

1. GENERAL

- 1.1. These Terms and Conditions of Sale, Delivery and Payment are applicable for all sales and other legal transactions with our commercial customers.
- 1.2. We are bound by our offers for a period of 60 days from the date indicated; any commitment deviating from this must be agreed separately.
- 1.3. If our order confirmation is not contested in writing within one week, it will be valid as part of the content of the contract.
- 1.4. Verbal ancillary agreements are invalid.

2. DELIVERIES

- 2.1. Unless otherwise agreed, the merchandise will be supplied at the purchaser's expense.
- 2.2. A precondition of an agreed delivery is that access is guaranteed using a heavy truck with trailer.
- 2.3. The merchandise is also deemed supplied when it is not immediately collected by the delivery date following notification of readiness for shipping, or where delivery is not possible for reasons attributable to the purchaser. In these instances, we are entitled to store the merchandise at our customer's expense or, after setting an appropriate extension period, to freely sell it. This sale does not represent a withdrawal from contract; the revenue from the sale is solely to be offset against the outstanding purchase price.
- 2.4. The delivery dates as indicated are subject to change without notice and are understood as being subject to the proviso of timely supply to our company. For that reason, we accept no liability for delayed deliveries.
- 2.5. *Force majeure* and other unforeseeable events or events over which we can have no influence, such as industrial action, acts of sovereign powers, traffic problems, interruptions to the power supply etc., and road accidents for which we or our suppliers are not responsible (minor negligence not being taken into consideration thereby) and other interruptions to operations discharge us from the obligation to make delivery for the duration of their effects, and this will be applicable even where these events have occurred at our supplier's or at their upstream supplier, although in any eventuality only insofar as we demonstrate to the customer that these events are the cause of the interruption to performance. If the stated events make delivery impossible, then our obligation to make delivery lapses under the same conditions.

Where such circumstances lead only to a shortage of merchandise, then we are also entitled to divide up the quantities of merchandise respectively available between our customers as we see fit. In no eventuality are we thereby obliged to cover supply using third-party suppliers in respect of merchandise forming the basis of contracts or offers. Measures by ÖAG AG in the sense set out in these provisions entitle the customer neither to withdraw from contract nor to lodge other claims, especially claims for compensation.

- 2.6. The risk transfers at the point where the merchandise is accepted into our stores, or for deliveries by ÖAG AG itself on transfer to the customer's address, at the respective construction sites or at other delivery addresses nominated by the customer. In other regards, the general legal regulations covering responsibility for risk are applicable.
- 2.7. The merchandise will be transported in the packaging which is customary in the sector; the packaging will be charged at cost price. Packaging material will be only taken back or compensated insofar as this is governed by law or agreed in writing.
- 2.8. The merchandise will be only insured during transport by third parties against damage during transportation, transport losses or breakages on written request from the customer, and then at their expense and on their account. External and visible transport damage is to be advised immediately on receipt of the merchandise and the nature and scope of the damage advised without delay in writing.

3. COMPLAINTS / WARRANTY

- 3.1. We give a guarantee in accordance with the legal provisions that the merchandise is properly constituted and demonstrates the normal characteristics; liability for special characteristics will be only given if these were assured in writing.
- 3.2. For merchandise which is described as being of lower quality such as for example "Zweite Wahl" ["seconds"], "Restposten" ["left-over items"], the warranty will be accordingly limited to the characteristics which are to be expected given the special labelling of the merchandise.
- 3.3. No warranty can be given covering deviations in the colour nuances caused by the production process or the materials themselves.
- 3.4. The merchandise is to be examined immediately by the customer on delivery; defects identified at this point are to be notified without delay.
- 3.5. Examination of the merchandise solely using random samples is not deemed to be a proper examination.

