

I. General information

Our sales and deliveries are performed in accordance with these general terms and conditions of business and delivery. These conditions shall remain binding, even if individual provisions become ineffective - whatever the reason for this. They shall also apply to any additional transactions concluded with us, provided we do not issue new terms and conditions or do not explicitly rescind the currently applicable terms and conditions. Deviations from these delivery conditions shall only be binding on us if they are explicitly negotiated on an individual basis and are confirmed in writing. Otherwise any possible terms and conditions from the purchaser themselves shall not be binding to us, even if they are referenced by the purchaser and have not been explicitly objected to by us on an individual basis. We shall only be bound by the purchaser's terms and conditions of purchase if we have explicitly recognised them in writing. Dimensional, weight and output information as well as figures and drawings are to be taken as approximate and non-binding.

All arrangements, subsequent changes, additions, supplementary agreements, etc. must be made in the written form including the original signature or a secure electronic signature, in order to be valid.

We retain copyright over figures, drawings or other documents provided by us.

II. Quotations and order acceptance

We offer no-obligation quotations. The contract is only concluded upon posting of a written order confirmation by us. All orders and agreements require written confirmation from us in order to be effective. By signing the order acceptance letter, the contractual partner also accepts the latest version of our general terms and conditions of business and delivery. We reserve the right to demand acknowledgement of our order confirmation from the customer. Changes to our order confirmation must be made in writing.

III. Prices and terms of payment

All prices stated by us, unless explicitly mentioned to the contrary, are to be understood exclusive of VAT. The legally applicable VAT will be added to these prices during billing. We are also expressly authorised to employ partial billing, where services have been rendered in stages. Our prices are to be understood ex works or ex stock from the supplier, as well as exclusive of packaging, transport and insurance. Should the cost of labour change, due to collective agreements in the industry, internal works agreements, or other costs necessary to the provision of the goods/services (such as those for materials, energy, transport, work by third parties, financing, etc.), we are entitled to adapt prices accordingly. In the absence of any arrangement to the contrary, our receivables must be paid concurrently against handover of the goods. A discount will only be recognised in the context of and based upon written agreement to this effect. If a discount is arranged, this is only guaranteed if payment is received promptly. The date for receipt of payment shall be the day when the amount is in our possession or on which the bank confirms that it has been received. The right to withhold payments or offset payments to account for any counterclaims on the part of the purchaser is excluded. Cheques are not accepted as a method of payment.

IV. Place of performance, transport, and delivery conditions

The place of performance, both for our goods/services as well as for return service, is our company's head office (APV – Technische Produkte GmbH, Dallein 15, AT-3753 Hötzelendorf). Delivery and installation costs are not included in our prices. These services can be provided upon request for extra payment. Unless otherwise agreed, the delivery costs and risks during transport shall be borne by our contractual partner.

V. Reminder fees

If payments are deferred or made late than agreed, interest shall be charged for the intervening period in the amount of 12% per annum, without a notice of default being required.

VI. Delivery deadline

The delivery period begins when the final order confirmation is posted, however not before clarification of all technical, commercial and financial matters, provision of documents, permits and approvals to be supplied by the customer, and once all agreed deposits have been received. The delivery deadline has been kept, provided that the delivery item has left our works by the time it has passed, or its readiness for dispatch has been communicated. In the case of delivery with installation, this means after installation, though no later than three months after the delivery object has reached its destination. The delivery deadline shall be extended within reasonable bounds should unforeseen hindrances occur, which are outside our control, regardless of whether they occur on our premises or with subcontractors. If dispatch is delayed at the customer's request then, starting one month after notification of readiness for dispatch, they will be billed the costs incurred in storage (where this is on our works site, however, at least half a percent of the invoiced amount per month of storage). However, we are also entitled, after a reasonable period has been set and elapsed without result, to make use of the delivery object in other ways and to supply the customer only after an appropriately extended deadline. Observance of the delivery deadline is conditional upon the purchaser fulfilling their contractual obligations.

The contractual partner must accept marginal delays in delivery without entitlement to damages or to withdraw from the contract.

VII. Warranty

VII.1. We provide a warranty of the amount and quality of the goods as defined in the order confirmation. Slight deviations in the delivery, which do not affect the stated use of the object(s), e.g. with reference to weight, quality, colour, etc., do not count as defects. Moreover, we expressly reserve the right to make modifications or improvements to our products, resulting from new experience and knowledge.

VII.2. The goods or services must be precisely examined after they have been handed over/rendered, and complaints filed without delay regarding possible defects. Complaints relating to defects can only be considered if they are asserted in writing without delay after receipt or handover of the goods or provision of the service, however no later than five working days later. The complaint shall be excluded if the condition of the goods or service has changed since transfer of risk

VII.3. The absence of a single part from a delivery or service does not entitle the customer to reject the whole delivery or service.

