



General terms and conditions of purchase of INNOWELD-Metallverarbeitung Gesellschaft m.b.H.

1. 1. Scope of application and exclusive validity

a) Unless we declare otherwise in writing, for all contracts that we conclude as purchaser or principal, the following general terms and conditions of purchase alone are valid.

b) Any provisions that deviate from these terms and conditions, in particular the conditions of purchase and business of contractual parties, are only valid if they have been expressly confirmed in writing before the contract is concluded. We are not obliged to contradict the contract forms or terms and conditions of business of contractual partners, even if the validity of the same is cited as an express condition of conclusion of the business in said conditions of purchase and business.

c) Acceptance of the order qualifies as acknowledgement of the general terms and conditions of purchase. The general terms and conditions of purchase are available at any time through our online presence <http://www.innoweld.at/general-terms-and-conditions> . If specifically requested, they will also be delivered to the business partners. These general terms and conditions of purchase are applicable both for the present business and for all future business deals, unless otherwise expressly agreed in writing.

2. Data Protection

We herewith inform that we process personal data in accordance with DSGVO Art. 6 para. (1) lit b for fulfillment of contracts or pre-contractual actions and transmit them to third parties commissioned by us to carry out the order, as far as this is necessary for the fulfillment of the contract.

3. Order documents

The drawings, plans, blueprints, data, samples, models and specimens attached to our enquiries or orders remain our property and may not be used for other purposes without our written authorisation. They must be returned to us unsolicited with the offers or after the order has been carried out. Our order, and any information and documents relating to it, is a trade secret and may not be passed on to third parties, or used for purposes other than for carrying out the order. Use of our enquiries or orders for advertising purposes is not permitted.

4. Conclusion of the contract

a) We do not pay any remuneration for the elaboration of offers and offer documents (plans, calculations, technical specifications etc.). By accepting our order, the acceptors declare that they have all of the necessary information, data, descriptions, plans, technical specifications and sufficient knowledge of local circumstances at their disposal to fulfil the order, as well as all of the necessary skills and official permits. Moreover, when a works contract is awarded, the contractual partner undertakes to carry out a comprehensive suitability check of the plans and building or assembly site provided at its own expense. This also includes the obligation to investigate, if need be, for any hidden flaws that may be present. If the partner does not have the necessary expertise, it must bring in experts at its own expense. Furthermore, for works contracts the contractual partner undertakes to declare to us the costs saved in the event of failure to carry out the work. In this regard, said partner renounces the possibility of invoking trade or business secrets.

b) Only orders expressly described as such and issued in writing are legally binding.

5. Term of acceptance

Our order must be accepted within the established term. If no term is set, immediate acceptance alone is considered to be timely. The term for the acceptance is to be determined by reception thereof by us, even if dispatch of the acceptance has been notified in a timely manner. We are entitled to declare belated acceptance as within the correct term. Until our order is accepted, we are entitled to withdraw it at any time.

6. Delivery

a) Delivery is at the expense and risk of the contractual partner, and is made free to us at the indicated destination, or if one is not designated, free to our domicile. The agreed price includes all costs of packaging, shipping, transport and insurance. If a special fee is agreed upon for packaging, we are entitled to return it to the contractual partner freight collect, deducting the full fee.

b) If the agreed delivery includes execution of work or delivery with assembly, all associated costs are included in the agreed payment, including trial operation, and in particular also included are travel and accommodation expenses of fitters, supply of the necessary devices, machines and tools, required energy, safety measures and insurance. If the contractual partner makes use of our personnel or installations in order to fulfil its liability, the production rates for this as calculated by us for end users are payable immediately after invoicing.

c) For transactions involving shipping, freight and intermediate storage, our contractual partner is liable for all pecuniary damages caused to us in accordance with the provisions of the Austrian General Civil Code. There is no restriction of this liability as a result of general shipping, freight and intermediate storage conditions or commercial practice. This applies both to the reason, the amount and the lapsing of our claim for damages.

d) Provided this is deemed appropriate or is customary for the contractual partner, we reserve the right to make changes to the service even after the conclusion of the contract. In this case the remuneration agreed upon with the contractual partner automatically changes in accordance with the additional or saved expenditure of the contractual partner.

