



GENERAL TERMS & CONDITIONS

§ 1 SCOPE OF APPLICATION

- (1) The terms & conditions are solely valid against enterprises or legal entities iSd§ 1 Abs1 Z1 KSchG under public law. Controversial agreements or agreements deviating from our general terms & conditions are only acknowledged if we charter it in written form.
- (2) These terms & conditions are valid for all future business with the purchaser as long as it is a legal transaction of same kind. The application of terms & condition of the customer is expressively objected even under the condition that it was submitted in any kind of confirmation letter or other of such kind.

§ 2 OFFER AND CONTRACT

1. Generally, all quotes of ACH are non-binding unless it is marked as “binding”. Orders are only legally binding with submission of an official order confirmation by ACH. Unilateral changes of the contract do not have any legal impact. Explanations of ACH employees against customers are having no legal validity without written consent. The order of the customer is a binding contract offer. Unless the order is not stating different, ACH can acknowledge the order within 14 days after receipt with an order confirmation.
2. Legally relevant statements, which must be stated by the customer after contract conclusion (e.g. deadline, defect notification, cancellation etc.) must be submitted in written form for effectiveness. The submission by telecommunication (in particular e-mail) is not sufficient.
3. All information provided by ACH with regard to supply and work (e.g. weight, dimension, loading capacity, tolerances and technical data) and presentation of the same (drawings and illustrations etc.) are non-binding unless expressively guaranteed for the single case in written form. Deviations which are customary in trade and deviations which are subject to legal instructions or technical improvements as well as the use of equal parts are allowed, unless it is in conformity with the requirements of “fit, form and function”.

§ 3 DOCUMENTS

1. For any documents related to the ordering process which are dedicated to the purchaser such as calculations, drawings etc. we keep full title of retention and copyright. It is strictly prohibited to assign these documents to third parties unless we explicitly charter the written agreement. As far as we do not acknowledge the offer of the customer within the period as of § 2 such documents have to be immediately returned.

§ 4 PRICING AND TERMS OF PAYMENT

- (1) Unless not agreed in written form to the contrary, all prices are valid ex works (ex works Fischlham, Incoterms 2020) plus VAT in the appropriate level. Cost for transportation, packing and crating, insurance etc. is not included and must be carried by the customer. For export business, the customer is bearing the cost for customs and other fees. For orders which are deviating from the initial ACH quote, ACH is keeping the right for price adjustments.
- (2) All payments have to be solely transferred to the bank account mentioned on the back side. The application of any discount is not permitted.
- (3) Unless not agreed to the contrary in writing, the payment has to be executed as follows
 - 40 % at PO Placement
 - 40 % after completion of tooling before sampling
 - 20 % after FAT at ACH Austria, before delivery

All payments net after receipt of the invoice without any discount. Interest for default will be applied at 8 % above the actual base interest rate p.a. The enforcement of higher remedies for default is subject of alteration

- (4) We are not obliged to accept and execute individual orders below a total order value of € 200,00 (w/o VAT).
- (5) Unless no fixed prices had been agreed, adequate price adjustments due to increased labour-, material- and administrative costs for deliveries effective 3 month or later after signed contract are subject of alteration.
- (6) ACH is reserving the right, after timely notification of the customer and before execution of the delivery, for price adjustments in such case, where ACH has no influence (e.g., currency fluctuation, changes of tariffs, raw material shortages, currency regulations etc.).

§ 5 LEADTIME

- (1) Generally, the confirmed leadtime is a guideline and non-binding. In case a delivery is bindingly confirmed in written form, ACH is only getting in a formal delay if the customer has confirmed a period of grace of min. 8 weeks in writing. The customer is only entitled for a right of withdrawal, if ACH has not confirmed a binding promise of delivery within the period of grace. Due to delays of supply, customer cannot claim demands against ACH. Force Majeure of any kind (delay of supplies by sub suppliers, strikes, facility constraints, measurements by authorities, raw material shortages, pandemics and other unforeseeable measurements and difficulties) qualifying ACH to exceed the leadtime without entitling the customer for remedies.
- (2) Start of the leadtime is preconditional of the on-time implementation of all obligations of the purchaser. The objection of the fulfilled contract remains subject to revocation.
- (3) The written confirmed leadtime is effective after receipt of the down payment (40 %) according to the standard payment terms and full clarification of the order.
- (4) If the purchaser is in default of acceptance or breach in negligence the obligation to cooperate, ACH is entitled after setting a period of grace of 30 days, to require corresponding remedies or to withdraw the contract. Right for further demands is reserved. Provided of corresponding requirements the liability for accidental perishing or accidental deterioration of the goods are subject of the purchaser if at time the purchaser is in default of acceptance or default of debtor.

- (5) Further legitimate claims and rights of the purchaser in case of default delivery remain unaffected.

§ 6 TRANSFER OF RISK AT DISPATCH

- (1) Transfer of risk is deemed in accordance with the Incoterm EXW (means, transfer of risk at the time of making the goods available by ACH at door ACH Fischlham). IN case of default of acceptance, the risk of damages, deterioration and accidental perishing is transferred to the client. Furthermore, ACH can claim cost for storage.

