



GENERAL COMMERCIAL TERMS AND CONDITIONS

**for purchase of plants, plant components, and services
OF THE COMPANIES OF THE ZAUNERGROUP BASED IN AUSTRIA
Including affiliate firms**

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1 Terms / Definitions

1.1 Terms

The following terms apply to these "General Commercial Terms and Conditions (GCTC)"

CL	=	Client
CR	=	Contractor, the legal entity obligated to fulfil the contract
EU	=	end user of the whole plant (the client of CL)
whole plant	=	work to be created for EU and to be technically or contractually regarded as a unit
Plant	=	all systems or parts of the whole plant that are the subject to the CL's order
Client agreement	=	Agreement between CL and the EU regarding the supply of the whole plant
Order	=	Contract between the CL and the CR regarding the supplies and services to be provided by CR
Supplies and services	=	All material, plant or component supplies required by the CL and necessary for the fulfillment of the contract and work necessary for completing the contract; including the necessary ancillary services for commissioning (COM), assembly supervision, engineering, documentation, etc., if they are ordered or necessary for fault free contract fulfillment

1.2 Definitions

The following definitions shall apply in connection with the gradual transfer of plants or parts thereof

Completion of the assembly	=	Completion of the assembly of the whole plant, including cold and/or functional test
Cold and/or functional test	=	The cold test is considered to be completed if the entire device has been tested without operating media in single and full interlocking operation, etc., all systems, plant parts as well as controls and safety installations etc. are checked or set to the nominal values, correspondingly documented or recorded and accepted by the CL free of defects. Furthermore, all control circuits must be checked for function, preset and documented accordingly.
Proof of performance	=	Performance test of the entire plant under continuous full load over a period specified in the customer contract
Positive Proof of performance	=	Achievement of all the performance data of the whole plant and assurance of proper operation according to the requirements of the client agreement
Place of performance	=	The place of performance of the delivery or service is the delivery address specified in the order. The place of performance of payment is the registered seat of the CL.
Operation site	=	Operation site of the supply or service is the place of destination stated in the order. It is also the place of warranty fulfillment.

2 General Information

2.1 Information regarding the completion of contract

The supplies and services of the CR shall form part of a whole plant to be erected by and/or for the EU. Therefore, failure in the supply of individual performances generally cause problems in the overall project organization with corresponding additional costs, e.g. related schedule shifts in the network, claims by third parties, disturbances of the logistics, delays in the acceptance by the EU, stoppages, etc. The cost consequences are particularly serious in the case of whole plants assembled abroad. The CR therefore ensures to take special care in fulfilling his order, which takes into account these circumstances. This includes the procurement of all information which must be considered for the fulfillment of the order under the prevailing conditions of the transport route and the place of use as well as the integration of its deliveries and services into the whole plant.

2.2 Quality Assurance

The CR and his subcontractors warrant applying the principles of quality assurance in the performance of their supplies and services according to the relevant standards ISO 9001 - 9004.

The CL and the EU have the right to inspect the quality assurance system, the quality assurance regulations and the quality assurance plan of the CR and his subcontractors at all times, however, after prior appointment.

2.3 Validity of General Terms and Conditions

These GCTCs govern the relationship between CR and CL, insofar as the order does not contain any deviations for the individual case. Conditions of the CR (such as offers, conditions of sale, general terms and conditions) shall only apply if they are expressly accepted in writing by the CL. If in the order of the CL, reference is made to CR's tender documents, this does not constitute recognition of the terms and conditions of the CR.

At the latest at the start of the execution of the order by the CR, these general conditions of the CL shall be deemed to be accepted.

Project-specific special terms and conditions (STCs) refer to project-specific circumstances of a project and take precedence over this GCTCs which remain valid in other areas.

2.4 Legal validity of declarations by the Client

Declarations by the CL concerning the conclusion or alteration of orders or supplements to orders are legally binding for the CR only if they have been issued by a person authorized by the CL and then confirmed in writing. The authorized persons are notified by the project manager of the CL on written request of the CR.

2.5 Applicability of contractual provisions

The following order of content applies to the contract concluded between CR and CL:

- the order/award of contract including annexes listed therein
- The Minutes of Meeting Protocol (MoMP) and the components and sequence referred to therein (specifications, specification books, etc.)
- these GCTCs

The CR ensures to notify the CL of any ambiguity regarding the fulfillment of the contract in order to obtain an agreement to the solution.

The CR is obliged to immediately notify the CL of any inconsistencies in the order/awarding of contract. Headings are for orientation only and are not to be considered for the interpretation of the content.

