

1. Validity

These General Terms and Conditions of Purchase are valid for all deliveries and services by the Supplier to AGRU Kunststofftechnik GmbH, Alois Gruber GmbH and AGRU Oberflächentechnik GmbH (hereafter referred as AGRU). Unless otherwise agreed in writing these General Terms and Conditions of Purchase apply exclusively, other general terms of business or other terms and conditions of the Supplier contradicting these General Terms and Conditions of Purchase are herewith expressly contradicted. Any changes and amendments of these General Terms and Conditions of Purchase shall be made in writing to be legally binding. The same is valid for the abandonment of the requirement regarding written form.

2. Offers

Offers and cost estimates are always binding and free of charge. The Supplier shall examine all information of AGRU carefully and comply with the guidelines of AGRU in the offer. Unless otherwise agreed in writing the offer is valid at least 30 days.

The contract shall be effective with the written order. If AGRU should not receive a written confirmation of the order (order confirmation) within 4 calendar days, AGRU is no longer bound to the order and the Supplier shall have no claims against AGRU in respect thereof. If there are deviations between the order of AGRU and the order confirmation of the Supplier, these deviations shall be deemed to be agreed after the written approval of AGRU.

3. Prices

The prices are quoted as fixed prices, including standard packing and all additional costs as for examples freight, insurance, export- import- and other approvals unless otherwise agreed. Price escalation clauses or the like are not acceptable by AGRU as far as such clauses are not separate negotiated and agreed in writing.

4. Terms of Payment

Payment terms, including discount periods, shall not start before receipt of a complete and correct invoice by AGRU. Provided no separate payment conditions have been agreed, the payment term within 14 days minus 3% cash discount or 30 days net shall apply. If deliveries are made after receipt of an invoice, the payment term shall begin with the receipt of the delivery items. The payment of the purchase price shall not constitute an acknowledgement of the correctness of the delivery or service and has no effects to any claims by AGRU against the Supplier. An assignment of any claims against AGRU by the Supplier shall not apply unless AGRU agreed in writing. Otherwise AGRU is entitled to withdraw from the contract in whole or in part. In the case of a defective supply or service, AGRU is entitled to retain payments in a reasonable amount.

5. Invoice

The invoice shall be clearly assignable to the order and include the order number and the requester indicated in the order. Invoices which do not comply with these regulations or legal requirements especially tax regulations will not be accepted by AGRU.

6. Delivery

The delivery shall be carried out according to the agreement between AGRU and the Supplier, comply with the legal requirements and the agreed Incoterm. Each delivery shall include a delivery note with the order number and the requester indicated in the order. Delivery dates and contractual obligations apply as fixed agreed and shall be exactly observed. AGRU has to be informed in writing about changes especially a delay in delivery by the Supplier in advance. Decisive for a complete and correct delivery is the timely arrival at AGRU or at the place AGRU determined. The Supplier has to inform AGRU in writing and by telephone about a delay in delivery. If the Supplier fails to inform AGRU, AGRU is entitled to withdraw from the contract without setting a reasonable grace period. If the agreed delivery dates are not met, AGRU is entitled to demand a contractual penalty (independent of blame) in the amount of 0,25% of the total delivery value for every started calendar day of the delay in delivery. The contractual penalty shall 5% of the total delivery value not exceed. This regulation shall not apply for a delay in delivery due to a force majeure event according to point 11. Further legal claims and rights of AGRU against the Supplier remain unaffected by these regulations.

Deliveries can be accepted from Monday to Thursday 7:00-15:00 and Friday 7:00-13:00, for silo vehicles from 7:00-12:00. This does not apply for public holidays and days when the company is closed.

The Supplier is obligated to issue an individual supplier declaration to AGRU or, if necessary, to issue a long-term supplier declaration.

7. Transfer of Risk, Transfer of Ownership

The transfer of risk shall take place according to the agreed Incoterm. For deliveries involving a formal acceptance, the transfer of risk shall take place upon formal acceptance except there is another written agreement. The transfer of ownership take place upon completion of the unloading at AGRU or at the place of destination defined by AGRU, for deliveries involving a formal acceptance upon formal acceptance but in any case after full payment of the purchase price.

8. Warranty

The Supplier warrants that the delivery items are free from any defects and comply with the agreement between AGRU and the Supplier. AGRU shall control if the delivery comply in type and quantity the agreed order or any visible transport damages or any other recognizable defect exists. AGRU shall report such defects as soon as possible but not later than 14 calendar days after their discovery to the Supplier. Any defects detected later shall be reported within a reasonable time. The Supplier does not insist any further inspections and waive any objection due to a late report of a defect.

The warranty period shall be two years unless a longer warranty period is required by law, after acceptance or for deliveries involving a formal acceptance after the formal acceptance. Within this warranty period it is the obligation of the Supplier to prove the freedom from any defects at the time of acceptance.

