

Terms and conditions of sale and delivery

1. PREAMBLE

1.1. These delivery conditions apply unless expressly otherwise agreed by the contracting parties in writing.
1.2. The following provisions regarding the delivery of goods also apply by analogy to services. The supplementary assembly conditions also apply for assembly work according to the Association of Austrian Machinery and Steel Construction Industries.

2. CONCLUSION OF CONTRACT

2.1. A contract is deemed to have been concluded when we issue a written order confirmation following receipt of an order or when the goods are delivered to the purchaser immediately after receipt of order. In the latter case, the invoice also serves as order confirmation.
2.2. Changes and amendments to the contract must be confirmed in writing by the vendor to take effect. The purchaser shall bear any costs accrued as a result of the changes or contract revocations. The purchaser's conditions of purchase shall only be binding for the vendor if they are approved separately in writing by the vendor.
2.3. We can, at our discretion, refuse to accept orders without stating the reasons. In such cases, any advance payments made by the orderer shall be refunded.
2.4. It is expressly stated that for our products - provided there is no other written agreement with you from the specific contract should give the customer - only fuels acc. EN ISO 17225 may be used. Especially in wood chips boiler are exclusively woodchips acc. EN ISO 17225 Part 4 Class A1 / P16S-P31S. When using other fuels, the functionality of the system can not be permanently secured.

3. DELIVERY DATES

3.1. Delivery dates are always non-binding. Delays in delivery shall not entitle the purchaser to assert claims for damages.
3.2. The purchaser shall only be entitled to rescind the contract once a reasonable period of grace set by same has elapsed.
3.3. The delivery period is suspended for the duration of the following circumstances beyond our control, which affect us or our suppliers: Difficulties in procuring raw materials, stoppages, strikes or lockouts and all incidents of force majeure.
3.4. If the reasons listed under point 3.3 last longer than eight weeks, we shall be entitled to rescind the contract without stating any further reasons.
3.5. If goods completed in due time are not accepted by the purchaser at the location or time specified in the contract, the vendor can place the goods in storage at the cost and risk of the purchaser. This does not affect the purchaser's obligation to pay the purchase price. The vendor also has the right to issue an invoice.
3.6. The vendor is entitled to make part and advance deliveries.

4. PRICES

4.1. Price stability is explicitly agreed here. The basis for the calculation of this stability is the average annual value of the 2010 consumer price index (base year 2010) determined by Statistics Austria, which results from the monthly values calculated or an equivalent index.
4.2. The current index figure of the average annual value calculated at the time the contract was concluded serves as the reference value for the present contract.
Should a new consumer price index for the previous calendar year come into being prior to delivery or performance, this shall be used here. It thus follows that price adjustment will in all cases be carried out to the advantage or the disadvantage of the purchaser in the calendar year interval. Services rendered within two months after conclusion of the contract will always be charged at the price agreed at the time the contract was concluded. New prices will be rounded up to whole euros.

5. ACCEPTANCE OF SUPPLIES AND COMMISSIONING

5.1. If the purchaser would like an acceptance test to be performed on a delivered item, this must be specified in writing at the conclusion of contract.
If the acceptance test shows that the design of the delivered item conforms to that specified in the contract, this must be confirmed by both contracting parties.
5.2. The purchaser must check, immediately on receipt, that the goods are complete and that they have not been damaged in any way during transportation. Claims of defects must be asserted immediately in writing on the delivery slip by the purchaser or whoever takes receipt of the goods on his behalf. If a notice of defects is not lodged or is not lodged in due time, the goods or service shall be deemed approved. The assertion of warranty or damage claims, as well as the right to avoidance on the ground of error, based on defects is excluded in such cases.
5.3. If an appliance supplied by the vendor is commissioned by the vendor himself or by a company approved by same, the scope of the warranties offered by the vendor to the purchaser shall be exactly the same as it would have been in the case of delivery of the goods alone.

6. PAYMENT

6.1. Unless other conditions of payment have been agreed upon, payments must be made within 30 days of the date of invoice, net without discount.
6.2. Only payments made to an account named by us shall be in full satisfaction of debt.
6.3. The purchaser is not entitled to withhold payments on account of warranty claims or other counterclaims not recognised by us.
6.4. In the event of default of payment, we shall be entitled to charge interest on arrears at 7.5% above the European Central Bank's respective base rate from the due date or, having granted an appropriate period of grace, to rescind the contract. This does not affect our right to assert more extensive claims for damages.

Any dunning, collection and operating costs accrued must be reimbursed by the purchaser.

