

## General terms and conditions of delivery

### 1. Contract terms and conditions and applicable law

- a Our written order confirmation and these general terms and conditions of delivery are applicable to the contracts without exception. Other terms and conditions or verbal agreements require our specific written acknowledgment. The acceptance of the goods supplied is valid as recognition of our terms and conditions.
- b For all legal relationships with us, the law of the Republic of Austria applies; the application of the United Nations Convention on contracts for the international sale of goods, of 11/04/1980 is not permissible.

### 2. Price, payment and security

- a The offers mentioned by us are not binding. All taxes due on our deliveries in the country of receipt and other duties, are the responsibility of the customer. Where there is a significant change in our processing costs, we may make a reasonable price adaptations.
- b Payment must be made promptly net cash. We only give discounts by arrangement. Payment and discount terms run from the invoice date, and for deliveries abroad from the handover of the goods; the day of receipt of payment is applicable for maintaining terms. Non-cash payments will be accepted conditionally; costs and expenses are the responsibility of the customer, with the exception of discount prices up to the due date of the invoice. We only accept exchange by special arrangement. We may determine to which of our accounts incoming payments are made.
- c We are entitled assign our accounts to banks for financing purposes.
- d For late payments, we are entitled to charge interest at the rate of 8% p.a. above the EUROBOR interest rate in place at the time.
- e Offsets and retentions are only permitted if the counter-claim of the customer is determined by law or is uncontested.
- f If the execution of the contract is threatened by lack of performance by the customer, where there is commercial credit insurance for cancellation of credit, we may refuse the service incumbent upon us, and furthermore revoke all terms of payment granted as well as demanding prepayment as security.  
We also have the right to withdraw from the contract. If the customer falls behind with payments, we are entitled to take back the goods and to enter the customer's premises to do so. We may also prohibit resale, reprocessing and removal of the goods supplied.

### 3. Metals business

If the buyer is granted the opportunity to set the price of metal within a specified period, and if the buyer does not exercise this right in the time period, then the metal price for the last day of this period applies. Prices may only be set up to 11.30 CET at the price on the day the price is set. The type of metal price setting is defined in the contract and may not be changed. Metal price setting is usually carried out on the known LME stock exchange with a defined additional charge. If an increase in the stock exchange price occurs on the known stock exchange on the day following the price setting, then the price setting rules published on the Internet at [www.buntmetall.at](http://www.buntmetall.at) apply. Set metal prices cannot be altered subsequently.

### 4. Service transactions

Metal backing for service transaction contracts must be placed in the metal account at the latest six weeks before the shipping date.

**5. Risk, shipping, trading clauses and public standards**

- a Any risk– including for carriage paid despatch and for collection by the customer – reverts to the customer once the goods have left our despatch area.
- b Where collection is delayed from our despatch area, and where this is caused by the customer, the transfer of risk is made with notification of the preparation for despatch.
- c The customer may not reject partial or advance deliveries.  
We determine the forwarder, carrier and method of shipping for despatch.
- d For all trading clauses INCOTERMS 2000 apply.
- e For national and international standards detailed in the order text, in the absence of any other arrangement, the version of the standard at that time is to be used.

**6. Delivery time, prevention of delivery or delay**

- a Delivery terms and schedules only describe the approximate delivery time from the factory or warehouse and refer only to the schedules or terms confirmed by us in writing.
- b Our obligation to deliver is on the condition of timely and correct supply to us, unless the delivery not made on time, the delayed delivery or a non-delivery is our fault.
- c If the delivery is delayed by a force majeure, then the delivery time will be reasonably extended in line with the circumstances. This provision applies irrespective of whether the reason for the delay occurs before the agreed delivery period or at a time whereby the contract partner affected experiences a delay. Along with forces majeures there may also be interruptions to operations, manufacturing failures, procurement difficulties, industrial disputes and other circumstances which cause us difficulties with deliveries.
- d In any case, we are only delayed if, after the due date, we do not give written notification to the customer of the reasons within a reasonable subsequent period. A precondition is also that the customer themselves is not delayed in fulfilling an obligation with regard to the business relationship. If our delay is due to slight negligence, we have no obligation to pay compensation, unless this involves damage to life, limb or health. Alternatively, in the event of slight negligence, we limit our liability with regard to delays to typically foreseeable damages.

**7. Weight, number of items, dimensions, condition, alloys and variations**

- a Variation from our details in weight, number of items or specification for the goods supplied, or in the delivery note or invoice, must be proven by the customer.
- b According to the type of products, we may make delivery over or under the agreed weights or number of items by up to 10%. For the prescribed values, the tolerances of each agreed standard apply, or otherwise the usual variations permissible in the industry. References to standards, materials sheets, factory check certificates, etc. are no guarantee of the quality of the goods.

**8. Title retention**

- a The goods remain our property up to the final fulfilment of all current and future claims within the business relationship with the customer.
- b When the customer is processing our goods, we count as the manufacturer, without any obligations arising for us, and we acquire ownership of the goods being produced. If processing is undertaken along with other materials, we acquire co-ownership relative to the invoice value of our goods in proportion to the other materials.  
If in the event of the combining or mixing of our goods with an item of the buyer's this is seen as the main item, and co-ownership of the item is worked out in proportion to the invoiced value of our goods – or in the absence of such – on the market value of the main item. The customer counts as the customer in this event.
- c All claims to the sale of goods to which ownership rights apply, are assigned to us as surety by the customer in the scope of our share of ownership of the sold goods.

