

Terms and Conditions of Purchase of Stölzle-Oberglas Aktiengesellschaft & Co KG

(Version dated 22 April 2004)

1. General

- 1.1. These terms and conditions apply to transactions with our suppliers and subcontractors, in particular to purchasing agreements, contracts for works and services, leasing agreements and similar in which we are the contracting party (in the capacity of buyer and equivalent).
- 1.2. Unless the concluded agreement specifically contains provisions to the contrary for that particular event, the content of the agreement is subject to these terms and conditions.
- 1.3. Declarations with binding effect upon us must be executed in writing (otherwise they are null and void).
- 1.4. Supplier's General Terms and Conditions of Business apply only if expressly accepted by us in writing. If an offer or an order confirmation should contain a reference to Supplier's General Terms and Conditions of Business, Supplier waives the applicability of its terms and conditions by entering into a contractual relationship with us and initiating steps for the execution of the contract. In this case, our Terms and Conditions of Purchase as printed herein shall apply exclusively.

2. Scope of performance

- 2.1. The scope of performance shall be primarily as described in the written contract for the relevant business event.
- 2.2. In addition, Supplier undertakes to provide the following additional services free of charge:
 - Provision of plans to the extent requested by us;
 - Provision of material test certificates;
 - Delivery of material samples;
 - Transport from our works or to the other destination including unloading;
 - Suitable transport packaging of the delivery item.

3. Quality

- 3.1. It is Supplier's responsibility to manufacture the delivery item in such a way that it is perfectly suitable for its intended purpose. Supplier undertakes to obtain knowledge of all circumstances required in this respect on its own initiative. Compliance with existing rules and regulations as well as technical standards concerning the execution and quality of the delivery item, for instance the Austrian standards (ÖNORM) and German standards (DIN), is mandatory.
- 3.2. Supplier shall ensure that the delivery item is of a high quality standard and free of defects by monitoring production and performing suitable tests both before and during the manufacturing process. Where required, these tests shall be documented. In any case, we are entitled – but not obliged – to carry out such tests and checks in Supplier's production works on our own initiative.

4. Payment

Unless expressed differently in the order, our payment shall be made with a 3% cash discount within 14 days or net within 30 days. The commencement of this period of payment and other agreed periods of payment shall be counted from the date of the receipt of the invoice, always providing that all of the goods have been received previously and that they are free of material defects and defects in title. The making or invoicing of partial deliveries requires our express consent.

With respect to the payment of supplier invoices, we reserve the right to make use of all legally permissible methods of setting off our counterclaims against the claims of our suppliers. Without our express consent, Supplier may not assign any claims arising to it against us, out of or in connection with a contract, to a third party. Under no circumstances shall original invoices be enclosed with a consignment. Cash on delivery consignments shall be accepted only after agreement.

We are only bound to satisfy the contract and in particular issue the payment order if the requested dispatch notes and invoices are received immediately. Any consignments for which delivery free destination works or free destination site has not been agreed shall be sent by the cheapest forwarding method unless otherwise agreed. A bonus for transport and breakage insurance may only be charged if expressly agreed.

Payments shall be made with the reservation of the recognition of performance in accordance with the contract.

5. Delay in delivery

- 5.1. Should Supplier be in delay with the delivery, we may
 - either withdraw from the contract after the expiry of a reasonable period of grace and demand indemnification on the grounds of non-performance, or
 - demand indemnification due to late performance and
 - impose a penalty in an amount of 5% of the overall value of the contract for each full week of the delay in delivery, subject to a maximum of 10% of the total contract value, whether or not Supplier is at fault, or demand a penalty for each full week of the delay in delivery corresponding to the amount of the total contract value indicated in the order confirmation.
- 5.2. For the purpose of determining the damage claims, the expenses required to cover our own client's claims in connection with the delayed onward delivery shall be considered in addition to our own damages.
- 5.3. The acceptance of the delayed delivery by us does not constitute any waiver of damage claims.

6. Physical delivery and passage of risk

- 6.1. The ordered item shall be delivered to us in such a way that our representatives shall take receipt of the item. If Supplier's scope includes the installation or processing of the ordered item at the destination site, the item shall not be received by us until this work has been completed, where applicable after the performance of a test run if so agreed or if a test run is common practice.
- 6.2. The risk of damages to and a loss of the delivery item shall pass to us upon its formal delivery.

7. Warranty, guarantee

- 7.1. Unless longer warranty periods have been imposed in the concluded contract or by law, the warranty period is 24 months. As a general rule, the warranty period shall commence upon delivery of the item to us, but in the case of hidden defects it shall commence upon discovery of the defect. If the delivery item is destined for onward delivery by us to our client – be it without or after processing – the warranty period shall commence upon delivery of the item by us to our client and shall end upon the expiry of the warranty term that applies to the relationship between us and our clients.
- 7.2. We are under no obligation to check the delivery item for defects immediately upon receipt, and we are under no obligation to notify the supplier of discovered defects. The warranty claim is valid if asserted within the period of the previous subclause.
- 7.3. The warranty claim includes the expenses arising to us in connection with a defect, for instance processing costs, transport costs and similar.