If during the warranty period any defects or damages occur, AGRU can demand an improvement of the delivery item, the replacement of the delivery item, a reduction in price or withdraw from the contract. The improvement or the replacement of the delivery item shall be carried out within a reasonable time and the least possible discomfort for AGRU. In a case of urgency or refusal by the Supplier, AGRU is entitled to carry out the improvement of the delivery item by themselves or by a third party at the expense of the Supplier after prior consultation of the Supplier. All costs in conjunction with the improvement of the delivery item, the replacement of the delivery item, a reduction in price or withdraw from the contract shall be borne by the Supplier. As far as AGRU organize the return transport or the returning of defect delivery items the Supplier shall bear also these costs and the risk of an accidental loss or deterioration of the delivery item during the transport. If a warranty claim occurs and an improvement or a replacement of the delivery item take place, the warranty period shall recommence for the improved or replaced delivery item after acceptance or formal acceptance. Furthermore the statutory warranty provisions shall apply.

Further legal claims and rights of AGRU against the Supplier remain unaffected by these regulations.

AGRU is entitled to carry out an audit at the Supplier's production plant with prior notification at normal business hours. The Supplier shall support AGRU best possible by such an audit.

9. Property Rights

The delivered items shall be free from any rights of third parties. AGRU shall be entitled and remain entitled in the future to the possession and use of the delivered items all over the world. As far as any rights of third parties are infringed and if it is not possible for the Supplier to provide these rights, AGRU is entitled to withdraw from the contract. The Supplier shall be liable for all damages of AGRU as a result of such incidents.

10. Confidentiality

Unless another non-disclosure agreement between AGRU and the Supplier exists, all information disclosed during the offer, the order or in another way reached the other party shall be strict confidential. Such information shall be used only for the purpose of an order. A transfer to third parties is only permitted with the prior written approval of the other party. The Supplier shall keep orders and contracts strict confidential and is not allowed to advertise or use them as a reference without the prior written approval of AGRU.

11. Force Majeure

The Supplier shall be released from the responsibilities for non-performance of the duties under the present agreement if such non-performance is caused by force majeure. For purposes of this agreement force majeure shall mean fire, flood, earthquake and other acts of god, embargo on export and import, where such circumstances directly affect the performance of the agreement. The performance of the Supplier's obligation shall be suspended for as long as force majeure continues to exist. The Supplier shall inform AGRU about the beginning and the cessation of the force majeure event immediately, but not later than within five (5) days of its occurrence. Should the Supplier fail to report the force majeure situation to AGRU in due time, the Supplier shall remain liable for non-performance of his duties under the present agreement despite of the circumstances thereof. The occurrence and durability of the above said circumstances shall be proved in a suitable form.

If the period of force majeure lasts longer than 4 weeks, AGRU shall be entitled to withdraw from the contract in whole or in part and the Supplier shall have no claims against AGRU in respect thereof. As far as AGRU is unable to fulfill his obligations according to an order in case of force majeure, the regulations above apply mutatis mutandis.

12. Contract Termination

The parties are entitled to withdraw from the contract in writing if a party violates the confidentially agreement or these General Terms and Conditions of Purchase and such violation does not stop in spite of a written notice.

13. Insurance, Product Liability

AGRU can demand a customary business and product liability insurance or another proof to cover possible product liability claims from the Supplier. The Supplier is liable for any recourse claims based on product liability according to the Austrian Product Liability Act against AGRU as far as the claim was caused in the Suppliers sphere.

14. Applicable Law, Jurisdiction

The agreement between AGRU and the Supplier shall be governed by and construed in accordance with the substantive laws of Austria, without regard to the Conflict of Laws provisions thereof. For the avoidance of doubt, AGRU and the Supplier agree that the United Nations Convention on Contracts for the International Sale of Goods shall not apply. All disputes or claims arising out of or in connection with this agreement including disputes relating to its validity, breach, termination or nullity shall be amicably resolved by mutual negotiations. If the dispute or disagreement remains unresolved, the same shall be finally submitted to the exclusive jurisdiction of the ordinary courts of Steyr, Austria.

15. Miscellaneous

If any provision of these General Terms and Conditions of Purchase is held to be illegal, invalid or unenforceable, in whole or in part, under any applicable enactment or rule of law, such illegality, invalidity or unenforceability shall not affect the remainder of this agreement, and AGRU and the Supplier shall in good faith attempt to substitute a legal, valid and enforceable provision which achieves to the nearest extent possible the same effect as would have been achieved by the illegal, invalid or unenforceable provision. In case of any inconsistency between the German and the English version of these General Terms and Conditions of Purchase the German version shall apply.