2.6 Contract language

All contract documents and any correspondence relating to the contract shall be drawn up in a contractually agreed language. If the contract language is not specified in the contract, the contract language shall be German. The CR must ensure that its management personnel speak and write this language

2.7 Further basis for the scope of services of CR

The services to be provided by the CR are determined particularly by the statutory specifications and in each case valid legal regulations at the operation site, the CR must inform himself in a timely and comprehensive manner. The scope of services of the CR is also the ongoing alignment and coordination activities with the representatives of the CL, as well as the participation in project meetings, if this is desired by the CL.

3 Prices

3.1 Type of prices

The prices of the order are net fixed prices excluding VAT, which include all costs incurred by the CR in connection with the fulfillment of the deliveries and services. This includes particularly all costs for transport, insurance, packaging, taxes, duties and duties associated with the deliveries and services of the CR in the countries in which they are provided. The CL bears only such costs, which are expressly stated in the order as an obligation of the CL. The terms and conditions of the main order apply to possible extensions and additions to the order as well as to orders for spare and wear parts.

3.2 Pricing

If the order does not contain any other regulations, the prices shall be understood DDP designated place according to INCOTERMS 2010. The price includes the costs of documentation, technical testing, painting, corrosion protection, marking/signing, packaging according to the agreed transport according to INCOTERMS 2010, etc.

3.3 Packaging

In the case of deliveries to the CL, the packaging of goods must be licensed in accordance with legal requirements. If the packaging is not licensed, the supplier must expressly inform the CL in writing (incl. indication of the type and quantity of packaging) prior to delivery.

4 Payment Terms

4.1 Invoicing

Invoices are to be submitted as a single copy in writing (not in electronic form) to the CL. CR from a European Union member state must also list the movement of goods in addition to the statutory requirements for tax exemption. In all (partial) invoices, the order number and project number of the CL must be stated. Invoices without specification of this data will not be processed and will be returned to the sender unprocessed. Any resulting delays in payment shall be borne by the CR.

4.2 Payment

The agreed (partial) payments are made in each case with the agreed payment goal after the receipt of the invoice and after fulfillment of all the prerequisites specified in the order, particularly also the proper documentation delivery. The payment does not constitute acceptance of the regularity of the deliveries and therefore no waiver by the CL of performance, warranty, damages, contractual penalties, etc.

The agreed terms of payment are net deadlines. Payments, if necessary, taking into account a cash discount, are carried out once a week by means of bank transfer. The above (discount) payment periods are therefore deemed to be respected even if the payment is made at the next transfer date after the expiry of the aforementioned payment period. In the event of compliance with this payment run, default payments will not be received as a result of exceeding the payment target.

If progress payments have been agreed, they can be billed based on the progress evaluations confirmed and agreed by the CL/EU and CR at the construction site.

Invoices for subsequent and additional work specifically ordered in writing by the CL must be submitted with the hourly and/or measurement logs confirmed by the construction site management of the CL.

4.3 Warranty retention

The CL has the right to withhold an agreed indemnity as non-interest-bearing assurance for warranty, guarantee or compensation claims for a period of 45 days beyond the guarantee or warranty period.

4.4 Final invoice

The last payment will be released only if a total final invoice is available for all deliveries and services and therewith related claims. By submitting the final invoice, the CR declares that he has thus asserted all claims arising from the relevant business case and that no further claims will be made.

4.5 Retention of payments

The CL is entitled to withhold payments at any time if the CR does not fulfill his obligations (fulfillment obligations) (e.g. quality, deadline, function, progress, etc.) or as long as the CR does not remedy any defects. The retention of payments does not entitle the CR to interrupt or terminate the execution of the contract. The crediting of receivables of the CL with payments due from other orders is also permissible.

4.6 Default of payment

The corporate interest on default is 9% above the base rate.

5 Changes to Scope of Supply and Services

The CL has the right to change the scope of delivery and services at any time. The CR shall carry out changes in the scope of delivery and services to the conditions laid down in the order.

The CR shall notify the CL in writing of any additional or reduced prices in writing within three working days if these have not already been specified in the order. The acceptance is agreed in writing between the CL and CR in the form of an order or contract.

Any minor changes in the scope of services of the CR requested by the CL shall be carried out by the CR without extra costs for the CL. The insignificance shall be determined in writing by the CR together with the CL.

The CR keeps records of additional expenses which shall be coordinated periodically with the CL.

