expressly and separately pointed out and we expressly consent to this.

3. Prices and payment terms

- 3.1 The prices stated in the purchase order are fixed prices. The prices include carriage paid delivery as well as packaging, transport, insurance and all other expenses for the delivery, unless expressly agreed otherwise in writing. Statutory VAT must be shown; otherwise it shall be considered as included in the price.
- 3.2 If the supplier has undertaken the erection, assembly and/or initial operation and unless agreed otherwise in writing, the supplier shall bear all required ancillary costs such as e.g. travel expenses and the provision of tools.
- 3.3 We can only process invoices if these are sent to us by separate post. Each purchase order must be invoiced separately. The order number shown in our purchase order, the order date, the supplier number as well as our article number must be clearly marked in the invoice.
- 3.4 Invoices must be issued in EUROS; payments shall be made exclusively in EUROS, unless otherwise agreed in writing.
- 3.5 Payments shall be made by bank transfer, cheque or bill of exchange, at our discretion, after formal acceptance of the delivery and receipt of a verifiable invoice as well as the transfer of all supporting documents belonging to the scope of the delivery. Unless expressly agreed in writing otherwise, we will either pay within 14 days with a 3% cash discount, within 30 days with a 2% cash discount or within 90 days without deduction.
- 3.6 The supplier is not entitled to assign its claims against us in whole or in part or dispose over them in any other way without our prior written consent.
- 3.7 We shall be entitled to rights of set-off and retention to the extent permitted by law.
- ## 4. Delivery dates and delivery terms
- 4.1 The agreed dates stated in the purchase order or otherwise are binding and must be strictly observed. The supplier must notify us immediately in writing of an imminent delay or exceeding of the agreed dates and deadlines, indicating the reasons for such delay and its expected duration.
- 4.2 Partial deliveries and advance deliveries are only permitted if we have expressly accepted these. However, the payment claim shall be due on the originally agreed delivery date at the earliest.
- 4.3 Unless agreed otherwise, the delivery must be accompanied by the delivery note as well as a factory test certificate according to EN 10204 or an equivalent internationally recognized test certificate, in which the key data agreed with the supplier is stated. The first delivery must be accompanied by a first sample test report.
- 4.4 Deliveries are only possible at the agreed times
- 4.5 In the event of a delay in delivery, we shall be entitled to demand a contractual penalty in the amount of 1% for each commenced week of delay, but not exceeding a total of 10% of the order value; at the same time, the supplier shall be entitled to furnish proof that no damage or significantly less damage was incurred. We reserve the right to assert further damages. We are obliged to declare the reservation of the contractual penalty upon payment of the invoice which follows chronologically after the delayed delivery at the latest.
- 4.6 Occurrences of force majeure which make impossible or significantly impede the delivery by our suppliers or the formal acceptance or use of the

delivery in our factory or at our customer's workplace shall postpone our acceptance obligation commensurately in accordance with our actual needs. In cases of force majeure at our workplace or at our supplier's workplace, we shall also be entitled to withdraw from the contract in whole or in part, at our discretion.

5. Place of performance, passing of risk, acquisition of title

- 5.1 The place of performance shall be the place to which the goods must be delivered or at which the work or service must be provided. The place of performance for our payments shall be our registered office, unless agreed otherwise.
- 5.2 The delivery must be made properly packaged for transport free place of delivery at the supplier's expense and risk to the address indicated by us and accordingly provided there. The risk of accidental loss or accidental deterioration of the delivery shall only pass to us upon the acceptance by us or our assigned carrier at the agreed place of performance or after the final formal acceptance of the delivery, depending on which time is the later, even if we have declared that we are prepared to assume the freight costs.
- 5.3 Upon the passing of risk at the place of performance, or upon the handover to a carrier especially assigned by us, we shall acquire title to the goods without reservation of any rights for the supplier.

