

Purchase Conditions

Eisenwerk Sulzau Werfen, R. & E. Weinberger AG

Applicable in business transactions with entrepreneurs or companies, legal persons according to public and private law, and companies with a special fund under public law.

1. General

Our relevant valid purchase conditions apply exclusively; we recognize general business conditions of the supplier opposing these or deviating from our purchase conditions only if we have explicitly agreed to them in writing. The acceptance of goods or services of the supplier (in the following: object of the contract) or the payment for such does not signify agreement, even if the acceptance or payment occurs in the knowledge of opposing or supplementary contractual conditions of the supplier. Similarly, possible previously agreed contractual conditions of the supplier opposing or supplementing these purchase conditions will no longer be recognized.

2. Contract conclusion and changes to the contract

- 2.1. Orders, terminations and delivery call-offs as well as changes and supplements to them are to be made in writing.
- 2.2. Agreements of any kind made by word of mouth – including subsequent changes and supplements to our purchase conditions – require written confirmation from us in order to be effective.
- 2.3. The written form is also fulfilled by telefax, remote data transmission or email, whereby delivery to us is in any case a prerequisite.
- 2.4. Cost estimates addressed to us are binding and free of charge unless something explicitly different was agreed.
- 2.5. If a supplier makes an offer to us, this is in any case binding for 30 days.
- 2.6. If the supplier does not accept the order within two weeks from the time of receipt, we are entitled to a revocation.
- 2.7. Delivery call-offs in the context of an order and call-off schedule are binding, if the supplier does not contradict within two working days from the time of receipt.

3. Delivery

- 3.1. Agreed deadlines and time periods are binding. Of decisive importance for adhering to the delivery date or the delivery period is the time when we receive the goods. If the delivery “free to the plant” (DAP or DDP according to Incoterms 2020) is not agreed, the supplier has to prepare the goods in good time taking account of the time clarified with the forwarding agent required for loading and shipping.
- 3.2. If the supplier has agreed to take on the installation or the assembly, the supplier covers all necessary expenditure, for instance, travel expenses, compensation for release of employees, provision of tools.
- 3.3. If agreed dates are not adhered to, the legal regulations apply. If the supplier foresees difficulties concerning the finishing, provision of necessary materials, adhering to the delivery date or similar circumstances that could prevent him from carrying out delivery within the agreed time or achieving it in the agreed quality, the supplier must inform our order department without delay.
- 3.4. The unconditional acceptance of the delayed delivery or service does not mean that we renounce our claim to compensation due to us because of the delayed delivery or service; this applies until full payment of the remuneration due from us for the delivery or service concerned is made.
- 3.5. Partial deliveries are in principle not permissible unless we have explicitly agreed to them.
- 3.6. For item numbers, weights and measures, the values ascertained by us when the incoming goods are inspected are decisive, unless evidence to the contrary is presented.

4. Force majeure

- 4.1. Force majeure means the occurrence of an event or circumstance that prevents one party from being able to fulfil one or several of its contractual obligations arising from the contract, if and in so far as the party affected by the hindrance proves that a) this hindrance lies beyond reasonable control; and b) it was not predictable in reasonable manner at the time when the contract was concluded; and c) the effects of the hindrance could not have been avoided or overcome by the party concerned in a reasonable manner.
- 4.2. Until the contrary is proved, in the following occurrences that affect one party it is assumed that they would fulfil the prerequisites under paragraph 1 lit. (a) and lit (b) according to paragraph 1 of this clause: (i) war (declared or not declared), animosities, attack, actions by foreign enemies, extensive military mobilisation; (ii) civil war, revolt, rebellion and revolution, military or other seizure of power, insurgence, acts of terror, sabotage or piracy; (iii) currency and trading restrictions, embargo, sanctions; (iv) legitimate or illegitimate official acts, compliance with laws or government regulations, expropriation, confiscation of factories, requisition, nationalisation; (v) plague, epidemics, natural catastrophe or extreme natural occurrence; (vi) explosion, fire, destruction of equipment, long-term breakdown in means of transport, telecommunication, information systems or power supply; (vii) general labour unrest such as boycott, strike and lock-out, go-slow strike, occupation of factories and buildings.
- 4.3. A party that successfully refers to this clause, is, from the time when the hindrance makes it impossible to fulfil the service, freed of its obligation to fulfil its contractual obligations and from every compensation obligation or from every other contractual legal redress due to breach of contract in so far as notification of this is given without delay. If notification does not occur without delay, the liberation becomes effective from the time when the notification reaches the other party. If the impact of the alleged hindrance or event temporary, the consequences just presented are valid only for the time when the alleged hindrance prevents fulfilment of the contract by the affected party. If the duration of the alleged hindrance results in the fact that the parties to the contract are deprived to considerable degree of what they by virtue of the contract were legitimately allowed to expect, each party has the right to terminate the contract by informing the other party within an appropriate period of time. In so far as