The CL shall only pay additional services if a written agreement has been reached in advance.

6 Deadlines

6.1 Date of delivery

The date of delivery of the electronic receipt by the CL or the CL's confirmation of acceptance shall be considered as the date of delivery for the documentation only when it has been presented in full and correctly according to the order.

For deliveries and services, the delivery date is the date of the complete and faultless performance of the respective obligations of the CR according to the order including the complete and correct documentation.

6.2 Compliance with contract dates

The CR is obliged to comply with the contract terms and agreed interim deadlines. If the CR recognizes that he cannot meet the agreed dates and deadlines, he ensuresensures to notify the CL without delay in writing of the reasons and the anticipated duration of the delay. However, no authorization to exceed agreed dates can be derived from a time delay notification.

If any obligations or preliminary work on the part of the CL arise from the order/contract, the CR shall be obliged to urge this in a demonstrable and timely manner. If this does not happen, the CR cannot rely on delayed deliveries of the CL in case of delays in his deliveries and services. If the CR is unable to meet the deadline due to the delayed deliveries by the CL, the agreed dates and deadlines will be postponed by the maximum period of the delay for which the CL is responsible, without additional costs for the CL. As new dates, which are subject to a contractual penalty, the original dates extended by this delay shall apply.

In all cases of threatened or entered delays, the CR is obliged to make his order execution so flexible that delays are minimized, irrespective of their cause. Particularly the CR shall have the duty to speed up the work and to immediately increase the staff and/or the use of the equipment in accordance with the requirements. If the delay is solely the responsibility of the CL, the CR shall be entitled to compensation for the additional costs incurred.

6.3 Storage

If the delivery dates agreed in the order change for reasons beyond the control of the CR or for reasons which are attributable to him, the CR agrees to carry out proper storage for up to 3 months at his own expense and risk. In the case of warehousing, total or partial deliveries are only permitted after written release by the CL.

Contractually agreed payments which are affected thereby may be made against a storage certificate, a bill of sale or a bank guarantee, etc.

6.4 Premature fulfilment

Deliveries and services before maturity are only permitted with the written consent of the CL and do not constitute any preferential right to payment.

7 Contract Penalties

7.1 Delay

If the CR fails to comply with the agreed deadlines, interim and/or final deadlines stipulated in the order, the CR shall pay the following contractual penalties, unless other penalties were explicitly agreed in the order, until the actual delivery date, in each case calculated from the total order value, and for each non-adhered deadline, interim and/or final deadline. The contractual penalties may also be deducted from the current invoices or from the claims of the CR.

Deliveries and performances:

2% fixed if the deadline is exceeded

In addition, from the fifth day of delay, 0.25% per additional calendar day
a maximum total of 10% of the total order value;

Documentation:

0.5% per week of default, a total maximum of 5% of the total order value.

The obligation to pay a default penalty arises for the CR upon occurrence of default.

The payment of contractual penalties does not release the CR from his performance obligations and resulting liability as well as additional claims for damages (in particular in the event of any contractual penalties of the CL).

7.2 Non-observance of assured specifications

Even if the order contains contractual penalties for defects or failure to reach the guaranteed specifications or guarantees (e.g. performance-related penalties) the CR shall not be released from his obligation to ensure that his deliveries correspond to the intended purpose by his payment of the contractual penalties.

7.3 Claims for penalty

A transfer of services or payment of partial invoices without reservation of contractual penalties shall not be regarded as a waiver of a contractual penalty by the CL.

8 Liability and warranty of CR

8.1 Guarantee, warranty

The CR guarantees that the delivery item

- does not have any defects which impair its value or its suitability,
- meets the technical specifications determined in the order or in the contract annexes and all other properties which are to be expected or expected to be customary; and
- meets the current legal requirements or official requirements at the operation site, the respectively valid safety requirements and the accident prevention regulations.

Any information or quality statement in brochures, catalogs or other product descriptions of the CR or correspondence with the CR concerning his product(s) is regarded as expressly stated property of the product/service.

In addition to the expressly specified or otherwise promised or general prerequisites, the CR guarantees the completeness and suitability of his deliveries and services for the specific demand.

In particular, the suitability of the deliveries and services for the operating conditions prevailing at the operation site in continuous operation within the association of the whole plant.

The compliance with all applicable standards at the operation site and official regulations (in particular regarding safety and environmental protection), as well as the undisturbed availability while observing the performance and consumption values, assembly, maintenance and repair friendliness, state-of-the-art design throughout the entire warranty period is assumed.