7. Delivery dates and delays in delivery

a) The agreed delivery periods and dates are binding. Delivery periods commence as from receipt of the order. Deliveries are due on the agreed delivery dates / times; even if, for contract work, the total material to be provided by us was not delivered at the outset and it was impossible to begin the work as a result. The date of receipt of goods by us, and for services the day on which the work is completed, determine fulfilment of the delivery term or delivery period. If no delivery period or term is agreed upon, delivery is due three working days after conclusion of the contract.

b) The contractual partner is obliged to inform us without delay and in writing if the delivery term cannot be kept, stating reasons and the foreseeable duration of the necessary delay, as soon as it becomes aware that it cannot comply with the delivery term.

c) If our contractual partner entirely or partially defaults on fulfilment of its obligation, we may insist on fulfilment or withdraw from the contract without setting an extended deadline. In cases of partial fulfilment we are also entitled to declare withdrawal regarding all of the services delivered under the contract. In all cases, we are entitled to claim compensation for damages including for loss of profit.

d) In addition, notwithstanding our claims in accordance with point 6.c), we are entitled to demand a contractual penalty of 1% per day of delay, albeit up to a maximum total of 50% of the total contract value of the delivery, as from the time when delay in delivery commences. The right to assert actual damages that have arisen (point 6.c) is reserved, and they may not be offset against the contractual penalty. Moreover our payment deadline increases by 4 weeks for every week's delay that commences.

8. Acceptance

a) We are entitled to complete delivery or execution of the work or ready-to-operate assembly and have a right to reject partial deliveries or partially-completed work.

b) A delivery or service is only deemed to have been fulfilled when all of the documents agreed upon or customarily provided (invoices, freight documents, certificates of origin, letters of guarantee, technical documentation, operating instructions, etc.) have been delivered.

c) Deliveries are accepted at the agreed destination, and if no such destination is established, at our domicile. If our contractual partner has been informed that the costs of the object of the service have been passed on, we are entitled to accept said object only at its final destination. In case of doubt, deliveries are accepted only with the initial start-up of the object of service. Trial operation does not qualify as start-up.

d) Our contractual party shall assume the risk until acceptance of the object is completed. Issue of confirmation of delivery is only valid as confirmation of entry of the goods, but not as confirmation of the proper fulfilment.

9. Verification

The quantitative or qualitative verification of the delivery or service takes place only after acceptance, even if we have already confirmed entry or made payment. If indications of defects are revealed which cannot be sufficiently verified or ascertained in the normal course of business, we are entitled to arrange for examination by experts at the expense of the contractual partner. The contractual partner undertakes to indemnify and hold us harmless with regard to the claims for fees of experts brought in for this purpose.

10. Guarantee

a) We shall inform the contractual partner of defects in writing and without unnecessary delay as soon as they are detected in the due course of business. The contractual partner waives the right to object due to late notification of defects. Application of §§ 377, 378 of the Austrian Commercial Code (UGB) is therefore excluded. Confirmation of receipt does not constitute acknowledgement of absence of defects of the goods. In the event that evidence of defects is revealed during random sampling, we are entitled to guarantee rights for the entire delivery.

b) In all cases we are entitled to choose between rectification and replacement. If rectification is chosen, after an unsuccessful first attempt, rectification shall be considered to have failed.

c) The guarantee period shall begin upon complete and flawless completion of service after conclusion of checks in accordance with point 8. In addition, the legal provisions shall apply to the guarantee, whereby the guarantee period is always four years. This shall apply with the proviso that the guarantee period, in the event of the delivered goods being sold on or used for manufacturing of our products, shall only begin at the point when the guarantee period of our product, supplied using the goods, commences vis-a-vis our customer.

d) In the event of incomplete or faulty fulfilment, the period begins only upon endorsement of the absent or successful, complete and verified corrective action.

e) If the contractual partner culpably fails to fulfil its obligation to rectify within a reasonable period stipulated by us, if the supplementary performance is wrongly refused us by the contractual party, or if it is abortive or unreasonable for us (at all events when there is imminent danger), we are entitled to undertake the necessary measures ourselves at the expense and risk of the contractual partner, or have them undertaken by third parties, without detriment to the warranty obligations of the contractual partner. In particular danger is imminent when endorsement of the lacking element or corrective action for fulfilment of our legal or contractual duties towards third parties must take place immediately.