nothing else is agreed, the parties explicitly agree that the contract can be terminated by each party, if the duration of the hindrance exceeds 120 days.

5. Forwarding advice and invoice

The details stated in our orders and delivery schedules are valid. One copy of the invoice, stating the invoice number and other allocation characteristics, is to be addressed to the relevant imprinted address (until further notice: Eisenwerk Sulzau-Werfen, R & E Weinberger AG, Bundesstrasse 44, 5451 Tenneck, Austria); it is not permissible to attach the invoice to the shipments.

6. Price setting and transfer of risk

If no special agreement is made, the prices are understood to be delivered to the place named (DAP according to Incoterms® 2020) including all affiliated costs, transport costs and packaging. VAT is not included. The supplier bears the object risk until the goods are accepted by us or by our agent in the place where the goods are to be delivered according to the order. Agreed prices or those on which the contract is based are regarded as fixed prices. Price adjustment clauses and similar terms are not accepted by us unless they are specially negotiated.

7. Payment conditions

In so far as no special agreement is made, the invoice is settled either within 14 days with a deduction of 3% early payment discount or within 30 days without deduction from the due date of the remuneration request and receipt both of the invoice as well as the goods or the provision of the service. This applies also to partial invoices, if these have been agreed upon. Payment occurs subject to invoice verification.

8. Fault notification

- 8.1. On receipt of goods, they are examined by us only with regard to obvious damage, in particular damage due to transport, deviations from identity and quantity of the delivery, in so far as nothing else has been agreed with the supplier in a quality assurance agreement.
- 8.2. The obligation to examine defective goods deliveries according to § 377 UGB is explicitly waived.
- 8.3. Defects will be admonished by us immediately after they have been discovered.
- 8.4. The supplier thereby does not resort to the objection that notice of defects was delayed.

9. Claims concerning defects

- 9.1. The legal provisions on material and quality defects are applied in so far as nothing else is regulated subsequently.
- 9.2. We have the right to select the kind of subsequent fulfilment. The supplier can refuse the kind of subsequent fulfilment chosen by us if it is possible only with unreasonable expenditure.
- 9.3. If the supplier does not begin without delay after our request to deal with the defects, we have the right in urgent cases, especially in order to prevent acute dangers or to avoid greater damage, to do this ourselves at the expense of the supplier, or to have them carried out by a third party.
- 9.4. In case of defects of title, the supplier also releases us from possible existing claims of third parties, unless he is not to blame for the defects of title.
- 9.5. Claims for defects expire – other than in cases of fraud – in three years, unless the matter has, according to its usual purpose, been used for a structure and caused its defectiveness. The term of expiry begins with the delivery of the object of the contract (transfer of risk).
- 9.6. If the supplier fulfils his obligation to subsequent fulfilment by means of replacement delivery, the term of expiry begins again for the goods delivered as replacement after their delivery, unless the supplier has reserved the right explicitly for the subsequent fulfilment to carry out the replacement delivery merely for reasons of goodwill in order to avoid conflicts or in the interest of the continuation of the delivery arrangement.
- 9.7. If costs are incurred to us as a result of the defective delivery of the object of the contract, in particular transport, route, work, installation, removal, material costs or costs for receipt control exceeding the usual extent, the supplier has to bear these costs.
- 9.8. The supplier has to cover for the fault of its sub-suppliers as if it were his own fault.
- 9.9. In the case of justified claims, we are entitled to retain the entire remaining remuneration.