In particular, but not exclusively, the CR shall also take into account the values to be respected, of which the limits differ at the operation site from those at the place of performance. The CR must obtain information in advance and keep up-to-date on the above mentioned provisions.

The CR shall immediately inform the CL of any concerns regarding the materials, components and tools required by the CR, including the directives issued in this connection.

The CLs approvals of the design documents created by the CR or the testing and inspection by the CL or his agents shall not relieve the CR of his liability.

8.2 Warranty periods, remedy of deficiencies

If the order does not contain other regulations, the warranty period ends 36 months after acceptance of the whole plant by the EU, at the latest 48 months after final delivery.

For corrosion protection, the warranty period ends 36 months after acceptance of the whole plant, at the latest after 60 months from the end of the installation.

For steel structures, the warranty period ends 36 months after acceptance of the whole plant, at the latest 60 months after completion.

The warranty period is extended by the period of standstill due to defects. When replacing or repairing a part, a new warranty period of the same duration as for the initial delivery begins with the installation of the new part or with the completion of the repair.

The CL's obligation to inspect the deliveries of the CR before the agreed functional and performance tests is excluded.

The CR cannot rely on the fact that the delivery has not been immediately investigated or a defect has not been immediately reported.

Any defect occurring before or during the warranty period shall be remedied by the CR at the place where the goods are delivered within a short period of time, at the CL's discretion, by replacement or repair. If the CL requests the CR to carry out a subsequent improvement or replacement, the CR shall also bear the necessary expenses, particularly transportation and travel costs to and from the place of use, labor and material costs, customs duties, dismantling and assembly. This also applies to the disassembly and conversion of the delivery item even if the latter has been processed or installed by the CL or has become an essential component of other systems.

If both, rectification and exchange are impossible or involve a disproportionate effort, or if the CR refuses to rectify the defect or exchange the item or does not make a reasonable deadline, the CL reserves the right to demand compensation, irrespective of the assertion of contractual penalties. The same shall apply if the rectification or exchange of the defect item is not acceptable to the CR for important reasons..

In the case of minor deficiencies (up to EUR 7,000 per individual case) or in the case where the elimination of such does not allow a delay, the CL shall be entitled without prior notification to the CR, at the expense of the CR, immediately in the case of time-critical phases (e.g. trial operation), to remedy such minor deficiencies or to have them remedied. Whereby other claims of the CL remain thereby unaffected. This also applies if the CR does not rectify the deficiencies in a timely manner.

Any additional statutory claims on the part of CL shall remain unaffected.

8.3 Liability for property damage and personal injury

The CR is fully liable for all personal and property damages caused by him. The liability of the CR shall in principle not be canceled by the insurance provided by the CL.

8.4 Liability for documentation

The CR declares to be aware of the special importance of compliance with his obligations related to documentation and that he is therefore liable for the consequences of possible delays and deficiencies. This includes interest losses and financing costs incurred by the CL due to delays in payment.

8.5 Engineering liability

The CR warrants the correctness and completeness of the entire ranges of his engineering services, particularly technical design and calculations, consulting activities and documentation

8.6 Product liability

If the CL is charged for breach of official safety regulations or based on domestic or foreign product liability regulations or laws, and if this claim is attributable to defective products of the CR, the CR ensures to indemnify the CL for all damages resulting therefrom, and apart from that to hold the CL harmless against any claims for damages.

The CR ensures to insure himself adequately against all risks arising therefrom, particularly from product liability and to submit the insurance policy to the CL for inspection upon request. The conclusion of this insurance does not restrict the obligations and liability of the CR from this article in any way, even if the CL does not raise any objection to the insurance policies submitted.

8.7 Limitation of liability

A liability of the CR for loss of profit or loss of production shall be excluded unless the CL is obliged to assume liability for such damages towards the EU.

8.8 Spare parts

The CR guarantees that the replacement, wear and service parts, which are offered as necessary and agreed upon by mutual agreement, are absolutely sufficient for the period of 2 years from commissioning and continuous operation, unless otherwise agreed. Otherwise, the CR shall carry out corresponding additional deliveries DDP to the destination designated by the CL (as a rule, the construction site) according to INCOTERMS 2010, free of charge.

The guarantee period ends 36 months after the installation and commissioning of these parts. The CR guarantees the availability of replacement, wear and operating parts for the delivered item until 10 years after expiry of the warranty period.

8.9 Product safety

The supplies and services of the CR shall comply with the product safety regulations at the place of destination regarding product safety - without prejudice to the otherwise applicable legislation. The CR ensures to indemnify the CL against all claims of third parties.