7.4. We may repair the defect ourselves or have the defect removed by a third party contractor and charge all costs arising in connection therewith to Supplier.

7.5. Supplier warrants that the delivery item is in full working order for a period of 18 months.

8. Liability and recourse from product liability

Upon the issuance of the dispatch note, Supplier shall specify the upstream supplier, the manufacturer and – in the event of imported products – the importer for each ordered item, indicating in each case the company name and registered office.

Supplier is aware of the subject matter of our business activities. Even if we process the supplied goods to make a new product, it shall satisfy the safety requirements associated with the use of our product that can be expected reasonably. Supplier shall notify us forthwith if the supplied goods cannot offer the level of safety required by the product liability law because of compulsory laws or regulations or conditions imposed by the authorities.

The liability for damages under the product liability law extends to material damages suffered by us in our capacity as an entrepreneur. No contradicting release from liability is accepted.

In the event of an assertion of any claims for damages (in particular under the product liability law) against Supplier in or out of court, Supplier shall notify us immediately in writing.

In the event of an assertion of any claims against us under the product liability law, the relevant laws and regulations shall be supplemented as follows:

- our supplier shall be liable for our recourse claims under the product liability law even if it is only the importer or trader of the product.
 - if an action is brought against us under the product liability law and if we notify our supplier thereof, the latter shall immediately surrender all information and documentation required and useful as evidence for the exclusion of liability, otherwise it shall be obliged to indemnify us.
 - contrary to § 13 of the product liability law, we can in this case have recourse against Supplier, irrespective of the 10-year period, within three months after we have made payment or after our final conviction.
 - in the event of § 7 paragraph 2 of the product liability law, our supplier shall demonstrate the absence of defects.
 - the recourse claims against our supplier also include all costs of litigation and other expenses associated with the claim.
 - the provision of a notice of defect is not a condition precedent for damages and recourse claims against Supplier.
- Upon request, our supplier shall submit proof that it has provided sufficient cover under the product liability law (foreign manufacturers: proof of the provision of cover of equivalent standard).

9. Designs and tools

The ownership of designs and tools manufactured by Supplier at our expense shall pass to us immediately. Supplier undertakes to treat and safe-keep such designs and tools carefully. Upon request, it shall surrender the same at any time. These designs and tools shall be used exclusively for deliveries to us. Supplier undertakes to use all designs and tools exclusively and solely for the ordering party.

10. Rights in designs

- 10.1. Supplier undertakes to treat all experience, know-how and documents of our company that it shall gain knowledge of in connection with the contract as strictly secret vis-à-vis third parties. Drawings may neither be duplicated nor utilized in any other way without our prior approval. The production of objects based on our drawings outside the scope of an awarded order is not permissible, be it for Supplier's own purposes or otherwise.
- 10.2. Should Supplier receive any drawings or specific technical instructions for the production of items from us, then these items including any parts and materials used for the same shall neither be made accessible nor sold to any third party without our written approval.

11. Miscellaneous

- 11.1. Should Supplier require our supporting services in connection with the provision of its own performance (help with unloading, helpers in general, use of tools, energy and similar), it shall pay an appropriate compensation to us.
- 11.2. If agents of supplier companies work in our company in connection with the execution of the contract, the supplier company shall ensure that these persons observe the statutory and the company's internal accident prevention rules and the recognised safety and industrial medicine rules as well as our general and specific in-house requirements, in particular the prohibition to smoke.
- 11.3. If we are prepared to safe-keep the property of other parties that is stored on our premises in connection with the performance of contracts, our responsibility for loss and damages is restricted to intent or gross negligence.
- 11.3. Any mention of the name of our company in business letters, customer lists, advertising materials and other publications for advertising purposes is strictly subject to our prior written approval.
- 11.4. Rights and obligations from the order and its execution may be assigned exclusively with our written consent unless subcontractor supplies are standard trade practice.
- 11.5. Commercially customary types such as fob, cif apply according to the INCOTERMS of the International Chamber of Commerce as amended at the time of the conclusion of the agreement.
- 11.6. Upon the acceptance of the order, the supplier company consents that we may process the personal data used in connection with the business relationship in the computer centre of our company.
- 11.7. The machines, devices and other objects to be supplied by you shall be in full conformity with the safety regulations applicable in Austria (laws, decrees, standards) and in particular with the Ordinance Regulating the General Protection of Employees, the Ordinance Regulating Protective Devices for Machines and the regulations for electrical engineering.
- 11.8. Upon the award of the installation order, which shall be carried out as applicable in our premises in Köflach, Bärnbach or Vienna, or if work is carried out on our premises, it is necessary to contact our safety engineer prior to the commencement of the work.
- 11.9. No empty packaging units or packaging materials shall be returned unless a corresponding note is included in the invoice and the accompanying documents.

12. Austrian law

The application of Austrian law is specifically agreed for the contractual relationships, even if the contract has been concluded or is to be executed abroad.

13. Venue and place of performance

- 13.1. The parties agree that the courts in Graz are competent for all disputes in connection with the agreement.
- 13.2. The place of performance for services provided in connection with this agreement shall be one of our plant locations, i.e. Köflach, Bärnbach or Vienna, as provided for in the order.