

GENERAL TERMS AND CONDITIONS – ALBEA Aluminiumbearbeitung GmbH, D-77948 Friesenheim

I. General – scope

- Our terms and conditions which follow are exclusively valid; we do not recognize conflicting terms and conditions or the purchaser's terms and conditions which deviate from our own, unless we have expressly agreed to their validity in writing. Our terms and conditions shall also apply if we render services for the purchaser without any reservation and are aware of conflicting terms and conditions or terms and conditions of the purchaser which deviate from our own.
- Our terms and conditions apply to the entire commercial relationship, i.e. for all future business with the purchaser even if they are not expressly re-agreed.
- In the event that parts of this contract are invalid the remaining parts of the contract shall remain valid unless adhering to the contract would represent unreasonable hardship for the other party.

II. Quotations, scope of services rendered, signing of the contract

- Our quotations are fundamentally subject to change.
- For the scope of a contractually agreed performance the written statements of both parties and in the case of a written order confirmation only this confirmation shall exclusively apply.

III. Prices – payment terms and conditions

- Our prices are based on each individual order and are only binding if the purchaser has provided us with all of the information required to execute the order.
- Should, during the execution of the order, additional work or expenditure become necessary which was unforeseeable or commissioned by the purchaser at a later date then the additional costs will be invoiced.
- Our prices are ex works and exclusive of packaging and other transport or dispatch costs plus the respective legally required Value Added Tax. The packaging will only be taken back if we are legally obliged to do so.
- Provided no other agreement has been made invoices shall be payable without deduction within 30 days upon receipt. Default of payment shall commence on the day following this 30 day period and shall not require a reminder. From this day onwards the legally binding level of interest for default shall be charged. Should we be able to prove a higher level of damage caused by delay, we shall be entitled to bring this to bear.
- The purchaser shall only have the right to offset if his /her counterclaims have been legally recognized, are undisputed or if we have recognized them.

IV. Reservation of proprietary rights

- Regarding all merchandise we have supplied we reserve ownership until payment relating to the contractual relationship has been made in full.
- The purchaser is not entitled to cessions by security, pledging as collateral and other provisions which compromise our rights with respect to the merchandise supplied.
- In the event of levy of execution, confiscation or any other intervention by third parties, the purchaser must inform us immediately in writing.
- The purchaser is entitled, in an orderly manner, to resell and convert the merchandise; in doing so however he / she immediately cedes all claims relating to our company arising from the resale or any other legal reason with respect to his /her buyer or third parties. The purchaser is entitled to collect receivables after surrendering such rights. Our power to collect such receivables ourselves shall not be affected. We undertake however not to collect such receivables provided the purchaser has met his / her payment obligations regarding the revenues received, is not in default of payment, and, in particular, insolvency proceedings have not been commenced or is bankrupt. Should this however be the case then we can demand that the purchaser inform us of the claims assigned and the parties responsible, that all information and documentation required for collection be made available to us and inform the debtors (third parties) of the cession.
- The processing or alteration of the merchandise supplied is always carried out for us. Should the merchandise be altered with other objects not belonging to us then we shall acquire joint-ownership of the new product in relation to the value of the purchase price and the other altered parts at the time of alteration. In addition the same applies to the new product which applied to the merchandise conditionally supplied, in particular, we are entitled to proportionate payment made by the purchaser's client in accordance with the value of the merchandise we supplied.
- Should the merchandise supplied be inseparably linked to other items then Paragraph 5 shall apply. Should the link(s) be made in such a way that the addition(s) made by the purchaser are to be seen as the main part of the product then it is agreed that the purchaser shall assign us proportionate proprietary rights. He /she shall be responsible for the safekeeping of the sole or joint ownership for us.
- We undertake to release the securities to which we are entitled upon the request of the purchaser provided that the value of our securities exceeds secured payment claims by over 20%. We shall select which securities shall be released.
- In the event of a breach of duty on the part of the purchaser, in particular in the event of late payment, we shall, upon expiry of a legally appropriate deadline imposed on the purchaser, be entitled to rescission and to the return of the merchandise; the legal requirements regarding the expensibility of a deadline shall remain unaffected. The purchaser is obliged to return the merchandise. The same shall apply in the event of insolvency on the part of the purchaser.

