



# GENERAL TERMS AND CONDITIONS OF PURCHASE (GTCP)

## of the companies in the Zaunergroup, including its affiliate firms

The following agreement shall apply upon the issuance of an appointment/order by the client (CL).

### 1. Contract conclusion:

The contractor (CR) is to provide the delivery in accordance with the order and/ or possible specifications and technical details in full and free from faults; this shall be done whilst including technically necessary start-up activities, documentation and maintenance notes.

Irrespective of any offers made, all orders, as well as all changes and additions shall only be legally binding for the CL, if these were issued by the CL's respective purchasing department in writing (including per email). The CR may only refer to declarations by other persons, if they notify the responsible purchasing department immediately in this regard, and if they have obtained their written confirmation in regards to the above declaration. Upon commencement of the dispositions required in regards to the order by the CR at the latest, these purchasing conditions shall be regarded as having been accepted by the CR.

The CR's conditions (such as offers, general terms and conditions) shall only be binding for the CL in exceptional cases and namely only, if they have been explicitly recognized by the CL in writing in full or in part. Verbal or telephone orders, as well as additions or amendments of orders, which have already been issued, shall only be binding for the CL, if they have issued a written confirmation. Any additional costs, which are incurred as a result of non-adherence to the conditions stated within the order shall be met by the CR.

### 2. Completeness clause:

The deliveries and/ or services to be provided by the CR must contain all materials, equipment and additional works (such as material checks), which are necessary in regards to the proper functioning, and which are part of the scope of the assignment as per the order, as well as the technical specification, even if they are not explicitly listed in the order.

### 3. Prices, transfer of risks:

The prices listed in the order shall be regarded as fixed prices without value added tax, including all taxes and fees and all costs incurred by the CR in connection with the fulfillment of the deliveries and services, as well as the actual, fault-free completion of the deliveries and services ordered from the CR by the CL. The CR's rights in accordance with Section 1168 ABGB (Austrian Civil Code) shall not be recognized by the CL, unless this has been confirmed explicitly in writing by the CL in individual cases and before invoicing.

The transport costs and risks up to the delivery address, DDP in accordance with INCOTERMS (in their last valid version) shall be met by the CR. The transfer of ownership shall take place at the same time as the transfer of risks.

### 4. Place of execution:

The place of execution in regards to the delivery and/ or service shall be the delivery address quoted in the order.

The place of execution in regards to the guarantee shall be the place of execution stipulated in the order, which does not necessarily have to correspond with the delivery address.

The place of execution of the payment shall be the CL's registered office

### 5. Delivery date:

The delivery dates or deadlines agreed as per the respective order shall be adhered to in any case, including in regards to the agreed documents. Should the CR fail to adhere to the agreed delivery or service provision dates, the CL – irrespective of contractual fines and possible further compensation claims – shall be entitled to withdraw from the contract or to undertake replacement/ alternative purchases. The CL's additional costs shall be charged to the CR.

In case of a delivery delay, for which they are not at fault, the CL shall be entitled to a penalty fee (contractual fine) amounting to a fixed 2% in case of a delay regarding a punishable deadline, as well as 0.25% per additional calendar day from the fifth day of the delay and up to 10% of the overall order value. The CR shall be obligated to pay a default penalty, once an objective delay has occurred, whereby the culpability of the CR shall not be relevant.

The payment of contractual fines shall not release the CR from their fulfillment obligations and respective liabilities. Any additional claims for compensation by the CL shall not be affected by claiming possible penalty fees.

### 6. Shipping stipulations:

All shipments are to contain a detailed packing list and/ or delivery slip, which is legible in the respectively agreed contractual language (if not agreed: German), whilst including our order number.

Special contractual conditions shall be announced together with the respective order and are to be adhered to by the CR, without it being possible to charge such costs to the CL; in case of other invoicing procedures.

In case of deliveries from abroad, the customs documents and import turnover tax certificate shall be supplied to the CL, together with the goods invoice.

### 7. Invoicing:

Invoices (partial and final invoices) may only be presented by the CR upon the complete provision of the deliveries/ services or the complete and fault-free handover of the respective documentation.

Invoices are to be forwarded to the CL in non-electronic form, together with an authorized copy of the delivery slips and, where applicable, volume and hourly invoicing sheets.

All invoices are to contain the CL's order and/ or project number. Invoices are to be labeled as partial or final invoices accordingly.

### 8. Payment:

Payments shall be made within 60 days net or 30 days whilst deducting a 3% cash discount of receiving the invoice.

In case of faulty deliveries or services, the CL shall be entitled to withhold all payments, until all faults have been rectified, whereby the payment target date shall only be set upon a successful rectification of faults. The submission of payments shall not represent an acceptance of the deliveries and shall therefore also not represent the CL's waiver in regards to the completion, guarantee, compensation, contractual fines etc.

In regards to partial invoices, only 10% of the respective invoice amount may be retained by the CL as a guarantee up until acceptance of the final invoice.

Payments shall be made once a week, cash-free, by means of a bank transfer. The above deadlines shall therefore also apply (even in case of cash discount payments), if the payment is issued at the next possible transfer date after the previously mentioned payment deadline. In case of an adherence to the payment process, there shall be no default fines following the exceedance of payment targets.

### 9. Guarantee, rectification of faults:

The deliveries or services provided by the CR shall be in line with the applicable law at the place of execution, as well as the respective standards and applicable stipulations of the respective authorities and organizations, especially in regards to health and safety.

The CR is to rectify all defects at their expense. In urgent cases, the CL may carry out necessary fault rectification measures themselves at the CR's cost and risk and upon notifying the CR. Irrespective of this, all legal claims shall apply.

Incoming goods shall be checked by means of random sampling within 2 weeks of receiving the goods and this shall be limited to checking completeness and visible damage.

The CL's deadline for checking the functionality and technical suitability (notification of faults) of the deliveries and services provided by the CR shall commence upon the first opportunity of an extensive, technical check of the same, and shall last until completion of the commissioning/test run.

The CR herewith waives their right of objection in case of a late notification of faults.

### 10. Liability, insurance:

The CR shall be liable as per the legal requirements for all material and personal damages caused to the CL or a third party, and the CR shall arrange the necessary public liability insurance with adequate coverage for material and personal damage at their expense and to provide according evidence to the CL. Any legally justified third party compensation claims, which are submitted against the CL due to or in connection with the ordered deliveries and services shall be rejected or fulfilled by the CR. In any case, the CR is to release the CL from any claims for compensation or proceedings.

### 11. Other agreements:

The CR's claims against the CL in regards arising from contract may only be transferred to third parties upon their written consent. All deliveries to the CR shall be free from reservation of proprietary rights.

### 12. Choice of law, place of jurisdiction:

For all disputes arising from the present order, which cannot be settled by mutual agreement, the competent court which is in A-4600 Wels/Upper Austria is expressly agreed on. Austrian substantive and formal law is applicable under the exclusion of the UN Convention on Contracts for the International Sale of Goods 1980.

Last updated: 12/2016

Applicable to orders as of 1<sup>st</sup> December 2016