

Terms of sale, delivery and payment

I. GENERAL PROVISIONS

1. The offer and acceptance of orders shall only be effected on the basis of the terms and conditions outlined below, which will at the latest be deemed to have been acknowledged upon receipt of our order confirmation.
2. The terms and conditions of purchase or any other general terms and conditions of business of the purchaser shall not form part of this legal transaction and shall not be accepted by us. The latter shall also apply to those parts of the terms and conditions of purchase or any other general terms and conditions of business of the purchaser which are not in conflict with our general terms and conditions of business or individual contractual provisions.
3. Notwithstanding clause 1/2, any general terms and conditions of business of the purchaser of any kind shall only apply if the latter have expressly been accepted by us in writing.
4. Should a provision of this agreement be or become invalid or unenforceable, in whole or in part, or should a gap be found in this agreement, the legal validity of the remaining provisions shall not be affected thereby. In lieu of the invalid or unenforceable provisions, or in order to fill in the gap, an appropriate provision is to be agreed upon which comes closest to what the parties intended or would have intended, in line with the meaning and purpose of the agreement, had they considered the issue.
5. It shall not be possible to offset our claims with counterclaims of any kind at any time.
6. Claims against us may not be assigned to third parties without our express written consent.

II. OFFERS AND CONCLUDING AGREEMENTS

1. All our offers are non-binding and subject to change without notice.
2. Agreements shall only be concluded through our written order confirmation. Verbal promises shall always be non-binding. No liability may be derived from them.
3. Any other provisions agreed or subsidiary agreements entered into, including ones entered into at a later date, shall only become legally valid upon our written confirmation.

III. PRICES

1. The prices valid on the day of delivery shall be the ones applied at the time of invoicing.
2. Unless otherwise agreed, the prices shall be deemed ex works free on truck, while being exclusive of any packaging and loading material.

IV. EXECUTION OF THE DELIVERY

1. Any delivery deadline confirmed by us shall not commence prior to sorting out any technical and other details pertaining to the order. Any delivery dates confirmed shall be adhered to if possible, however shall only be tentative, unless a fixed date has expressly been agreed in writing. Partial deliveries shall be permissible, unless the purchaser is unreasonably burdened by them. Disruptions to business and Acts of God shall — subject to exclusion of any damage claims — entitle us to extend the deadlines or void our obligation to deliver.
2. Delivery shall be ex works free on truck.
3. The goods shall be transported on the account and at the risk of the purchaser, also in the case of partial deliveries. This also applies if carriage paid delivery has been agreed. Freight charges shall not be advanced. The goods shall only be insured on the account of and at the express order of the purchaser. Upon the goods being handed over to the purchaser or its agent, the risk shall pass to the purchaser.
4. Notwithstanding any agreement reached on the place of delivery and the bearing of any transport charges, Altheim is agreed as the place of fulfilment.

V. NOTIFICATION OF DEFECTS

1. Defects are to be asserted by the purchaser as soon as possible within a reasonable period of time, which is generally not to exceed 8 days, however shall not entitle the purchaser to retain amounts invoiced. Any defects which are only discernible after taking up use of the item shall only be accepted if the complaint is asserted in writing without delay after ascertaining the defects, however at the latest within 3 months of receipt of the delivery. Should the purchaser not provide us with samples of the delivery complained about upon request, any claims for defects shall lapse. In the case of justified complaints, either a replacement that is free of defects will be supplied or the item(s) will be taken back and the price of any defective goods credited, at our option.
2. Should the items or parts thereof affected by defects have been processed, processed further or mixed with other items by anyone without our consent, the warranty claims shall lapse.
3. The existence of a defect is always to be proven by the contractual partner. The statutory assumption period contained in Sec. 924 Austrian Civil Code (*ABGB*) is excluded by agreement between the parties.
4. The right of recourse under Sec. 933b Austrian Civil Code (*ABGB*) shall become statute-barred one year from taking delivery of the item. For one year as from taking delivery of the item, we provide our contractual partner with a warranty, and the warranty right may be asserted judicially within this period within the meaning of Sec. 933 Austrian Civil Code (*ABGB*).
5. Only those properties which have expressly been warranted by us in writing shall be deemed assured. In the case of items manufactured based on construction details, drawings, models or other specifications of our contractual partner (choice of material, etc.), our liability shall not extend to the accuracy of the construction and the specifications established, but only to the work being carried out in accordance with the specifications stipulated by our contractual partner or in line with the usual technical standards and within the customary tolerances.
6. In regard to notes on execution and material specifications that have been provided to us in the case of the order being executed as per the contractual partner's specifications, we do not accept any liability. We are not obligated to inspect suitability or accuracy. In the event of any modifications or conversions or the sale of used goods or in the eventuality of taking on repair orders, we do not provide a warranty.
7. Our plans, products, statistical calculations, delivery notes, etc. are to be carefully reviewed by our contractual partner without delay upon receipt. They shall be deemed authorised if they are not opposed within ten days of receipt of such documents.
8. In the event of payment arrears on the part of the contractual partner, we shall no longer be obliged to provide a warranty for the defective goods.
9. The warranty period shall not be extended, suspended or interrupted as a result of remedying any defects.
10. Only if we expressly refuse to remedy the defect shall the purchaser be entitled to have the defect remedied by another company. No other warranty claims shall exist, in regard to which any claims arising from compensation for damage in lieu of a warranty benefit are, in this respect, also excluded.

