

Mosdorfer Company Terms and Conditions of Purchase

1. Order and Order Confirmation

- 1.1 The Client may cancel the order if the Contractor has not accepted it in writing (order confirmation) within 3 business days of receipt.
- 1.2 If the order confirmation differs from the order, the client is bound by it only if the client has agreed to the deviation in writing. In particular, the client is bound by the contractor's General Terms and Conditions only to the extent that they correspond to the client's own terms and conditions or the client has agreed to them in writing. Acceptance of deliveries or services, as well as payments, does not constitute consent.
- 1.3 By submitting its offer or accepting the order, the Contractor declares, on its own responsibility, that it has verified all data and information provided to it by the Client or by third parties attributable to the Client, and guarantees their accuracy and completeness.
- 1.4 If prices, delivery times, etc., are not specified in the order, the Contractor must include them in the order confirmation; otherwise, the contract will not be concluded.
- 1.5 Changes or additions to the order are effective only if confirmed in writing by the Client.
- 1.6 Verbal or telephone orders, as well as additions and changes to orders already placed, become binding on the Client only upon written confirmation.
- 1.7 By accepting the order, the Contractor acknowledges these terms and conditions; this also applies to future orders, even if this form is not used.

2. Delivery Time, Contractual Penalty for Breaches of Performance

- 2.1 The timeliness of deliveries or subsequent performance is determined by receipt at the receiving location specified by the Client.
- 2.2 In the event of a foreseeable delay in a delivery, service, or subsequent performance, the Client must be notified immediately and its decision sought.
- 2.3 If the Contractor is in default, the Client is entitled to charge a contractual penalty of 0.3% for each commenced business day of the delay, up to a maximum of 5% of the total contract amount. If the relevant reservation is not made upon acceptance of the deliveries, services, or subsequent performance, the contractual penalty may nevertheless be claimed until the final payment is made.
- 2.4 The Client is entitled, upon prior notice, to inspect the Contractor's production facilities as well as those of its subcontractors and suppliers, to obtain information regarding the status of the commissioned work and its quality, or to accept the delivery at the Contractor's facility.
- 2.5 Delivery or performance prior to the agreed-upon date is permitted only with the Client's consent. In any case, all legal consequences are governed by the agreed-upon date. Until the agreed-upon date, the Client bears only the liability of a custodian.
- 2.6 The Contractor guarantees the Client that the ordered goods will be stored for at least three months at the Contractor's risk and expense if the Client postpones the shipping date.
- 2.7 If it becomes apparent within the Contractor's delivery period that the Contractor will be unable to properly perform its deliveries or services by the contractually agreed date, the Client is entitled to take all necessary measures at the Contractor's expense and risk to avert an impending delay. In the event of recognizable payment difficulties on the part of the Contractor, the Client is entitled to rescind the contract even without granting a grace period. In this case, the legal consequences are the same as in the event of a delay for which the contractor is at fault.

3. Transfer of Risk, Shipping, Place of Performance

- 3.1 Risk passes to the Client upon receipt of the delivery or service at the receiving location specified by the Client.
- 3.2 Partial, excess, or short deliveries are permitted only with the Client's express approval.
- 3.3 Delivery of goods to the receiving area at the respective delivery address must take place during the goods acceptance hours listed below.

Mon–Thu: 6:00 a.m. – 2:30
p.m. Fri: 6:00 a.m. – 1:00
p.m.

- 3.4 The Client is entitled to pass on technical documentation from the Contractor or its subcontractors and suppliers to the customer or end customer to the extent necessary.
- 3.5 Unless otherwise agreed, shipping and packaging costs shall be borne by the contractor. In the case of pricing on an ex-works or ex-contractor's warehouse basis, goods must be shipped at the lowest possible cost, unless the client has specified a particular mode of transport. Additional costs resulting from failure to comply with shipping instructions shall be borne by the contractor. In the case of pricing on a "free to recipient" basis, the client may also specify the mode of transportation. Any additional costs for expedited shipping—such as that required to meet a delivery deadline—shall be borne by the contractor.
- 3.6 Each delivery must be accompanied by a delivery note specifying the contents, as well as the order number, the order line item, and the item number. The shipment must be reported immediately with the same information.