8.10 Insurances

In any event, the CR is obliged to provide sufficient liability insurance for the project and, in the case of a work performance, also to provide an assembly insurance and to document it to the CL.

If the CR is co-insured under an insurance policy concluded by the CL, the CR recognizes the respective insurance conditions as binding for him. The CR is therefore also committed to the fulfillment of all related matters, e.g. to provide the required information, to comply with instructions, to comply with requirements, etc.

In addition, all insurances for the personnel deployed by the CR as well as for the equipment supplied, shall be concluded by the CR at his own expense.

Any own insurances must contain a clause on the waiving of recourse claims against the CL and the EU.

9 Subcontracts

9.1 Approval

The CR is obliged to inform the CL of any planned subcontracting in a timely manner and to allow the CL to authorize the CR to do so in writing. Upon request, the CR shall make a copy of the respective order available to the CL. Excluded from the information and licensing requirements are standardized parts/items/components/services.

In case of non-compliance with these obligations, the CR shall indemnify and hold harmless the CL for all consequences arising therefrom, which may result in particular from the following criteria:

- Quality
- Deadline risk
- Compensation interests
- Technical cross standardization
- Subcontractor requirements of the EU
- Customs notification, customs transit, import and transport

The approval of subcontracting by the CL does not limit the obligations of the CR. The CR shall remain fully responsible for the fulfillment of the entire order, even in the case of subcontracting. The CR is obligated to submit all legally required documents to the CL at the latest one week before the start of the work; otherwise the personnel employed on the construction site/plant shall have no access authorization.

In case of non-compliance with these obligations, the CR shall indemnify the CL against all consequences arising therefrom.

9.2 Added value

A minimum share of value required in a particular country, as defined in the order within the meaning of the requirements of the Austrian Control Bank (ÖKB) or other financing and/or insurance institutions, has to be complied with absolutely and must be proven to the CL. The CL and the ÖKB or the respective other export risk insurance institution abroad are entitled to free inspections at any time.

In addition to a possible agreed binding of the exporter's liability to the CR by means of a return guarantee to the CL, the CR shall indemnify the CL against all claims of third parties without limitation in the event of a breach of this obligation, regarding

- . the additional costs resulting from the elimination of a beneficiary export credit for the entire financing period;
- . the consequences of the withdrawal of the coverage of the economic and political default risk in the event of a claim
- .

The CR is obligated to bear a deductible as specified by the ÖKB or another financing and/or insurance institution in respect of the deliveries and services to be provided by the CR. If the insured event occurs, the CR ensures to pay the deductible to the CL at his request.

10 Acceptance

10.1 Definitions

The recorded confirmation of the EU shall be deemed as acceptance that the whole plant with the deliveries of the CR has been built according to the contract and without defects. In the case of machines or process technology related deliveries and services, this shall include, in particular, proof of compliance with the performance values (for example capacity, product quality, consumptions, emissions) in an agreed or customary performance record.

10.2 Performance tests

In principle, the contractual conformity of the deliveries/services is tested in the performance test of the whole plant. However, the CL is entitled to carry out additional special tests for the verification of the deliveries/services.

10.3 Delay of acceptance caused by CR

If a proof of performance is not successful due to negligence on the part of the CR or if the acceptance is not carried out due to other defects, the CL grants the CR a reasonable period for making appropriate corrections according to the requirements of the whole plant. The CR shall bear the expenses of the CL for personnel, materials, operating resources etc. incurred by the CR during unsuccessful performance tests.

If the acceptance does not take place within a reasonable time for reasons for which the CR is at fault, the CL shall have the choice either to demand the contractual penalties agreed upon in the order and/or to claim damages and to reduce the price or to withdraw from the contract.

10.4 Delay of the acceptance by CL or EU

If the guarantee period of the CR is expired due to the latest deadline pursuant to 8.2 has already expired, without the CL having been able to carry out a proof of performance, the fulfillment claim of the CR will still be retained in respect of deliveries, services and assured characteristics which have not yet been provided. The retention shall remain in force until fulfillment

11 Documentation

11.1 The importance of the documentation

The documentation is a substantial part of the CR's scope of services. Documentation refers to all documents accompanying the supplies and services of the CR. Such documents relate to manufacturing, quality control, hazard potential, safety regulations, shipping, transportation, export, transit, import, customs clearance, taxation, identification of parts, logistics, storage, assembly, commissioning, training, accounting, bookkeeping, management, repair, maintenance, spare parts procurement, etc.