6. Liability for defects and other liability

- 6.1 We shall only inspect the delivered goods based on the accompanying documents for identity and volume as well as for externally recognizable transport damage. We shall notify defects in the delivery to the supplier within a reasonable period of at least 5 working days after detection (Sections 377 et seq. of the Austrian Business Code [Unternehmensgesetzbuch - UGB]) as soon as they have been detected in our ordinary course of business. The supplier waives the plea of late notice of defects.
- 6.2 Unless regulated otherwise in this item, the supplier shall be liable in accordance with the statutory regulations, in particular for defects in the delivery, without the reason for or the amount of this liability being limited or excluded, and inasmuch shall indemnify us from third-party claims.
- 6.3 Should the supplier not start to remedy the defect immediately after our request to remedy the defect, we shall be entitled to remedy the detected defects by ourselves or have these remedied by third parties at the supplier's expense in urgent cases, especially for averting acute dangers or avoiding greater damage, without this requiring the grant of a reasonable grace period.
- 6.4 Claims based on defects in quality become statute-barred within the statutory warranty periods, unless agreed otherwise. If the delivery has been used, in accordance with its customary use, for a building and has caused its defectiveness, the limitation period shall only expire after 5 years. In other respects, this shall not affect our rights standardized in the Austrian Civil Code [Allgemeines Bürgerliches Gesetzbuch - ABGB] and UGB respectively.
- 6.5 In the event of defects in title, moreover, the supplier shall indemnify us from any existing third-party claims. Regarding defects in title, a limitation period of 10 years shall apply.
- 6.6 If an incoming goods inspection going beyond the usual extent becomes necessary as a result of defective delivery, the supplier shall bear these costs.

7. Product liability

- 7.1 The supplier shall indemnify us from any third-party claims from and in connection with personal injuries and material damage if and in so far as the cause was under the supplier's control and organizational sphere. In this context, the supplier is also obliged to reimburse us all expenses incurred by us from or in connection with a recall campaign or other measure carried out by us.
- 7.2 The supplier undertakes to maintain extended product liability and recall insurance with a sum insured of at least EUR 2,500,000.00 (two million five hundred thousand euros) each per case of personal injury/material damage as a blanket policy; however, our claims shall not be limited to the sum insured.

8. Observance of property rights and regulations

- 8.1 The supplier affirms that its delivery and its use will not infringe industrial property rights or other third-party rights or statutory or official regulations of any kind. Furthermore, the supplier affirms that the goods delivered by it will not contain any CFC, PCB or asbestos. The supplier undertakes to make available all relevant IMD system data free of charge at our request, unless agreed otherwise.
- 8.2 The supplier is hereby obliged to indemnify us from all third-party claims¹¹. Quality assurance, which third parties direct against us on the occasion of or in connection with the delivery or its use. Item 6.5 sentence 2 shall apply.
- 8.3 The supplier's obligation to indemnify us shall also apply to all expenses that are incurred by us as a result of or in connection with a claim asserted by a third party.

9. Export control and external trade data

- 9.1 The supplier must especially also comply with the respectively applicable requirements of national and international export, customs and foreign trade legislation ("foreign trade legislation") for all goods to be delivered and services to be provided. The supplier must obtain required shipment authorizations or export permits, unless under the applicable foreign trade legislation, not the supplier, but we or a third party are obliged to apply for these authorizations and permits.