10. Product liability and recall

- 10.1. In case a claim is made towards us because of product liability, the supplier is obliged to free us of such claims in so far and as long as the damage has been caused by the contractual objects delivered by the supplier. In cases of fault-based liability, this applies, however, only if the supplier is to blame. In so far as the cause of damage lies in the supplier's area of responsibility, he must prove that he is not to blame.
- 10.2. In cases described in sub-paragraph 10.1 the supplier takes on all costs and expenditure, including the costs of a possible prosecution.
- 10.3. As for the rest the legal terms apply.
- 10.4. Before a product recall, which is wholly or partially a result of a defect in the contractual object delivered by the supplier, we will inform the supplier, give him the possibility of involvement, and exchange views with him concerning an efficient arrangement, unless due to special urgency the act of informing or involving the supplier

is not possible. In so far as a product recall is the result of a defect in the contractual object delivered by the supplier, the supplier bears the costs of the product recall.

11. Rights of withdrawal and termination

- 11.1. We are entitled beyond the legal rights of withdrawal to withdraw from the contract if a serious worsening of the pecuniary circumstances of the supplier occurs or threatens to occur and thereby the fulfilment of a delivery obligation towards us is endangered.
- 11.2. Furthermore, we are entitled to withdraw from the contract if
- the supplier becomes insolvent,
 - the supplier terminates his payments,
 - there is a threat that the supplier will become insolvent, or excessive indebtedness is foreseeable,
 - the supplier applies for the opening of insolvency proceedings concerning the assets or the operations of the supplier, or a similar procedure for the settlement of debts is applied for or
 - if the opening of insolvency proceedings concerning the assets of the supplier is rejected due to lack of funds.
- 11.3. In case a continuing obligation exists, subparagraphs 11.1 and 11.2 apply with the proviso that instead of the right of withdrawal, an extraordinary right of termination without previous notice comes into force.
- 11.4. If the supplier has provided a partial service, we are entitled to withdraw from the entire contract only if we have no interest in the partial service.
- 11.5. In so far as we withdraw or cancel the contract on the basis of existing contractual withdrawal and termination rights, the supplier has to replace the damage thereby arising towards us unless it is not in his power to represent the emergence of the withdrawal or termination rights.
- 11.6. Legal rights and claims are not limited through the regulations contained in this subparagraph 11.

12. Accomplishment of work

Persons who accomplish work in fulfilment of the contract on the factory premises, have to observe the regulations of the relevant site rules. Liability for accidents that happen to these persons on the factory premises is excluded in so far as an accident was not caused by deliberate or severely negligent violation of duty of our legal representatives or subcontractors.

13. Documents and secrecy

- 13.1. All business and technical information (including characteristics, objects, documents or software that have possibly been handed over, and other knowledge or experience that can be deduced) made accessible through us are, as long and in so far as they have not verifiably been made public, are to be concealed from third parties. In the supplier's own company they may also only be made available to such persons who for their usage for the purpose of the delivery to us have necessarily to be involved and who are similarly bound to secrecy; they remain explicitly our property. Without our previous written agreement such information – unless for deliveries to us – may not be duplicated or used commercially. If we so demand, all information from us (in some cases also including ordered copies or drawings) and objects provided on loan are to be returned to us without delay and in full, or are to be destroyed. We reserve all the rights to such information (including copyright and the right to register commercial protective rights, such as patents, usage samples etc.) In so far as these were made accessible to us by third parties, this legal reservation is also valid in favour of these third parties.
- 13.2. Products made according to documents designed by us, for instance drawings, models and that sort of thing, or according to our confidential statements or with our tools or reconstructed tools, are not allowed to be used by the supplier either himself or to be offered or delivered to third parties. This applies correspondingly also for our printing commissions.