V. Delivery dates and delays

- Delivery dates or deadlines, which can be binding or non-binding, must be agreed in writing.
- The start of the delivery period pre-supposes that all technical issues have been clarified and that the purchaser fulfils on time and in an orderly manner all contractual obligations. In particular, a delivery period stipulated by us therefore shall not commence before the purchaser has not provided the necessary documentation, approvals, clearances and receipt of an agreed down payment. Should these pre-conditions not be met on time then the delivery period will be extended accordingly; this shall not apply if we are responsible for the delay ourselves.
- The delivery date is adhered to if the purchaser, before expiry of the deadline, has been informed of the readiness for dispatch or if the merchandise has left our plant at the confirmed lead time.
- Delivery and performance delays caused by Acts of God, e.g. mobilisation, war, insurgency and the like in particular strikes, lock-outs fire, regulations issued by authorities etc. which temporarily make delivery fundamentally difficult or impossible including if they occur at our suppliers or subcontractors, shall extend the deadlines and dates in Fig. 1 accordingly. Insofar as such events significantly change the economic importance or the content of the delivery or have a significant effect on our operations the contract shall be amended accordingly in good faith. Insofar as this is not commercially possible we shall be entitled to withdraw from the contract. Should we wish to make use of this right to withdraw we shall be obliged to inform the purchaser without delay as soon as we have recognized the extent of gravity of the event.
- If we are late in delivering the merchandise the purchaser shall be entitled to compensation due to delay and compensation in lieu of delivery only to the extent described in Article IX. The purchaser is only entitled to withdraw from the contract within the legal framework available insofar as we are responsible for the delay. A change of the burden of proof to the detriment of the purchaser is not associated with this.

VI. Transfer of perils

- Provided no other written agreement has been made our deliveries are ex works. The peril shall transfer to the purchaser as soon as we have made the merchandise available to him / her and have informed him / her of this, upon dispatch of the merchandise provided the consignment has been handed over to the person responsible for transportation or has left our premises for dispatch. This shall also apply if the merchandise is delivered by our own staff. If, at the request of the purchaser, dispatch or collection is delayed for reasons attributable to him / her or should he / she be delayed in accepting the delivery then the peril shall be transferred to him / her upon the readiness for dispatch notice.
- We are authorized to decide, without guarantee, both the type and route of delivery for the fastest and cheapest means of transportation. The merchandise shall be insured only at the expense of the purchaser and if he/she explicitly states this.
- Should the purchaser be delayed in accepting the delivery or should he / she violate other obligations to cooperate, then we shall be entitled to demand compensation for the loss, including any additional expenditure, we have incurred.

VII. Material defects guarantee

- All those parts showing material defects within the limitation period shall be either repaired or re-delivered at our expense, irrespective of the operation period, provided that the defect was caused before the handover. Those parts replaced shall become our property once again.
- We should be advised immediately in writing in the event of such material defects.
- Material defects claims shall become time-barred in 12 months. This shall not apply in the event of damage of life, bodily harm or health damage or in the event of a deliberate or grossly negligent breach of duty on our part, or representatives or our servants, fraudulent concealment of a defect or insofar as the Law based on § 438 Para. 1 No. 2 (Building and objects for construction), §479 Para. 1 (right of recourse) and § 634a Para. 1 No. 2 (Construction defects) German Civil Code prescribes longer periods. The legal provisions regarding process obstruction, suspension and restart of the periods remain unaffected.
- Should we be supplied with material to process then the quantity delivered shall be that which is identified at our plant.

- In the first instance we must be given the opportunity for supplementary performance within an appropriate time frame. The purchaser must in particular ensure that the object of the complaint is available to us or our representative for examination and to carry out repairs. Should the purchaser refuse or if he /she delays this unreasonably then we shall not be bound to correct the defect. Rejected goods shall be brought to our premises by the purchaser at his / her own risk. However we also have the right to conduct supplementary performance on site.
- The costs for dismantling and assembly shall be borne by the purchaser up to the value of the supplementary performance. We shall reimburse costs over and above this unless the defects were already apparent to the purchaser prior to assembly. Claims on the part of the purchaser arising from the expenses associated with supplementary performance, particularly transportation costs, tolls, labour and material costs are excluded provided the costs are incurred because the item delivered has been brought to a location which differs from the place of business of the purchaser, unless doing so is in accordance with the contract.
- Should material, upon the request of the purchaser, be placed in storage with us then Article IX shall apply to compensation claims on the part of the purchaser.
- Should supplementary performance be unsuccessful then the purchaser – irrespective of possible compensation claims based on Art. IX – may withdraw from the contract or demand a reduction in the purchase price. If the defect is insubstantial then the right to withdraw from the contract is excluded.
- Costs incurred which relate to unfounded complaints shall be borne by the purchaser.
- Claims due to defects shall not be permissible in the event of minor deviations in the agreed quality, minor deviation in usability, normal wear and tear or in the event of damage which occurs after the transfer of perils due to improper and / or faulty assembly, initial operation, faulty or negligent handling, maintenance and / or treatment by the purchaser or third parties, inordinate operational demands or due to unsuitable machinery materials. Should either the purchaser or third parties implement inappropriate changes or maintenance work then we shall not be liable for such action or the consequences arising.
- Should a delivery be manufactured on the basis of the purchaser's information, drawings and models and the like then our liability shall be limited exclusively to the execution of such plans. This shall also apply if we have produced prototypes ourselves and these were accepted or approved by the purchaser.
- Ceteris paribus Art. IX (miscellaneous compensation claims) shall apply. Further claims on the part of the purchaser not described in Art. VII are excluded.
- For **contract anodization and powder-coating work** the following provisions shall also apply:
 - Transport and return transport of the merchandise to be processed shall be at the risk of the purchaser. We will invoice for transport and carriage costs paid by us. The purchaser shall enter all consignments on a bill of lading listing the product brand, profile number and measurements which are to be enclosed with the material.
 - The purchaser shall be obliged to inform constructors, architects and construction contractors about the dangers which exist with anodized and powder-coated parts regarding alkalis and acids in the event of improper handling and also decomposition and the associated cleaning work. We are prepared to provide the purchaser with information in this regard at all times, upon request.
 - For parts to be powder-coated the purchaser shall indicate whether the parts will be exposed to outdoor weathering.
 - We expressly point out at this point that we cannot in the following cases ensure defect-free anodization – including decoratively - or powder-coating, even when processed correctly:
 - with material which is not or is only partially suitable for decorative anodization
 - with material which, due to heat treatment in its inner structure is altered in such a way that even decorative anodization is no longer possible
 - with material mechanically pre-treated off our premises
 - with material which has been stored incorrectly or in which deterioration, decomposition or corrosion is evident
 - with non-recognizable material defects (e.g. cavities and shrinkage)
 - with steel parts delivered for powder-coating which are not rust- or scale-free, with steel constructions which after galvanizing have been welded or mechanically processed further
 - with powder-coated steel if the latter is not galvanized and has been exposed to outdoor conditions or has been placed or assembled in damp rooms.
 - Prior to placing the order the purchaser shall him-/herself investigate the suitability of the material for anodization or powder-coating and examine the material in order to establish the presence of any qualities, insofar as they are recognizable, which may hamper the execution of the order; we are to be informed of the results.
 - Should the orderly processing of the object not lead to a satisfactory result due to the reasons described above or unsuitability of the material, we shall not be held liable. This shall also apply if such qualities were not recognizable before the execution of the order. Should we recognize such qualities during orderly processing then we shall be entitled to withdraw from the contract unless the purchaser insists on our continuing the order at his /her own entire risk. Upon withdrawal from the contract the purchaser only has the right to request the return of the object in its respective state.
 - We shall not be liable for wastage which occurs during processing through modification etc. or for changes in the fit or size accuracy provided the order was executed in an orderly manner in line with the purchaser's specifications. We cannot provide any form of guarantee for any colour changes in the parts to be treated. To this extent colour samples shall be viewed as approximate.
 - The light resistance of anodizing and coloured powder-coating in terms of the lightfastness level shall be limited to the guarantee of the colour manufacturer.