VII.4. In the event that a complaint is justified, we are entitled at our own discretion - without giving the customer a choice in the matter - either a) to supply an item free of defects against return of the defective item, (b) to withdraw from the contract and refund the purchase price, (c) to correct or replace the missing part within a reasonable period, or (d) to reimburse the depreciated value of the item while still observing the contract; other claims on the part of the customer will not be recognised. Filing a complaint does not release the customer from their duty to pay; in fact, any warranty obligations on our part shall become void, if the customer fails to abide by payment and other obligations. The customer accepts the warranty and replacement rates which are customary for APV.

VII.5. We shall not be held liable, alongside this warranty, for any damage, however it occurred, which was either discernible upon handover of the delivery (at the factory) or only occurred after that point, unless it was caused with intent. In particular, compensation for subsequent damage occurring to items which are not the delivery object is excluded. We are not responsible for the conduct of any sub-suppliers of goods or their component parts.

VII.6. The customer must always make all necessary arrangements to avoid or minimise potential damage, provided that they can do so without unreasonable inconvenience or cost.

VII.7. Warranty and guarantee claims can only be made for goods in the country of the invoice recipient.

VIII. Liability, product liability

Apart from personal injury, we are only liable if the injured party is able to prove at least gross negligence on our part. Compensation claims expire within six months beginning from acknowledgement of the damage and author of the damage, in any case within five years of the service or delivery being provided. The duty to provide compensation according to the Austrian Product Liability Act (Produkthaftungsgesetz) is excluded for damage to property, unless the customer is a consumer in the sense of § 9 of the Produkthaftungsgesetz (PHG).

All claims for recourse made against us for "product liability" in the sense of the PHG are excluded, unless the recourse claimant can prove that the fault was caused within our sphere of responsibility and can be attributed at least to gross negligence.

IX. Right of the purchaser to withdraw

The purchaser has the right to withdraw if an appropriate extension has been granted for the fulfilment of our warranty obligations and we have allowed it to elapse without result, or if we refuse to provide warranty in regard of a defect which has been proven to us.

X. Right of the supplier to withdraw

In the event of unforeseen events which have a significant bearing on the economic significance or contents of the service or have a considerable effect on our business, and in the event of the impossibility of execution subsequently coming to light, we shall be entitled to withdraw from the contract in whole or in part. The customer cannot assert claims for damages based on such a withdrawal. Should we desire to make use of this right to withdraw, then we must notify the customer of this immediately, once aware of the repercussions of the event, and even in those circumstances where an extension of the delivery deadline was initially agreed with the purchaser.

Should it become known to us, after conclusion of the agreement with the purchaser, that the financial standing of the customer has developed unfavourably, such that they are not or not immediately in a position to fulfil their contractual obligations as agreed, we may demand payment in advance or securities in the value of the delivery. If the customer fails to meet these requirements, we are entitled to withdraw from the contract.

XI. Retention of ownership

We shall retain ownership of the delivery object until all payments arising from the associated supply contract have been received. Provided that the purchaser has not provided proof of having taken out an insurance policy – which they are obliged to do – we are entitled to insure the delivery object against fire, water and other damage at the cost of the purchaser. The purchaser shall assign any insurance claims to us.

The customer is however – according to this provision – entitled make use of goods supplied under retention of ownership in the ordinary course of business. Extraordinary uses such as pledging, use of the goods as a security and similar are only ever permitted with our express written permission.

If retained goods are resold (even after processing), the customer shall herewith surrender their receivables from the purchase price against their purchaser/customer, if applicable also in the amount of our proportional joint ownership - by way of security - and is obliged to immediately inform us of the name and address of the secondary purchaser, as well as on the receivables resulting from the sale. Moreover, if the retained goods are resold, the customer is obliged to inform their purchaser or customers of the surrender of receivables to us and the amount. In addition, the purchaser of the retained goods must, by way of corresponding book entries, note down the amount of our receivables ("extended retention of ownership").

Surrender of receivables must occur regardless of whether our retained goods are sold with or without machining or processing or whether they are sold to one or multiple customers.

The customer has a duty, for the duration of the retention of ownership, not only to take all measures to secure the legal basis for the retention of ownership, but also in particular to keep the delivery object in proper condition. It is at our discretion whether additional agreements regarding retention of ownership need to be made with the purchaser.

XII. Default on the part of the purchaser

If the customer is in default on a hire purchase agreement, even if this applies to only a single agreed payment, or other services, then the entire residual amount shall become immediately due and payable, and default interest must be paid to us in the sense of these general terms and conditions of business and delivery.

XIII. Court of jurisdiction, applicable legal system

Austrian substantive law applies. Application of the UN Convention on Contracts for the International Sale of Goods is excluded. The contract language shall be German. In order to decide all disputes stemming from this contract, the local court with jurisdiction for the relevant type of cases at the registered address of our company shall be responsible. However, we also have the right to take legal action at the general place of jurisdiction of the contractual partner.

For disputes arising out of this contract, insofar as the customer is a consumer whose has place of residence, habitual place of residence or place of employment is in Austria, the court in the parish where the consumer has his place of residence, habitual place of residence or place of employment has jurisdiction. Statutory jurisdiction applies for consumers who have no legal residence in Austria at the time when the contract is concluded.