7. RETENTION OF TITLE

7.1. The goods shall remain our property until full payment of the purchase price and any other subsidiary claims.
7.2. The purchaser must keep the object of purchase in proper condition for the duration of the retention of title.
7.3. If any goods supplied by us are processed to become part of a new product, we shall acquire joint ownership of the new products created through said processing proportionate to the value of the products we supplied as part of the newly created product.
7.4. The customer shall be entitled to process and to sell the goods forming the subject of retention in the normal course of business, provided he is not in default. Pledging or use as collateral is not permissible. As a precautionary measure the customer shall as of now assign to us in full all claims arising in connection with the goods forming the subject of retention from resale or from any other legal basis (insurance, unlawful act). We hereby grant the customer revocable authorization to collect claims assigned to us, in his own name on our behalf.
This power of collection may only be revoked if the customer fails to meet his payment obligations in the proper manner. Any claims against an insurer shall be deemed to have been assigned to us as of now in accordance with § 15 of the Insurance Contract Act (VersVG).
7.5. The purchaser must comply with the formal requirements to protect the retention of title. In the case of attachment or any other claim, the purchaser shall be obliged to assert our right of ownership and inform us immediately by registered letter.

8. WARRANTY

8.1. The warranty period (beginning at delivery) is
- for movables max. 2 years or max. 5000 operating hours
- for immovables max. 3 years or max. 7500 operating hours
8.2. The vendor shall only be liable for parts of a product which have been purchased from a sub-supplier to the extent of the warranty claims against the sub-supplier to which he himself is entitled.
8.3. The vendor is obliged to repair any defect affecting the usability of the product, which is based on a fault of design, material or workmanship.
8.4. The purchaser must assert any claims of defects in writing immediately and not later than three working days (of detection of defect) otherwise any legal claim shall be excluded.
8.5. The vendor must be given the opportunity to inspect the reported defect and confirm it as such. The vendor shall decide whether to repair the defect himself or to have it repaired by an authorised third party. He shall also decide whether
a) to repair the defective goods on site or
b) to recall the defective goods or the defective parts for repair or
c) to replace the defective parts or the defective goods.
8.6. For replacement parts and repairs provided free of charge the same warranty period shall apply as for the original delivery item, but shall be limited in time to the end of the warranty period for the original delivery item. Replaced parts shall become our property and must be returned to us free of charge.
8.7. The vendor must only pay the costs for repairs undertaken by the purchaser himself if he had given his written consent in advance.
8.8. The performance Description forms part of the delivery item and is essential for proper operation. The performance Description includes the instruction manual (operation and assembly instructions) and/or operating conditions for the delivery item, maintenance and service plan, basic legal conditions to be observed and the vendor's technical guidelines. The warranty obligation only applies for defects which occur when the intended operating conditions have been observed and when the system has been used correctly and normally. The warranty obligation also excludes claims for damages on whatever legal basis, including for example claims based on a breach of obligations contained in subsidiary agreements, in particular advice and obligations to inform.
8.9. The warranty obligation does not apply in particular to defects based on: poor assembly by the purchaser or his representatives, poor maintenance, normal wear and tear (including the normal and natural wear of fire-proof cladding such as slight surface abrasion, edge abrasion, cracking, etc. which do not impair functioning), poor repairs or repairs which have been carried out without the written consent of the vendor or modifications by anyone other than the vendor or his representatives and wearing parts and operating materials (fire brick, seals, grates, linking plates, corrosion protection anodes, filters, oil etc.). Further, our warranty obligation does not include damage from air pollution caused by heavy dust accumulation, aggressive vapours, assembly in an unsuitable location (e.g. utility rooms or recreation rooms) or from continued use in spite of a fault.

9. PLACE OF FULFILMENT, PLACE OF JURISDICTION

9.1. The place of fulfilment for delivery and payment is the registered office of the supplier, even if the agreement specifies a different place of delivery.
9.2. The place of jurisdiction for all disputes arising directly or indirectly from the contract is the competent court for the supplier's registered office with jurisdiction as regards the subject matter.
9.3. We are, however, entitled to appeal to another court with jurisdiction for the purchaser.
9.4. The parties can also agree on the jurisdiction of a court of arbitration.
9.5. The contract is subject to Austrian law to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

10. TECHNICAL VALUES

10.1. The technical information regarding measurements, weights, capacities and operating costs etc. contained in our brochures, catalogues, illustrations, technical documents, price lists etc. are approximate and therefore non-binding.
10.2. Goods may differ in terms of design and compared to samples presented.

11. LIABILITY AND CONSEQUENTIAL DAMAGES

11.1. The vendor accepts no liability towards the purchaser for any type of economic losses.

12. SYSTEM SOFTWARE

12.1. Operating and control programs which control operation of the system supplied shall remain the property of the supplier. The purchaser shall be granted a permanent right of use for his system-related control program upon full payment for the machinery supplied.

13. PASSAGE OF RISK

13.1. Unless otherwise agreed, the goods are sold „ex works“ (EXW) (ready for collection)
13.2. The version of the INCOTERMS valid on the day of conclusion of contract also apply.

14. MISCELLANEOUS

14.1. The vendor is entitled to store, communicate and revise the purchaser's personal data within the framework of the business transaction.
14.2. The parties shall maintain absolute secrecy vis-à-vis third parties about the knowledge they receive in the course of business relations.
14.3. The client or purchaser must obtain approval from the responsible authorities for the installation of the object of sale.
14.4. Components may only be returned in immaculate condition within four weeks of the delivery date subject to a 10% service charge.
Components that have been custom-made for a system cannot be returned.