VI. LIABILITY AND COMPENSATION FOR DAMAGE

1. Our liability for claims to compensation for damage, warranty benefits, lost profits or any other claims, regardless of on what legal title they are based, shall essentially be limited to gross negligence and the amount to the value of the delivery of goods. This also applies in the case of loss of or damage to drawings, samples, etc. provided.
2. Liability for slight negligence will also be assumed in the case of personal injury. No liability shall be assumed in regard to personal injury or damage to property which is not the subject of the agreement or other economic or indirect consequential damage, such as may arise from the malfunction of the product supplied.
3. Damage claims in regard to the subject of the agreement shall be excluded unless we have previously been requested to remedy the defect, with an appropriate grace period being set to do so.
4. We would like to expressly draw your attention to the fact that assembly, installation or other handling regulations need to be adhered to. No liability whatsoever shall be accepted for damage of any kind due to subjecting the item to excessive strain or improper handling.

VII. RESERVATION OF OWNERSHIP

1. Our goods shall remain our property until such time as all our receivables have been paid, regardless of on what legal grounds (even if arising from previous rentals). In the case of a current account, the ownership retained in the delivered item shall be deemed a security interest for the amount owed to us. The enforcement of the surrender of the goods and the security interest shall not be deemed withdrawal from the contract, and shall not have the effect of voiding the purchaser's obligations, in particular to pay the purchase price.
2. While ownership is reserved, any disposal of the goods, pledging, assigning by way of security or any other disposal of the item purchased to third parties shall not be permissible. The purchaser is to inform us without delay of any even only impending levy of execution or any other, even only pending, impairment of ownership by a third party.
3. The purchaser shall be obliged to bear the costs of any measures to remedy the intervention, in particular the costs of intervention proceedings, unless such can be collected from the opponent.
4. The purchaser shall be obliged, while ownership is reserved, to treat the item purchased with care, and arrange for any maintenance procedures necessary, at its own expense.
5. Should the purchaser, contrary to clause 2, dispose of the delivery item, its claims against its customers, along with all acceptance rights, up to the amount of our claims against it are to be assigned to us in advance, by way of security.
6. Should the purchaser not comply with its obligations, or should it cease to make payments, the entire residual debt shall be due for payment, also in so far as bills of exchange with a later maturity are outstanding. In such a case, we shall be entitled to request immediate surrender of the item purchased, subject to exclusion of any right of retention. After taking over the item purchased, we shall, at our discretion, be free to either sell the item purchased in the best way possible and credit the purchaser for its remaining obligations or take back the item purchased at the price invoiced and charge the purchaser a rent for the item supplied for the period of its possession, at the usual rental price.

VIII. INTELLECTUAL PROPERTY RIGHTS

1. Any plans, sketches, technical documentation, etc. prepared by us within the scope of fulfilling the agreement shall remain our exclusive intellectual property. The contracting partner shall not acquire any rights of any kind in the latter, such as rights to use the work or rights of exploitation.
2. Any use action shall require prior written consent.
3. Should deliveries be made in accordance with drawings or any other details supplied by the contractual partner, the latter warrants that no rights of third parties have been infringed, and, in this respect, exempts us from any liability.

IX. CONFIDENTIALITY

The contracting parties agree to treat any confidential information of which they may become aware when executing this agreement, as well as any internal procedures carried out during the period of the contractual relationship not intended to be publicised, confidentially, also once this agreement has been terminated, and to neither exploit such nor make it accessible to third parties, or to impose the obligation to keep such information confidential upon the latter.

X. PAYMENT TERMS

1. Our invoices are payable immediately upon receipt, net without deducting any cash discount or making any other deductions. Once payments become overdue, arrears interest shall be charged in the amount of one per cent per month of default.
2. Bills of exchange shall only be accepted upon special agreement, and charging the usual discount and bank charges, in regard to which such costs shall always be due for payment immediately in cash. The bills of exchange shall only be accepted if they are discounted by our banks. Such payments shall only be deemed to have been made once the bills of exchange are honoured.
3. Should a significant impairment in the purchaser's financial circumstances occur once the agreement has been concluded, or should circumstances become known that may reduce the purchaser's creditworthiness, all claims shall be due for payment immediately. In such a case, any further deliveries shall only be made in return for advance payment. In addition, we may prohibit the goods supplied subject to reservation of ownership from being sold on, or request their surrender or the transfer of indirect possession immediately, at the purchaser's expense. Agents shall not be authorised to accept payments unless they hold a special financial power of attorney to receive funds.

XI. PLACE OF JURISDICTION AND APPLICABLE LAW

In regard to any disputes arising from this agreement, Austrian law shall apply, in regard to which, however, the applicability of the 1980 Vienna Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded. Any disputes shall be subject to the exclusive jurisdiction of the courts having jurisdiction over the subject matter in *Ried im Innkreis*, in regard to which WIEHAG shall, however, also be entitled to file an action with other courts.

XII. INFORMATION ON THE DATA PRIVACY ACT

In line with Sec. 22 Austrian Data Privacy Act, we are informing you that we store and process personal details on our data processing equipment. The type of data and the purpose of the processing is exclusively determined by the necessity of implementing our terms and conditions of business. Data may only be transmitted in the case of statutory obligations and in order to handle payment transactions. Any other type of data transmission shall require your consent.