The CL acquires an unlimited right to use the documentation and is, among other things, entitled to hand over the documentation obtained from the CR or its subcontractors to its other contracting parties and to the EU in modified or unchanged form.

The documentation must be submitted in the format required by the CL.

11.2 Scope

The documentation must be submitted in the format, scope, and language defined in the agreement, complete and on time. Unless agreed otherwise. It shall be delivered DDP to the delivery address of the CL in accordance with INCOTERMS 2010 (note the respective location).

11.3 Shipping documentation

The shipping documentation shall comply with the shipping and packaging conditions of the CL defined in the order. In the documentation, the complete and correct order, project or cost item number as well as the description of the goods must be made clear, among other things, for the clear allocation of the respective custom tariff. The part description must be the same in all documentation. Above all, this description must have the same wording in the drawings, parts lists, packing lists and shipping documents.

11.4 Initial documentation

The CR must submit, free of charge, the valid preferential proof (movement certificate, certificate of origin, etc.) relating to the goods to be delivered within cross-border traffic, which is necessary in the country of destination of the goods to facilitate import customs clearance.

The proof of preference must also contain, in particular, the purchase order number and the order number of the CR. The value of the goods must not appear!

Unless otherwise agreed, the country of the CR shall be deemed to be the country of origin. A certificate of origin, if required, is to be certified by the competent Chamber of Commerce or by the responsible consulate or the responsible embassy, at the request of the CL and at the expense of the CR.

11.5 Assembly documentation

The quality of the documents must be such that a proper and economic assembly by third parties is easily possible. The provision has to be made in time according to specifications or construction site schedule.

11.6 CE Marking

With the acceptance of the order, the CR declares that he will comply with all relevant regulations during the planning and execution of the plant or components and carries out the CE marking and produces the conformity certificate. Goods which do not comply with the relevant provisions and/or are not marked are not accepted by the CL.

12 Accompanying Control

12.1 Inspections

The CR grants the CL and the EU and persons appointed by them the right to check the activities connected with the execution of the order at any time. This includes the inspection of planning, production (regarding quality and deadline), sampling, packaging (with regard to the quality and conformity of the packing lists with package contents), loading inspections, etc. For this purpose, the CR shall grant the CL and the EU and their appointed agents access to the relevant workrooms and documents. The CR ensures to keep the CL constantly informed about the actual progress of the date and to announce any foreseeable future delays.

The CR is obliged to carry out a complete test before the technical inspection by the inspection team and to provide detailed test results (test report, measurement logs, etc.) to the final inspection and to participate in it at the request of the CL. To carrying out the tests, the CR shall make available at his own expense assistance, materials, workers, interpreters, energy, appropriate test facilities, test equipment, technical and auxiliary staff for a proper and effective inspection.

The CR is obligated to present the plant/plant parts, etc., easily accessible, accident-proof or, if not otherwise prescribed, uncoated and pre-assembled for testing.

The performance of an inspection or an inspection waiver by the CL does not limit the obligations of the CR and in particular does not constitute a waiver of the CL to rights to which he is entitled, e.g. contractual penalties, damages, claims arising from warranty/guarantee, etc., even if this reservation is not made.

12.2 Documentation

The CR must provide the required test documentation and for testing and in the case of packaging tests, the packing lists. Incomplete / incorrect test documentation may lead to repeat tests.

The test documentation shall be submitted to the tester of the CL during the testing and shall be handed over in the required amount or sent within an agreed period. When testing is waived, the test documentation must be submitted to the CL immediately or upon agreement, but at the latest before delivery of the unit.

The test documentation must be prepared separately according to item numbers in a clear, meaningful form with table of contents, etc. in electronic or in paper form (e.g. in folders, portfolios, etc.).

12.3 Fees

The CR and/or the CL/the EU shall bear the costs for their personnel or test team (these costs include, transportation, travel time, etc.). If a positive test result is not achieved for reasons for which the CR is responsible, all costs resulting from a re-testing shall be borne by the CR.

13 Shipping/Delivery

The CR ensures to comply with the shipping conditions and packaging guidelines of the CL. The CL reserves the right to adapt the shipping dispositions to the current requirements during the creation of the whole plant. Additional costs resulting from non-compliance with the shipping conditions, e.g. special transports (airfreight) with appropriate packaging requirements shall be borne by the CR.

If "export formalities completed" was agreed upon, then CR shall carry out the customs treatment with his own documents and bear all associated costs and duties.