- d The customer is entitled to follow the normal course of business with regard to the goods in our ownership, and to collect the claims assigned, provided that they effect obligations to us within the business relationship on time – particularly with regard to payment terms and conditions – and any risk to our reserved rights or ownership are precluded.  
Otherwise we are entitled to extend the temporary surrender of the goods in our possession at the customer's cost, and also without exercising withdrawal and without a period of grace. At our request, the customer must give us access to the inventory and allow us appropriation of our goods. Besides this we are entitled to revoke the right to collect the debt.
- e At our request, the customer must give us all required information on the condition of the goods in our possession and on the existing claims assigned to us, as well as ensuring that their customers know of the transfer.
- f If the value of the securities exceeds our claims by more than 20%, then we will release securities of our choice on the request of the customer.

## **9. Guarantee**

- a The goods must be examined immediately. Material defects, incorrect deliveries and short deliveries must be notified in writing straight away, insofar as these can be identified via reasonable inspection. Should defects not recognised at the first inspection arise later, then these must be notified in writing straight away following the discovery – with immediate termination of any processing or machining.
- b Should the customer omit to show these on time, then the goods count as accepted. The same applies if the customer does not allow us a proper check of the defects immediately after our request.  
Where the customer machines or processes the goods, we may therefore assume that the goods are suitable for use by the customer.
- c Where there are considerable material defects and defects in title, we are also entitled to the legal provisions as follows:  
We are entitled to two attempts at rectification. Should it transpire that due to the type or defect of the item or other circumstances, the reworking still proves faulty, and if it is in the interest of the customer, we are entitled to rework further. If the reworking fails, the contract partner is entitled to make reductions or to withdraw from the contract.
- d Where faults are rectified within the framework of the guarantee, the original guarantee period is not extended.
- e The customer may not derive any rights with regard to other partial deliveries from faulty partial deliveries.

## **10. Technical advice and guarantee**

- a Technical advice is given to the best of our knowledge and ability. However, it is non-binding and does not release the customer from carrying out their own checks and tests. The customer is responsible for adhering to legal and official guidelines for the use of our goods.
- b Details on scope of delivery, dimensions, weights, materials, appearance and performance serve to describe the delivery items and are not guarantees of the condition or manufacturability.  
Assumption of guarantee must be made expressly and in writing to be effective in law. If the goods are missing such a guaranteed characteristic at the time of transfer of risk, we will rectify the fault, or deliver replacements postage paid to the original receiving site against return of the faulty goods weight for weight, or take back the goods and repay if payment has already been made – as the customer chooses..

## **11. General limitation of liability**

- a If our obligation to give compensation is based only on a slightly negligent breach of important contract obligations, we limit our compensation liability to those of our legal representatives or agents to foreseeable damage typical for the contract, unless it is a case of damage to life, limb or health.

- b If our obligation to give compensation is based only on a slightly negligent breach of insignificant subsidiary obligations, we do not assume liability for our legal representatives or agents, unless it is a case of damage to life, limb or health.
- c In all other cases of liability for compensation based on negligent breach of obligations, irrespective of the legal basis, our liability is limited to compensation for foreseeable damage that is typical for the contract.
- d Alternatively, we do not assume responsibility for compensation liability for our legal representatives or agents, insofar as a slightly negligent breach of a contractual obligation applies, which is in no way a risk to the purpose of the contract, unless it is a case of damage to life, limb or health.
- e These provisions do not apply to claims according to product liability law.
- f If a claim is made against us for compensation for product liability according to § 1295 ABGB, our liability is limited up to and beyond these provisions to include the additional services of our liability insurer. The sum insured is agreed in accordance with the damage, contract and materials. Insofar as the insurance company does not intervene or does not intervene completely, our liability remains unaffected, limited to the amount of the sum insured. If the sum insured is not agreed in accordance with the damage, contract and materials, in these cases our liability is limited to the typical amount for damage, contract or materials.
- g The customer is obliged to take steps so that any other damage is avoided, immediately after discovery of a defect. In notifying the defects, the customer must calculate the amount of damages expected. Immediately after circumstances arise that may affect the amount of damage, the customer must notify us of this in writing. If the customer omits to do so, we are not liable to pay for actual loss beyond this amount.

**12. Period of limitation**

All guarantee and compensation claims – irrespective of their legal basis – are limited to 6 months from the delivery or service, with arrangements for a longer guarantee period once this expires.

**13. Trade mark rights, rights to tools**

- a If the trade mark rights of third parties are breached for deliveries based on drawings or other details from the customer, the customer releases us from all claims.
- b The customer does not acquire any rights to the tools themselves through complete or partial compensation for the cost of tools.

**14. Place of fulfilment, place of jurisdiction**

- a The place of fulfilment for deliveries is the head office of our relevant supplying factory. The place of fulfilment for payment is our company head office.
- b If the customer is a registered trader, the place of jurisdiction is St. Pölten.