

General Terms and Conditions (GTCs) of
the Pöchtrager Metallbearbeitung GmbH

1) The following General Terms and Conditions (GTCs) are applicable unless special agreements or other conditions have been entered into or confirmed by us in writing; the purchaser expressly agrees to this when placing an order.

We do not recognise the purchaser's own conditions of purchase or other contractual terms. We, the supplier, operate exclusively on the basis of these General Terms and Conditions (GTCs).

2) Quotes and Contracting

Contracts and any amendments thereto must be made in writing. Any agreement on waiving this written form requirement must be made in writing on a case by case basis.

Quotes and cost estimates are not binding; the contract becomes effective after receipt of the order once the supplier's written confirmation of this order has been sent in writing.

3) Prices

Our prices, as stated in the current price lists and all our price offers, whether in written or oral form, are not binding and are quoted net ex supplier's premises, exclusive VAT; they are based on the currently applicable material, energy and payroll costs.

If the lead time between order placement and order execution is longer, and/ or in the event of ongoing deliveries and processing on the basis of a master agreement, and if the price changes within this time period, the supplier shall be entitled to raise the price accordingly at the time of delivery.

Any additional costs resulting from the unsuitable condition of materials provided by the customer shall be invoiced separately.

4) Delivery, Transport Risk and Acceptance

4.1 The risk is passed on to the purchaser as soon as the goods are handed over to the carrier for loading. Loading, transport and unloading are always at the purchaser's risk, even if carriage paid delivery has been agreed.

We do not cover transport insurance for delivery and collection of objects to be processed. We only take out transport insurance upon express written request; the costs incurred by such insurance shall be borne by the purchaser in all cases.

4.2 As a matter of principle, delivery times are not binding, unless their guarantee is expressly agreed in the form of a fixed date, a binding delivery date, etc. Only if performance is delayed due to the supplier's fault shall the purchaser be entitled to withdraw from the contract once a grace period of no less than two weeks has been given and elapsed; any other claims or claims extending beyond this scope are excluded, particularly any claims for damages, unless the supplier has brought about the delay in performance through gross negligence or intent.

4.3 If acceptance by the purchaser is delayed, for whatever reason, and if the purchaser has not remedied the causes giving rise to this delay in spite of being granted an appropriate grace period, we shall be entitled, while insisting on fulfilment of contract, to store the goods on our premises and to charge the purchaser the expenditure incurred thereby; however, we shall also be entitled to withdraw from the contract. In the latter case, we shall be entitled to assert lump-sum damages in the amount of 25% of the contract value; alternatively, we shall be entitled to claim any actual damage incurred in excess of this amount.

5) Terms of Payment

In the event of payment default, we reserve the right to charge default interest of 9.6%. As a matter of principle, set-off and retention by the purchaser are excluded, unless we have expressly recognised a set-off or retention in writing or any such set-off or retention has been ordered by a court of law. In special cases, we reserve the right to make deliveries only against advance payment or payment upon delivery.

This applies in particular whenever circumstances exist that reduce the purchaser's credit standing; in this case, we shall also be entitled to withdraw from the contract without any entitlements accruing to the purchaser in so doing.

6) Retention of Title

The goods delivered, assembled or otherwise processed according to the purchaser's instructions shall remain our property until the purchase price has been paid in full.

In the event of the purchaser's bankruptcy, the purchaser shall inform us thereof without delay. The same applies if goods subject to the retention of title are distrained (by court order). Any goods subject to the retention of title which are taken back can be disposed of freely by our company.

7) Packaging, Return Delivery

Generally, delivery and return delivery of the goods to be refined by us are shipped in the customer's own packaging or the customer's own transport containers.

If the purchaser does not provide suitable packaging material for the return delivery, the supplier shall be entitled to package the goods properly for the purpose of return delivery at the purchaser's expense.

8) Warranty

8.1 The goods must be examined immediately upon receipt (delivery, collection) to the extent possible in the ordinary course of business and the supplier must be notified of any shortcomings. To uphold the purchaser's rights, the timely dispatch of the notification shall suffice. If the supplier has fraudulently concealed any shortcomings, it may not invoke this regulation. For return deliveries, the supplier's original delivery note number must be specified in the consignment note, in the shipping documents of the carrier invoice and/or in the other return delivery documents.

8.2 Minor differences in the gloss level shall not be considered a shortcoming and must be accepted.

8.3 The warranty obligation shall apply for a period of 12 months; a warranty claim shall be subject to the statute of limitation if it is not asserted before a court within this period. If a warranty claim is filed, the warranty period shall not be interrupted or suspended nor will a new warranty period begin.

8.4 The existence of a shortcoming must always be proven by the purchaser; the *praesumptio iuris* under Sec. 924 of the Austrian Civil Code (ABGB) is excluded by mutual agreement.

9) Damages and Liability

For damages of any kind – personal injury excepted – including damages resulting from the fulfilment or non-fulfilment of the contract, from tortious acts or omission and from shortcomings, the supplier shall be liable only insofar as such damage was caused by gross negligence or intent. Any claims for damages beyond this shall be excluded. Claims arising from product liability shall not be affected hereby.

10) Place of Fulfilment, Venue

The place of fulfilment for delivery and payment shall be 4532 Rohr in Kremstal. All disputes arising from this contract shall be settled by the courts in 4400 Steyr with jurisdiction over the subject matter. The international jurisdiction of the Austrian courts has been agreed. Furthermore, Austrian substantive and procedural law shall apply while the United Nations Convention on Contracts for the International Sale of Goods shall be excluded.

11) Consumer business

If a contract concluded on the basis of these GTCs qualifies as a consumer contract in accordance with the Austrian Consumer Protection Act (KSchG), the provisions of the Austrian Consumer Protection Act and the Austrian Civil Code (ABGB) shall apply.

Signature of Client