The CR is obligated to hand over all deliveries exclusively and demonstrably to the CL's authorized recipients. Any extra or additional expenses resulting from non-observance of this provision shall be borne by the CR.

Unless otherwise agreed, the contracted deliveries shall be delivered by the CR in full loads or made ready for collection. Incomplete partial deliveries are to be carried out or planned only after prior approval and written approval by the CL. All additional costs/additional expenses (for example transport, packaging costs, assembly impediments, manipulation costs, etc.) due to non-agreed partial deliveries not released by the CL shall be borne by the CR.

14 Export license

The CR is obliged to procure any export licenses required for his deliveries and services, especially for export to the country of the EU at his own expense. The CR warrants that at the time of the purchase order the complete delivery of the order item is secured and does not conflict with any official or other restrictions of the complete delivery; otherwise the CR shall be liable for any damage arising to the CL and/or the EU as a result. After the conclusion of the contract, the CR ensures to inform the CL in good time of any new export prohibitions/restrictions that may arise, and shall submit alternative variants free of charge to him at an early stage.

15 Rights to the Subject Matter of the Contract

15.1 Third-party rights

The CR ensures to ensure that the use of the his deliveries is in no way limited by the assertion of the rights of third parties (trademarks, patents, territorial protection, etc.) and that no existing boycott clauses, blacklists, etc. are infringed upon. The CR ensures to notify the CL immediately of any infringement of foreign rights which may also subsequently arise, as well as about boycotts, blacklists, etc.

Should any such breach or infringement be asserted, the CR ensures to indemnify the CL and/or EU against all claims of third parties without limitation and to indemnify the CL and/or the EU for the unrestricted use of the object of the order or other acceptable alternatives free of charge for the CL and the EU.

15.2 Confidentiality

The CR shall not be permitted to publish the contents of the order, the business case or any information provided by the CL and any information to be supplied by the CR without the written consent of the CL, nor use it for advertising or other purposes. In particular, the performance documents provided by the CL and the documentation submitted by the CR shall be kept secret and used exclusively for the execution of the respective order. Any persons who become aware of the information and documentation shall be required to sign a corresponding non-disclosure agreement. In the event of a breach of this duty of secrecy, the CR shall also be obliged to indemnify the CL against third-party claims.

The CL ensures, on its part, not to divulge confidential information, which it receives from the business relationship with the CR, outside the direct business relationship.

15.3 Copyright Law

The ownership and exclusive right to use the drawings, information and know-how made available to the CR by the CL/EU remain with the CL/EU. The CR recognizes that these are exclusively copyrighted for the CL/EU.

15.4 Subsequent orders

To protect the know-how of the CL acquired by the CR in connection with the contract and to ensure the optimum operation of the whole plant, even after expiry of the warranty, the CR shall grant the respective customer protection to the CL for any possible subsequent orders of the client/EU or its authorized agents relating to the whole plant for a period of 10 years from the date of final delivery. The CR ensures not to submit any direct or indirect offers to the EU, e.g. for replacement and wear parts without coordination with the CL as sales partner.

In the event of a breach, the CR pays to the CL a penalty amounting to the average merchantable contribution margin from the work carried out inadmissibly.

16 Force Majeure

The CR shall be exempted from a timely, full or partial, performance of the contract if he is prevented from doing so by events of force majeure. Only events which are unpredictable and unavoidable for an experienced CR shall be considered events of force majeure.

The CR, who is disabled by an event of force majeure, must notify the CL without undue delay.

In cases of force majeure, the CR shall undertake all efforts to eliminate or reduce the difficulties and foreseeable damage and to inform the CL thereof on an ongoing basis.

Dates and deadlines which cannot be met due to a force majeure are extended by the proven duration of the effects of force majeure.

Should a case of force majeure persist for more than 4 weeks, the CL may withdraw from the contract in whole or in part.

17 Rescission

17.1 Breach of contract

The CL may, in the event of a serious breach of contract, resign in whole or in part from the entire agreement after setting a reasonable period of grace (generally 14 days). The CL may also withdraw from the contract without setting a deadline

- If a reasonable period of grace has been made available to the CR after a reminder by the CL, albeit without an express grace period or withdrawal threat; or
- If the CL has reason to believe that the CR is not, or will not be able to meet essential contractual obligations in a timely manner.

Serious infringements of contract are, inter alia, delays of interim or final deadlines or deficiencies which jeopardize the fulfillment of the contract by the CL against its contractual partners, even if a contractual penalty is intended for this.