VIII. Warranty of title

- Should the domestic use of the merchandise lead to the violation of commercial property / copyrights or intellectual property rights of third parties then we will choose at our own expense either an easement or modify / exchange the object supplied to the purchaser in such a way that the rights of the third party are not violated. Should this not be possible to achieve at reasonable conditions then the purchaser can demand legal withdrawal or reduction rights.
- Compensation claims on the part of the purchaser shall be based on Art. IX.
- The obligations described above shall only apply provided the purchaser informs us immediately in writing of claims filed by a third party, does not recognize a violation, and all defence mechanisms and out of court negotiations are handed over to us. Should the purchaser halt the usage of the merchandise for damage limitation reasons he /she shall be obliged to make the third party aware that this does not mean he / she has recognized a rights violation.
- Claims on the part of the purchaser are excluded insofar as he / she is responsible for the rights violation him-/herself, has caused a violation owing to his /her specifications through an unforeseeable or non-contract-conform application or through changing the merchandise or through the use with products we have not supplied.
- For other defects of title Art. VII shall apply accordingly.
- The limitation period of Art. VII Para 3 shall apply to all claims.
- Further or other claims on the part of the purchaser are excluded.

IX. Other compensation claims

- Compensation claims and expense reimbursement claims by the purchaser are excluded irrespective as to the legal ground. This particularly applies to costs incurred by the purchaser relating to loss prevention (e.g. product recall).
- The preceding liability disclaimer shall not apply insofar as we are liable by dint of compelling legal provisions, e.g. based on the product liability law, for damage of life, bodily harm or the health or violation of fundamental contractual duties, if we are responsible for the breach of duty and for other damage based on malicious or grossly negligent breaches of duty. A breach of duty on our part shall be equivalent to a breach of duty by one of our legal representatives or servants. In the event of a violation of a fundamental contractual duty the liability shall be limited to the replacement of the contract-specific foreseeable damage insofar as there is no intent or gross negligence or there is liability for damage of life, bodily harm or damage to health. A change in the burden of proof to the detriment of the purchaser is not connected to the regulations at hand.
- For compensation claims based on this Article the statute of limitations for material damages claims based on Art. VII Para. 3 of these conditions shall apply. For compensation claims based on the product liability law the legal statute limitations shall apply.

X. Court of Jurisdiction and Place of Performance

- The place of performance for both parties is our official company location.
- The court of jurisdiction for all disputes arising from the contractual relationship is our official company location. This shall also apply to cheque and bill actions against the purchaser. Our right to choose to sue at the purchaser's court of jurisdiction remains unaffected.
- The law of the Federal Republic of Germany shall solely apply to all legal relations with the purchaser. The United Nations Agreement regarding contracts of international movement of goods shall not apply.