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- 9.2 The supplier must notify us in writing of all information and data as soon as possible, however no later than upon the acceptance of the order, which we require to comply with the applicable foreign trade legislation upon the export, shipment and import as well as in the event of the resale in the case of the re-export of the goods and services, especially for each item of goods and each service:
- the Export Control Classification Number (ECCN) pursuant to the U.S. Commerce Control List (CCL), provided that the item of goods is subject to the U.S. Export Administration Regulations (if the item of goods is not listed in the CCL, this must be indicated with: "ECCN: N");
 - all applicable export list items (if the item of goods is not subject to any export list item, this must be indicated with "AL: N");
 - the commodity code in accordance with the current goods classification of the external trade statistics and the HS (Harmonized System) code;
 - the country of origin (non-preferential origin) and,
 - if requested by us: supplier's declarations on the preferential origin (European suppliers) or certificates on preferences (non-European countries).
 - The supplier may not contravene a supplier's declaration drawn up by noting this on delivery paperwork or the invoice. A contravention may only take place in the form of a new (amended) supplier's declaration with an indication that the previous supplier's declaration thereby loses its validity.
 - A declaration about which materials are subject to the PIC procedure in accordance with Regulation (EC) No. 304/2003 and No. 689/2008 "export and import of dangerous chemicals" respectively (PIC materials must be indicated with the CAS number and content. If the item of goods or one of its components is not stated on the current PIC list at the time of the delivery, this must be indicated with: "PIC: N");
- 9.3 In the case of changes of the origin, the properties of the goods or services or the applicable foreign trade legislation, the supplier must notify the ordering party in writing of the export control and foreign trade data as soon as possible, however no later than upon the acceptance of the order. Should the export control or foreign trade data change further before the delivery, the ordering party must be informed in writing immediately. The supplier shall bear all expenses and damage incurred by the ordering party on account of the absence or defectiveness of export control or foreign trade data.
- 10 Retention of title, tools**
- 10.1 We retain title to goods supplied by us (e.g. parts, components, semi-finished products).
- 10.2 The retention of title shall also apply to the products arising from the processing, mixing or combining of our goods, at their full value, whereby these procedures take place for us, so that we are considered as the manufacturer. If a third party's title continues to exist in the event of a processing, mixing or combining with third-party goods, we shall acquire joint ownership in the proportion of the objective values of these goods.
- 10.3 The tools made available to the supplier and tools manufactured by the supplier itself on our behalf or ordered from third parties, to which we have paid a fee to cover costs, shall remain our property and accordingly shall become our property upon the manufacture or upon the acquisition by the supplier and must be clearly identified as our property.
- 10.4 The supplier is obliged to keep the tools safely for us free of charge, insure these sufficiently and furnish proof of the insurance cover upon request. The supplier is obliged to use the tools exclusively for the manufacture of parts intended for us, unless agreed otherwise. Such approval regarding the production of parts based on purchase orders of other companies belonging to the Klüber Group is hereby granted.
- 10.5 The supplier must maintain and service tools supplied at its own expense. Upon the expiry of the contract, the supplier must return the tools immediately upon our request, without being entitled to a right of retention. When returning the tools, these must be in a perfect technical and optical condition in keeping with the previous use. The servicing costs shall be borne by the supplier. The supplier shall under no circumstances scrap the tools without our written consent.
- 11 Quality management**
- 11.1 The supplier undertakes to maintain an ISO 9000 ff. quality management system, which must guarantee to us a perfect quality of the deliveries, during the entire business relationship, monitor this at regular intervals through internal audits and take the required measures immediately if deviations are established. We are entitled to review the supplier's quality assurance at any time by prior appointment. The supplier shall permit us to inspect certification and audit reports as well as test procedures carried out including all test records and supporting documents concerning the delivery upon request.
- 11.2 Our "Quality Standards" in their current version, which we send to our suppliers upon request, are part of all purchase orders and agreements between suppliers and us.
- 12 Confidentiality, supporting documents**
- 12.1 All information, recipes, drawings, models, tools, technical records, processing methods, software and other technical and commercial know-how made available by us or ascertained by the supplier about us as well as work results achieved in connection with these (hereinafter referred to as "confidential information") must be kept confidential with respect to third parties by the supplier and may exclusively be used in the supplier's factory for carrying out deliveries to us and only be made available to persons who must have knowledge of the confidential information in connection with the business relationship and have been obliged in accordance with this confidentiality regulation. This shall also apply beyond the duration of the business relationship as long and in so far as the supplier cannot furnish proof that the confidential information was already known to it at the time of obtaining it or was publicly known or has become publicly known subsequently without its fault.
- 12.2 All supporting documents (e.g. drawings, figures, conformity records), samples, specimens and models etc., which we make available to the supplier in connection with the business relationship, shall remain our property and must be returned to us or destroyed at the supplier's expense, at our discretion, at any time upon our request, no later than at the end of the business relationship (including any existing copies, transcripts, excerpts and replicas). Inasmuch, the supplier is not entitled to a right of retention.
- 12.3 The disclosure of confidential information and any transmission of supporting documents, samples, specimens or models shall not establish any intellectual property rights, know-how or copyrights for the supplier and shall not constitute any pre-publication or any right of prior use as defined by the Austrian Patent or Utility Model Law [Patent oder Gebrauchsmustergesetz] or another law to this effect or a Regulation of the European Union.
- 13 Choice of law and legal venue**
- 13.1 The law of the Republic of Austria shall apply exclusively to the exclusion of its private international law provisions, in so far as these refer to the applicability of another legal system. The application of the UN Convention on the International Sale of Goods (C.I.S.G.) and other bilateral and multilateral conventions on uniform law on the international sale of goods shall be excluded.
- 13.2 The legal venue for all claims arising from the business relationships with suppliers, especially from contracts or regarding their validity shall be the place of performance (item 5.1) or Salzburg, at our discretion. However, we are also entitled to bring an action against the supplier at any other general or special legal venue, at our discretion.
- 13.3 Unless agreed otherwise, German and English are expressly deemed to be the contract languages.

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