In such cases, the CL is entitled to execute the not performed or inadequately performed deliveries or services himself or by third parties at the expense of the CR (substitute performance). The costs incurred in this connection may be billed directly by the CL, whereby a payment period of 14 days after the date of the invoice is deemed to have been agreed upon, or the subsequent payments due by the CL to the CR shall be deducted. The offsetting with other orders is permitted.

The CR ensures to repay any amount already paid by the CL for not yet performed deliveries and services plus the interest and/or financing costs incurred by the CL.

If the execution of substitute performances requires the access to equipment or materials, etc., which are at the CR's or its subcontractors' premises, the CR shall be obliged to surrender the equipment or materials or the CL is entitled to withhold the equipment or materials. If the execution of substitute performances requires the access to protective rights, documentation (such as workshop drawings, calculations) or other information, the CR is obliged to provide the CL with the necessary rights, documentation and information.

17.2 Insolvency of CR

In the case of insolvency proceedings initiated against the CR or his supplier or in the case of changes in the property relations of the CR, the CL shall be promptly and completely informed by the CR. If bankruptcy proceedings are instituted against the CR or if there are any changes in the ownership of the business of the CR, the CL shall be entitled to promptly dispose of the goods/services which are stored at the CR's and/or his subcontractors' premisses and/or rescind the contract in full or in part.

Irrespective of this, the CL is entitled to compensate any payment claims due by the CR with the calculated remedial and/or completion costs as well as remedial claims.

17.3 Cancellation

The CL has the right to withdraw from the contract in full or in part, even without the fault of the CR. In such a case, the CL is obliged to pay the CR the proportion of the deliveries and services already performed/handed over; but not any other claims arising out of loss of earnings or profits or other costs. The CR is obligated, after declaring the cancellation, to make every effort to keep the costs to be compensated by the CL as low as possible.

If the CL withdraws from this agreement due to an early termination of the Client Agreement, the CR receives a proportional portion of the payments made by the EU based on the Client Agreement for his deliveries and services rendered to date.

17.4 Rights of use

In the case of withdrawal from the contract, the CL/EU is entitled to free use of the scope of goods and services up to finding a follow-up regulation.

17.5 Suspension

The CL has the right to demand the intermission of the further execution of the contract by the CR at any time. In such a case, the CR shall present the consequences to the CL in detail and offer him the best possible economical alternative in the schedule within the project context. The CR will not make any claims from suspension up to a maximum of 3 months.

18 Other Provisions

18.1 Transfer of ownership and risk

The regulations of INCOTERMS 2010 apply to the transfer of risk. The transfer of ownership to the CL shall take place simultaneously with the transfer of the risk.

Reservations of ownership on the part of the CR of any kind are not valid.

18.2 Assembly devices

Assembly devices, commissioning parts etc., which are only intended for temporary use on the construction site, remain the property and risk area of the CR. The CR shall ensure that no costs are incurred to the CL, particularly in connection with their import and export.

18.3 Power of attorney

Any person making statements to the CL on behalf of the CR shall be deemed to have full authority to do so.

The CR shall notify the CL in writing of any restrictions to certain persons (only valid after announcement).

18.4 Liability towards CR

With regard to additional costs incurred to the CR, which are caused by the EU or a third party, the CL is liable only to the extent of the compensation paid by the perpetrator. Liability of the CL for profit or loss of production is excluded. Claims for damages by the CR shall expire after one year from the date on which the CR recognized or should have recognized the damage.

18.5 Third-party claims

The CR shall indemnify and hold harmless the CL against the claims of third parties in connection with faulty or non-contractual performance of his deliveries and services.

18.6 Assignment

An assignment of the rights of the CR is only permitted with the written consent of the CL.

18.7 Changes in performance

The CR ensures to inform the CL of the possibilities for improvement of the contractual object. However, any changes may only be carried out based on a supplementary order.

18.8 Severability clause

Should individual provisions of these GTCs be invalid, ineffective, unlawful or unenforceable, this shall not affect the validity of the remaining provisions. In such a case, CR and CL undertake to replace the invalid, ineffective, unlawful or unenforceable provision with a provision which is closest to the economic purpose of this provision in a legally permissible manner.

19 Applicable Law and Place of Jurisdiction

For all disputes resulting from the present order that cannot be amicably settled, the court having jurisdiction *ratione materiae* in A-4600 Wels/Upper Austria is expressly agreed. Austrian material and formal law applies excluding the UN Convention of Contracts for the International Sale of Goods dated 1980.