

General Purchasing Conditions

1. GENERAL POINTS

All legal relations between the Supplier and the company Fuchs Metalltechnik GmbH, hereinafter referred to as Purchaser, are based upon these conditions. Modifications and additions must be made in written form. Any implied deviation from the agreed written form is mutually excluded. Other general business conditions do not apply even if they are not explicitly rejected in an individual case.

2. ORDER(S)

Contracts for delivery (order and acceptance) and any changes or additions to these must be made in writing. Call-off orders within a framework contract can also be placed via telecommunication.

3. ORDER CONFIRMATION

All orders issued by the Purchaser require written confirmation by the Supplier. If no acceptance is made within 14 calendar days, the Purchaser is no longer bound by its offer to buy and the Supplier cannot assert any claims against the Purchaser in respect of the withdrawal of the offer to buy. Modifications and additions undertaken in this confirmation, in respect of the content of the order, are deemed not made as long as they are not confirmed in writing by the Purchaser.

4. PARTIAL DELIVERIES, UNDER AND OVER DELIVERY

Partial deliveries do not represent fulfilment unless the Purchaser approves this. In the case of under delivery of a maximum of 5% the missing rest of the delivery is deemed cancelled. We retain the right to return over deliveries at the expense of the Supplier.

5. DELIVERY DATE

The Supplier is obliged to comply with the agreed delivery date. As soon as delays are seen to be likely for the Supplier, he must report this giving the reasons and the foreseeable duration of the delay. If the agreed dates, regardless of the reasons, are not complied with by the Supplier then the Purchaser is entitled, regardless of more extensive legal claims, at its own discretion to rescind the contract and procure substitution from a third party and/or to receive compensation for non-fulfilment. The setting of an additional time limit with a warning of refusal is not required. All additional costs incurred as a result of late deliveries and services must be reimbursed by the Supplier. The acceptance of the late delivery or services does not constitute a waiver of substitution claims. In the case of repeated default on delivery dates the Purchaser is entitled to rescind the contract even if the Supplier was not responsible for the default. If the Supplier is in default with the delivery the Purchaser is entitled to claim 0.5% of the delivery value for each commenced week of the delay, but at most 5%, as a contractual penalty. This can also be asserted until the final invoice, even if the Purchaser has not expressly reserved the right to do so upon acceptance of the late delivery. The right to assert more extensive damage claims is reserved. Deliveries before the agreed date are only permissible with the consent of the Purchaser. We retain the right to return goods sent early or to defer payment of the relevant invoice.

6. INVOICING

The invoice must correspond to the order and contain the order number, order date and recipient and the other details necessary for proper tax law invoicing. If these details are not contained in the invoice then the invoice will under no circumstances become due and the Supplier in any case waives the assertion of default interest.

7. INDICATIONS FOR DELIVERY NOTES, INVOICES, ETC.

All documents (order confirmation, delivery note, invoice) must state our order number and the order date.

8. PAYMENT

The Purchaser shall pay after receipt of the invoice at his own discretion either within 30 days without deduction, or within 14 days deducting 3% discount, provided no other agreement has been concluded in writing. Authorisations to deduct discounts for partial invoices remain valid, provided in the case of individual partial invoices or final invoices no discount is deducted. All payments are made with tacit retention of all rights due to, for instance, hidden defects which only become recognisable when the goods are processed or utilised.

9. CONFIDENTIALITY

The Supplier is obliged to treat as corporate secrets all non-public business and technical details of which he becomes aware through the business relationship. Drawings, models, tools, samples and other objects may not be surrendered to third parties or otherwise made available. The replication of such objects and data is only permitted within the scope of business requirements and copyright regulations. Sub-suppliers must be placed under a corresponding obligation. The Supplier may only indicate his business relations with the Purchaser if the Purchaser has expressly consented to this in writing. This regulation also continues to apply after the ending of the contractual relations.

10. FORCE MAJEURE

Acts of God, industrial disputes, unrest, official measures and other unforeseeable, unavoidable and serious events do not release the Supplier from his performance obligations. The Supplier must take responsibility for the consequences of the performance default even in these cases.

11. WARRANTY

The obligation to examine the goods and report defects commences in all cases only when the goods have been received by the Purchaser. This point in time is also decisive even if the goods were already previously in the custody or ownership of the Purchaser, or handed over to a removal firm, freight forwarder or another party commissioned by the Purchaser. For the obligation to examine the goods and report obvious defects, the Purchaser is granted a two week period from receipt of the goods and it is established that reports of defects within two weeks shall always be deemed made in good time. For hidden defects it is also deemed that reports made within two weeks of becoming aware of the defect are to be considered made in good time. In all other respects the Supplier guarantees for the goods he supplies for a period of one year from commissioning or utilisation, but at most for two years after passing of risks, if applicable after the elimination of reported defects even without timely notification, that the goods have no defects detrimental to utilisation or operation and that they have the contractually guaranteed characteristics. The Purchaser has the right to demand remedy of defects if the item supplied is defective or is without a guaranteed characteristic. If the Supplier is in default of his rectification duty then the Purchaser may correct the defects itself or have this done by third parties at the expense of the Supplier. If efforts to rectify the defects are unsuccessful then the Purchaser has the right at its own discretion to either withdraw from the contract (rescission) or to reduce the contractual consideration (price reduction) or to assert damage claims.

12. LIABILITY

The Supplier must take responsibility for all liabilities within the scope of the Austrian Product Liability Act (PHG) and is obliged to reimburse the damage incurred by the Purchaser directly or indirectly as a result of defective delivery, the violation of official safety regulations or any other legal reasons for which the Supplier is to be deemed responsible. If claims are made against the Purchaser for such damage to third parties, the Supplier shall take responsibility for the Purchaser, as he would be liable directly. Upon request the Supplier shall present us with evidence of corresponding insurance.

13. PATENT INFRINGEMENT/PROPRIETARY RIGHTS

The Supplier guarantees that the Purchaser is not violating existing proprietary rights of third parties through its use of the goods provided by the Supplier. The Supplier is explicitly obliged to indemnify the Purchaser against any claims arising in this respect from third parties and reimburse the Purchaser all damages incurred. The Purchaser is entitled at the expense of the Supplier to obtain authorisation to utilise the relevant delivery items and services from the entitled persons.

14. PLACE OF FULFILMENT AND JURISDICTION

Place of fulfilment for delivery and payment is A-3341 Ybbsitz in Austria, for disputes the general place of jurisdiction resulting from the seat of the Purchaser in line with Austrian Code of Civil Procedure (ZPO) applies. Austrian law applies exclusively. The validity and the provisions of the UN Convention on Contracts on the International Sale of Goods is mutually excluded and has no validity.

15. INSOLVENCY, SEVERABILITY CLAUSE

Should a contractual partner cease payments, or if an application is filed for a bankruptcy or settlement procedure in respect of this partner's assets then the other party is entitled to rescind the non-fulfilled part of the contract. Should a provision of these regulations and the other agreements affected be or become invalid then this shall not affect the validity of the remainder of the contract. The contracting parties are obliged to substitute the invalid provision with one which comes as close as possible to achieving the economic success of the original.