4. Invoices

Invoices must include the order number, order line item, and item number. Invoices are not payable if this information is missing. Duplicate invoices must be marked as such.

5. Prices, Payments

- 5.1 Prices are quoted in accordance with the agreed terms of delivery, including documentation, packaging, and all incidental expenses, but excluding sales tax, and are considered fixed prices.
- 5.2 Unless otherwise agreed, payments are due net within 90 days.
- 5.3 The payment period begins as soon as the delivery or service has been provided in full and in good order and the properly issued invoice has been received.
To the extent that the contractor is required to provide material tests, test reports, quality documents, or other documentation, the completeness of the delivery and service also requires the receipt of these documents.
- 5.4 Payments do not constitute acceptance of the goods or services as being in accordance with the contract.
- 5.5 If the Contractor believes, for whatever reason, that it is entitled to a payment claim exceeding the order value, it must, under penalty of forfeiture, immediately notify the Client in writing of both the basis and the amount of the claim as soon as the circumstances giving rise to the claim become known.

6. Incoming Inspections

- 6.1 Upon receipt of the deliveries, the Client shall inspect them to determine whether they correspond to the ordered quantity and type, and whether there is any externally visible transport damage or externally visible defects.
- 6.2 If the Client discovers a defect during the aforementioned inspections, it shall notify the Contractor thereof; if the Client discovers a defect at a later time, e.g., during processing or use, it shall likewise provide notice thereof.
- 6.3 The client shall have no further obligations toward the contractor beyond the inspections and notifications specified above.

7. Liability for Defects

- 7.1 If defects are discovered before or at the time of transfer of risk, or if they occur during the limitation period specified in Sections 7.8 and 7.9, the Contractor shall, at its own expense and at the Client's discretion, either remedy the defects or deliver or perform a new, defect-free item or service.
This also applies to deliveries where the inspection was limited to random sampling. The client's choice shall be made at its sole discretion.

- 7.2 If the Contractor fails to perform the subsequent performance within a reasonable period to be set by the Client, the Client is entitled to withdraw from the contract or the order in whole or in part without compensation, or to demand a reduction in price, or to carry out or have carried out rectification or a new delivery at the Contractor's expense, and to claim damages in lieu of performance.
- 7.3 Repairs may be carried out at the Contractor's expense without setting a deadline if delivery occurs after the Contractor has fallen into default.
- 7.4 The same applies if the Client has a particular interest in immediate subsequent performance in order to avoid its own delay or due to other urgent circumstances, and it is unreasonable to expect the Client to request that the Contractor remedy the defect within a reasonable period.
- 7.5 Any further or other statutory claims remain unaffected.
- 7.6 To the extent that the contractor makes a new delivery or performs corrective work as part of its obligation to remedy defects, the time limits specified in Sections 7.8 and 7.9 shall begin to run anew.
- 7.7 The Contractor shall bear the costs and risk of returning defective delivered items.
- 7.8 Claims for material defects are subject to a three-year statute of limitations, unless the law provides for longer periods.
- 7.9 Claims for defects in title are subject to a five-year statute of limitations, unless the law provides for longer periods.
- 7.10 The statute of limitations begins upon the transfer of risk.

8. Product Liability

- 8.1 The contractor is liable in accordance with statutory provisions.
- 8.2 The contractor is obligated to the client to retain all necessary documentation and to closely monitor the product. If necessary, the contractor is further obligated to immediately recall defective goods at its own expense, to provide the manufacturing documentation, to render every conceivable assistance in defending against claims of any kind, and to name the manufacturer or importer within 10 days.

9. Subcontracting to Third Parties

- 9.1 The subcontracting of orders to third parties is prohibited without the Client's written consent and entitles the Client to withdraw from the contract in whole or in part and to claim damages. If the Contractor intends to subcontract orders to third parties, this intention must be communicated to the Client in writing.
- 9.2 The contractor is liable for the actions of third parties as if they were its own actions or as if it had manufactured the delivered goods entirely on its own.