4. PRODUCT LIABILITY AND LIABILITY FOR DAMAGES

- 4.1. We are liable for damages for which we are responsible under the terms of our product liability, and for damages for which we are responsible, to the extent set out in the relevant legal provisions, whereby we are solely liable for damages caused intentionally or through evident gross negligence.
- 4.2. We are not liable for the accuracy of information regarding handling, use or operation, insofar as this is contained in brochures, technical descriptions or other instructions; these form part of the manufacturer's or importer's area of responsibility. We are also not subject to any additional obligations to provide explanations, especially in respect of storage, servicing, installation or other handling. We are not under any obligation to examine merchandise which is not manufactured by us in the event of procurement or selling-on.

5. PAYMENT

- 5.1. Unless otherwise agreed, our invoices are due for payment immediately; in the event of default of payment, any discounts which have been granted are deemed to have lapsed.
- 5.2. The claiming of granted discounts presupposes that all amounts we are eligible to and which are already due for payment have been settled (see item 5.5.)
- 5.3. Cheques and bills of exchange are only accepted in the interests of payment; tax on drafts and bills of exchange, discount charges, protest fees and collection charges are borne by the customer. We accept no liability for timely presentation and lodging of protest.
- 5.4. Our employees are only authorised to accept payment if they hold an express written power of attorney for collection.
- 5.5. Incoming payments are offset against the respectively oldest receivable, even if the payment was specified to settle a different receivable.
- 5.6. Offsetting of counterclaims will be only permitted insofar as these are uncontested or have been determined in law.
- 5.7. In the event of default of payment, we are entitled to charge all resulting expenses and costs, including the costs of any necessary involvement of lawyers as set in the respective applicable law governing lawyer's fees, and interest on arrears of 12 % p.a. However, we are entitled at all times to demand payment of higher interest if such has been charged to us by banks.
- 5.8. In the event of default of payment by the customer, we are entitled to demand immediate payment of all outstanding receivables and especially to revoke any payment periods which have been granted; this right will also be due to us if following conclusion of contract we become aware of unfavourable circumstances regarding the customer's ability to pay or their financial situation.
- 5.9. In the event of default of payment or delay in acceptance by the customer despite the setting of an additional 8-day period, we are entitled without prejudice to our other rights (especially those pursuant to 2.3.) to take back the merchandise into our ownership without this being equated with a repudiation of contract, or to withdraw from the contract either fully or in part whilst preserving our rights, in particular to compensation for non-fulfilment.

6. RETENTION OF TITLE

- 6.1. The merchandise supplied remains in our ownership until complete fulfilment of all obligations on the customer arising from the purchase contract.
- 6.2. The customer shall be entitled to sell merchandise under our retention of ownership in the course of day-to-day business operations; assignment as security or pledging of such merchandise are prohibited for the customer, as are any other dispositions not in accordance with their day-to-day business operations. If an act of execution is made by a third party against merchandise still subject to our retention of ownership or some other claim asserted, the customer is to inform us of this immediately; any possible costs which we incur in implementing our claims are to be reimbursed to us by the customer.
- 6.3. Also in the event of machining or processing of the merchandise subject to our retention of ownership, our title to the merchandise does not expire; in this eventuality, it is deemed agreed that we are entitled to a proportionate share in the joint ownership of the object originating from such machining or processing.

7. PLACE OF FULFILMENT

- 7.1. The place of fulfilment for all mutual claims arising from this business relationship is deemed our registered office.
- 7.2. The place of jurisdiction for all disputes is Vienna. Austrian law is solely applicable, to the express exclusion of the UN convention on contracts for the international sale of goods.
- 7.3. In the event of the invalidity of one or more provisions hereof, the remaining parts hereof remain valid in full. The invalid provision will be deemed to be substituted by a legally permitted provision coming as close as possible to the commercial purpose of the invalid provision.
- 7.4. The obligations of the purchaser from contracts concluded with us, including these Terms and Conditions for Sale, Supply and Payment, are also deemed valid for their legal successors and business successors, whereby the purchaser is obliged to make such accordingly incumbent.