14. Export control and customs

- 14.1. The supplier is obliged to inform us about possible obligations to seek permission or limitations in the case of (re)-exports of its goods according to Austrian, European, US export and customs regulations, as well as the export and customs regulations of the country of origin of its goods in its business documents, and for goods subject to authorization, to supply us with the necessary official documents in good time.
- 14.2. The supplier is obliged to inform us without delay about possible changes in authorization obligations of its goods delivered to us due to technical, legal changes or official statements.

15. Compliance (Supplier Code of Conduct)

- 15.1. The supplier is obliged, within the business association with us, neither in business transactions nor in dealings with officials to offer or grant, or to demand or accept advantages which violate valid anti-corruption regulations.
- 15.2. The supplier is obliged, within the business association with us, not to make any agreements or coordinated forms of behaviour with other companies which would cause or result in a hindrance, limitation or distortion of competition according to the valid anti-monopoly legislation.
- 15.3. The supplier ensures that he adheres to the relevant valid laws concerning the regulation of general minimum wage and to commit subcontractors commissioned by him to the same extent. If requested, the supplier provides

proof of adherence to the existing assurance. In case of violation against the assurance, the supplier frees us of claims by third parties and is obliged to pay penalties imposed on us in this connection.

- 15.4. The supplier will adhere to the relevant legal regulations in dealings with staff, environmental protection and safety at work, and seek in his activities to reduce disadvantageous impacts on human beings and the environment. For this the supplier will, in the context of his possibilities, introduce and further evolve a management system according to ISO 14001. Moreover, the supplier will observe the principles of the Global Compact Initiative of the UN, which essentially concern the protection of international human rights, the abolition of enforced and child labour, the elimination of discrimination in appointing and employing staff, as well as responsibility for the environment (www.unglobalcompact.org).
- 15.5. We demand from our suppliers respect and the adherence to existing legal regulations concerning the disposal of raw materials in conflict and high risk territories – so-called “Conflict Raw Materials”, defined for example in the Dodd-Frank Act and relevant EU regulations. Within this approach ESW respects the OECD “Due Diligence Guideline” for responsible supply chains of raw materials from conflict and high risk territories. In consideration of these OECD principles we request our relevant suppliers to inform us about the origin of the raw materials delivered to us.
- 15.6. In case there is suspicion of a violation against the obligations arising from subparagraphs 15.1 to 15.5, the supplier must explain possible violations without delay and inform us about the measures taken to clarify the matter. If the suspicion proves to be founded, the supplier must inform us within an appropriate period of time, about which measures he has taken within the company to prevent future violations. If the supplier does not fulfil these obligations within an appropriate period of time, we reserve the right to withdraw from contracts with him or to terminate them with immediate effect.
- 15.7. In the case of severe legal violations by the supplier and violations against the regulations in subparagraphs 15.1 – 15.5, we reserve the right to withdraw from existing contracts or to terminate these without notice.

16. Place of fulfilment

The place of fulfilment is the place where, according to the order, the goods are to be delivered, or where the service is to be carried out.

17. General terms

- 17.1. If one clause of these conditions and further agreements should prove to be or become ineffective, the validity of the conditions is otherwise not affected. The parties to the contract are obliged to replace the ineffective clause by a regulation that achieves the same economic success as far as possible.
- 17.2. Austrian law is exclusively valid for the contractual relationships under exclusion of international private law and the UN Convention on Contracts for the International Sale of Goods (CISG).
- 17.3. The place of jurisdiction for all legal conflicts arising directly or indirectly from contractual relationships on which these purchase conditions are based, is Salzburg. Moreover, we are entitled to file an action against the supplier, if we choose, at the court in the place of his headquarters or his branch or at the court in the place of fulfilment.