10. Materials Provided by the Client

- 10.1 Materials provided by the Client remain the property of the Client and must be stored, labeled, and managed separately at no charge. Their use is permitted only for the Client's orders. In the event of culpable depreciation in value or loss, the Contractor must provide compensation, whereby the Contractor is also liable for simple negligence. This also applies to materials provided for a specific order for which a fee has been charged.
- 10.2 Processing or transformation of the materials is carried out on behalf of the Client. The Client immediately becomes the owner of the new or transformed item. Should this not be possible for legal reasons, the Client and the Contractor agree that the Client becomes the owner of the new item at any point during the processing or transformation. The Contractor shall hold the new item in safekeeping for the Client free of charge with the care of a prudent businessman.
- 10.3 Materials provided by the client must be returned to the client immediately upon request, and in any case upon performance/delivery or upon termination of the contract.

11. Tools, Molds, Samples, Advertising, Confidentiality

- 11.1 Tools, molds, samples, models, profiles, drawings, standards sheets, print templates, and gauges provided by the Client, as well as any items manufactured using them, may neither be disclosed to third parties nor used for purposes other than those specified in the contract without the Client's written consent. They must be protected against unauthorized access or use. Subject to further rights, the Client may demand their return if the Contractor breaches these obligations.
- 11.2 The Contractor shall not disclose to third parties any information obtained from the Client, unless such information is generally known or has otherwise come to the Contractor's knowledge lawfully. If the Client has consented to the subcontracting of orders to third parties, such third parties must be bound by corresponding written obligations.
- 11.3 If the Contractor intends to use the Client's name or products for advertising purposes, the Client's prior written consent must be obtained.

12. Training, Documentation

Upon delivery of technical systems and equipment, training for the Client's operating and maintenance personnel, or for the customer/end user, must be provided free of charge. Upon request, the Contractor shall also conduct subsequent and repeat training sessions for a fee in line with market rates for up to 10 years after contract fulfillment. For deliveries of systems and equipment that are to be installed by a third party or by the Client, the necessary installation plans (including all connections, any structural requirements, or the like), data sheets, installation instructions, processing guidelines, storage, operating, and maintenance instructions, lists of replacement and wear parts, CE declarations, and information regarding any special features of the ordered items. Labels must be affixed in German (even for deliveries from abroad). Operating instructions and manuals must be provided in duplicate in German and, at the client's request, also in other languages.

13. Intellectual Property Rights

The purchase price/contract price covers the acquisition of patent, utility model, trademark, and design protection, as well as copyrights, for the client's free use and (repeated) resale of the ordered item. In the event of an infringement of third-party intellectual property rights in connection with the ordered delivery/service, the contractor shall indemnify and hold the client harmless.

14. Assignment

Assignment of claims is permitted only with the Client's prior written consent.

15. Insolvency of the Contractor

If the Contractor suspends payments, a provisional insolvency administrator is appointed, or insolvency proceedings are opened against the Contractor's assets, the Client is entitled to withdraw from the contract in whole or in part or to terminate the contract. In this case, the Client may make use of the equipment available for the continuation of the work or the Contractor's deliveries and services rendered to date in exchange for reasonable compensation.

16. Severability Clause/Supplementary Provisions

Should any provision of these Terms and Conditions of Purchase be or become invalid, or should the contract be incomplete, this shall not affect the remaining provisions. The invalid provision shall be replaced by a provision that most closely approximates the economic intent and purpose of the invalid provision in a legally valid manner.
To the extent these Terms and Conditions of Purchase do not contain any provisions, the statutory provisions shall apply.

17. Jurisdiction, Governing Law

- 17.1 The place of jurisdiction for contractors with their registered office within the EU is the court with subject-matter and territorial jurisdiction over the client's registered office (District Court of Weiz or Regional Court of Graz).
- 17.2 The place of jurisdiction for contractors with their registered office outside the EU is the Arbitration Court of the International Chamber of Commerce in Paris.
- 17.2 Austrian law shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980.