§ 7 TITLE OF RETENTION

- (1) ACH remains legal owner of the supplied goods until the complete payment of all obligations from the supply contract. It covers all future supplies as well, even if we are not explicitly requiring such. ACH is entitled to return the goods and bring it into our ownership if the purchaser is in breach with any provisions of the contract or is becoming bankrupt.
- (2) As long as the ownership of the goods is not legally transferred it is the purchaser's obligation to handle the goods with care. In particular it is the purchaser obligation to insure the goods at its own expenses and in sufficient value against damages caused by vandalism, fire and water. In case maintenance or service jobs must be carried out the purchaser has to arrange it on time at its own expenses. As long as the ownership is not transferred the purchaser has to immediately inform us in writing if the goods are subject of distraint or other interventions by third parties. As far as third parties are not capable to reimburse the judicial and non-judicial costs of a claim, the purchasers is liable accordingly.
- (3) The purchaser is able to sell the conditional goods at normal business activities. All claims of the client from the sale of conditional goods are transferred right away in the value of the agreed invoice amount (incl. VAT). That assignment is valid independently if the goods were sold w/o or after processing. The purchaser is authorized to request the claim after the assignment. Our entitlement to require the claim is untouched from it. We will not require the claim as long as the purchaser meets its liability to pay, not being in default of payment and in particular not having opened a insolvency proceeding.
- (4) Conditioning, processing or transformation of the goods through the purchaser is being carried out in the name and ordered by us. In that case the remainder for the goods of the purchaser is being carried over to the transformed goods. If the goods being processed with other goods not belonging to ACH, ownership is obtained at the new object in relation to the objective value of the goods with the other processed objects at time of processing.

§ 8 WARRANTY AND NOTIFICATION OF DEFECT / RECOURSE/MANUFACTURER LIABILITY

- (1) The right of warranty presumes the correct notification by the purchaser in accordance with § 377 UGB notification of defect. Defects must be notified immediately, stating the kind and scope of defect, latest within 8 (eight) days in writing. For the timeliness, the time of reception at ACH is important. In case of timely insufficient notification of defect, any rights of the customer with regard to the defect are expire.
- (2) ACH warrants, that the goods are at time of transfer of risk are corresponding with the agreed specification and are free of defects. Place of performance refers to the Incoterm EXW. The reimbursement of efforts which are a result of the transfer of the goods other than

the place of performance, is excluded. ACH only warrants in such way, that according to ACH choice, the goods will be improved at no charge or goods free of defect will be delivered in addition. The aforementioned demands are finally governing the liability of defects. Further demands of any legal reason, in particular the right of contract withdrawal, mitigation and remedy for warranty is excluded by ACH as long as an expressly ensured property or the fraudulent concealment of a defect is obviously conceded. The customer has to prove that the defect was existent at the time of transfer from ACH to the client.

- (3) The limitation for notified defects is 12 month after receipt of the goods according to Incoterm EXW. It is obligatory to get ACH acceptance before any return of goods.
- (4) The base for the good and correct order of the goods is the FAT testing at ACH Solution before shipping.
- (5) Despite all applied diligence in case of defects at the supplied goods which were present at time of transfer of risk and subject to on time notification of defects ACH will on its own choice rectify the defect. In any case we have the chance of rectification within timely manner.
- (6) Liability is excluded in case of minor deviation from the agreed quality, at minor impairment of use, at common wear and tear, or damages after transfer of risk. In case customer or third parties are at its own discretion repairing or modify the goods, any liability is excluded.
- (7) There is no right for claim if only insignificant deviation from the agreed condition, insignificant adverse effect, at deterioration by nature or wear-out and damages after transfer of risk due to malfunction or careless handling, extraordinary exposure, inappropriate operating resources, defective construction, inappropriate land space or due to special influences from outside which are not taken for granted after signed contract. If the purchaser or third parties apply inappropriate maintenance work or adjustments there is no right for compensation.
- (8) Right for claim of the purchaser for extra efforts due to supplementary performance in particular transportation and material costs are excluded as long as the efforts increase because the goods, we supplied had to be forwarded to any other location instead of the purchaser's location unless the transportation is in line with the destined usage.
- (9) Right for claim by the purchaser is only existent as the purchaser has no other agreement with its clients beyond the stringent claims. For the amount of liability of the purchaser against the supplier there is § 6 in place.

§ 9 LIABILITY

- (1) ACH is liable for demands of customers for remedy – no matter of what legal kind – under exclusion of further liability as follows:
 - a) At minor negligence, liability is excluded
 - b) Any kind of gross negligence, and demands of customer at recourse with regard to liability insurance and recalls per calendar year is limited to 10% of the turnover between the parties, but – after measure of actual existing efforts – minimum of € 20.000,00 and maximum to € 50.000,00 per calendar year.
 - c) Liability for consequential damage, secondary damage (in particular secondary damage on defects), interruption of production, lost profit, loss of information and data is excluded. At this point, the meaning of lost profit is also understood as the destruction of potential earnings, which was deemed at the point of the damage for the customer an existing and substantive value, e.g. due to an existing contract with a third party.

§ 10 MISCELLANEOUS

- (1) The contract and the entire privity of contract of the parties are subject of the law of Austria under exclusion of UN-convention on contracts for the international sale of goods (CISG).
- (2) Place of performance and jurisdiction for all disputes resulting from the contract is based on Incoterm EXW (Incoterm 2020) ACH facility Hafeld, department Fischlham/Austria unless not differently mentioned in the order confirmation.
- (3) All agreements which had been taken between the parties to execute the contract are put into writing in that contract.
- (4) If some provisions of the contract are or will become invalid or if contain missing sections then all other provisions remain untouched. The parties are obliged to find a legally acceptable agreement instead of the invalid provision which comes next to the economic purpose of the invalid provision resp. to fill the missing section.