11. Limitation period / liability

The legal regulations apply. A reduction of the limitation period is excluded and ineffective. The same applies to exclusion of liability and / or limitation of liability of any kind.

12. Trade mark rights

a) The contractual partner declares that the work or goods are neither fully nor partially the property of third parties and that there are no liens on goods or work. The contractual partner guarantees that we can unrestrictedly process, use and divest ourselves of the goods or work without infringing on third-party intellectual property rights (copyright, industrial property rights, brand rights, design rights, name rights, licensing rights).

b) The contractual partner undertakes to indemnify and hold us and our contractual partners harmless regarding claims resulting from such intellectual property rights.

c) We are entitled to obtain authorisation for use of the delivery objects and services concerned from authorised proxies at the expense of the contractual partner, unless this would entail disproportionate costs for the contractual partner.

13. Compensation for damages

In the event that we have a claim to compensation for damages, said claim includes all detriments caused by the actions for which we are liable to pay compensation to third parties.

14. Legal and technical rules

Our contractual partner declares that in accordance with all relevant legal regulations and official requirements, it is competent to perform the service that is the object of the contract professionally. It guarantees that the service it is to provide corresponds to all relevant national and international regulations, official requirements and technical norms. Both delivery notes and invoices must contain our complete order details (in particular order number and reference).

15. Billing

In domestic transactions both invoice and delivery note must be sent to us in duplicate. In customizable shipments, two copies of the invoice must be sent and a movement certificate attached, and a note made on the parcel registration card or bill of consignment. The original invoice must be sent in duplicate to our business address in Mürzzuschlag-Hönigsberg.

16. Payment

a) The price indicated in the order is binding. The agreed remuneration is payable after full, flawless completion of the service. The term of payment is 60 days after successful verification in accordance with point 8. If payment is made within two weeks after successful verification in accordance with point 8, a 3% discount is considered as having been agreed upon. Payment must be made in Austrian currency in the customary manner (money order, bank transfer, cheque, bill of exchange). The day of payment is the day the money order or bank transfer is made, or the cheque or money order is dispatched. All money transfer costs are payable by the recipient. The latter also accepts the risk for delay in the transferred payment.

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b) We are entitled to retain payment for as long as we have unsatisfied claims concerning guarantee or damages or on account of unjust enrichment with regard to the object of delivery or even to a somewhat different object. For the same reason we are entitled to retain agreed payments on account that are due until the contractual service is provided in full; and also when there is a fear that our contractual partner is not in a position to fulfil the contract. Such a retention shall not be associated to any loss of reductions, discounts or similar payment benefits. Any more favourable rights on our side in accordance with § 369 of the Austrian Commercial Code (UGB) remain unaffected by this point.

c) We are entitled to offset claims we have against the contractual partner for any reason against said partner's demand for payment, at any time.

The contractual partner is not entitled to offset its claims against our demands, whatever the reason.

17. Subrogation

Subrogation of the contractual partner's claims against us is only effective if we are informed of said subrogation in writing in advance and we have given our written agreement thereto.

18. Place of fulfilment

The place of fulfilment of the delivery or service is the agreed destination, and in case of doubt, our place of business in Mürzzuschlag-Hönigsberg; the place of fulfilment of the payment is Mürzzuschlag-Hönigsberg.

19. Final provisions

- a) The contractual partner may not transfer the order or parts of the order to third parties without prior written consent from us. The engagement of subcontractors requires our express consent.
- b) If insolvency proceedings are initiated against the contractual partner, or initiation is halted due to lack of assets, we are entitled to fully or partially withdraw from the contract.

20. Law and jurisdiction; severability clause

- a) Austrian substantive law is applicable to the contractual relationship and to claims directly or indirectly related to it, excluding its conflict of law norms and the UN Convention on Contracts for the International Sale of Goods.
- b) For all disputes between us and the contractual partner arising directly or indirectly from this contract and all subsequent contracts, it is agreed that the court with subject matter jurisdiction for A-8680 Mürzzuschlag is competent. The contractual partner confirms the conclusion of a verbal choice-of-forum clause through this content.
- c) If any individual clauses of these general terms and conditions of purchase prove to be ineffective, the effectiveness of the remaining provisions shall not be affected by this. The contractual parties undertake to replace the ineffective provision by agreeing on another one which comes as close as possible to the legal and economic purpose of the ineffective provision.