

# GENERAL CONDITIONS OF PURCHASE

## (March 2011)

### 1. General

- 1.1. The following conditions apply to our inquiries and orders, unless agreements to the contrary are made in writing. The vendor's conditions of delivery are binding for us only when we expressly accept these in writing.
- 1.2. Offers and consultation from the vendor are free of charge and not binding for us but binding for the vendor. The latter commits to seeking sufficient information about details which may influence the handling of the object of inquiry or order.
- 1.3. Our conditions of purchase also apply when we unreservedly accept the delivery in the knowledge any contrary or differing or additional conditions of the vendor.

### 2. Placing orders

- 2.1. Orders are only legally valid when given on our duly signed stationery; orders submitted electronically without signature are legal too.
- 2.2. In principle, verbal, telephone, electronic or faxed orders in advance must be confirmed by us in writing unless the fax or emailed order includes a direction that no written order is necessary.
- 2.3. Changes and/or additions can only be agreed in writing.

### 3. Confirmation of orders

- 3.1. Every order must be confirmed giving our order number in full. The order counts as recognised unreservedly when the vendor recognisably begin to meet the order after receiving the written order.

### 4. Prices

- 4.1. Prices are fixed prices according to DDP in the current version of Incoterms. In the absence of a written agreement to the contrary the price includes free packaging and delivery.
- 4.2. In the case of prices and conditions not being prescribed on our order but quoted to us later, they will not become valid until accepted by us in writing.
- 4.3. Goods must be correctly packaged as is usual for the trade, suitable for the purpose and appropriate for transport. The return of loose articles is made at the cost and risk of the vendor.

### 5. Delivery date

- 5.1. The prescribed delivery date – arrival of the goods at their destination – must be kept to time; in the case of delays we have the right to demand compensation due to the delay or due to failure to keep to the contract and we have the right to withdraw from the contract. A delivery before the due date can only be made with our agreement. The time periods in question begin with the date originally agreed.
- 5.2. For every week begun beyond the due date of delivery we have the right to impose a penalty on the vendor of 1% of the worth of the total order. Compensation for losses in the case of further damages is not ruled out. We are not obliged to remind the vendor of any delay. A penalty for delay is not imposed when the delivery is either wholly or partly accepted without reservation and/or paid for.
- 5.3. If a punctual delivery is not possible due to acts of higher authority or due to belated arrangements by us, we must be informed immediately in writing. Otherwise no request to postpone the delivery can be considered. In the case of a justified request to postpone the delivery date, the new date must be agreed in writing. Should this date be passed, the conditions originally agreed apply.
- 5.4. Acts of higher authority are interpreted as unavoidable events which could not be foreseen by the contractual party at the time of contract and which prevent the party from fulfilling their contractual duties. All forms of war and natural disasters count as acts of higher authority. The following do not count as acts of higher authority: strikes, manufacturers' faults, spoil moulds, failure of utilities, delay due to sub-suppliers etc.

### 6. Directions for dispatch

- 6.1. If not otherwise agreed in writing, delivery must be made to the destination insured for transport, duty-paid and free of packing charge. In principle the vendor bears the risk of transport. The vendor must pack and load the goods responsibly and correctly.
- 6.2. Our directions for dispatch must be followed exactly. Any damages or costs arising from not following the directions or conditions agreed for dispatch (e.g. overweight load, parking, customs duties) will be met by the vendor. Should we omit directions or conditions for dispatch, the means of transport of best value to us should be chosen.
- 6.3. The dispatch notice should be sent to us immediately on completion of each single package. The package should be accompanied by a package label and the dispatch notice. The following details should be given in the dispatch notice and on the package itself: our order number and position in full, contents, the number in running of the

package, the usual emblem label, net and gross weight and the measurements of the package. Labelling directions must be followed.

- 6.4. Deliveries of paid goods which are not duty paid must be accompanied by the relevant customs documents, certificates of origin if necessary, certificates for transported goods etc.
- 6.5. Deliveries from abroad to us must be preceded by invoices.
- 6.6. In deliveries exceeding weight restrictions the vendor is obliged to obtain LU permission from the relevant rail or road authorities at least 6 weeks before dispatch.
- 6.7. In the case of incorrect dispatch documents, we reserve the right to return them at the cost of the vendor and /or demand compensation for any arising costs.
- 6.8. Costs arising from not following the directions for dispatch will be borne by the vendor.

### 7. Rejects / Mistaken deliveries

- 7.1. On deliveries of mistakes or rejects we reserve the right to insist on a delivery of replacements or, as a refund, to refuse payment. The transport of replacement goods and the return of rejected goods or mistaken deliveries will follow at the risk and cost of the vendor.
- 7.2. Should we subsequently suffer losses, the vendor must offer full compensation.

### 8. Acceptance of delivery

- 8.1. The legally valid acceptance of delivery can be dated from our inspection of the whole delivery to the end client, even when we have confirmed its arrival and/or paid the bill. We therefore reserve the right to find fault later with the goods.
- 8.2. If the delivery fails to meet agreements, usual trade conditions or safety measures, we have the right to withdraw the order and obtain replacements at the cost of the vendor.

### 9. Guarantee

- 9.1. The vendor guarantees the goods are fit for purpose, constructed for the particular purpose according to the newest technology, composed of perfect materials, of high quality and reliable characteristics. The guarantee covers function, performance and completeness. The vendor guarantees for two years that they will either offer to replace free of charge, including (dis)assembly charges to the destination or display either any part which has proved inoperable, faulty or damaged or reimburse us for losses due to inoperable, faulty, or damaged goods. In urgent cases we have the right to obtain superior or replacement goods at the cost of the vendor or via third parties. In the case of exchanged or improved goods the full guarantee runs from the date of operation of the new goods.
- 9.2. The vendor is obliged to deliver replacement and new-for-worn parts for the goods delivered for 10 years from delivery at the usual market prices. Alternatively, the vendor must take care to find the relevant replacement. Should the vendor cease delivery of replacement parts, the buyer has the opportunity to make a last order.
- 9.3. By accepting the order the vendor announces expressly they are not liable for any rights, especially protective rights of third parties. If the rights of a third party are upheld, the vendor commits to finding us free of blame and compensating us in full for any arising losses.
- 9.4. The vendor moreover is responsible without limits for any losses caused by them.
- 9.5. To safeguard all contractual claims on the guarantee a suitable security deposit can be requested from the vendor until the expiry of the warranty. Unless otherwise agreed, 10% of the worth of the contract can be withheld from payment of the final bill as an interest-bearing deposit which can be redeemed by the vendor by setting a correspondingly high backlet guarantee.

### 10. Cancellation / Adjournment

- 10.1. We have the right to withdraw in part or in whole from the contract even if the vendor is not at fault. In such a case we are obliged to pay the vendor the proportional contract price for deliveries and services already made and, moreover, to reimburse the direct costs proved to ensue from deliveries and services in process and/or the cancellation of sub-contracts. After withdrawal is announced, the vendor is obliged to make every effort to keep any costs payable by us as low as possible. The vendor cannot enforce any further claims, for any legal justification.
- 10.2. We have the right to cancel an order immediately when bankruptcy proceedings or compensation is applied to the assets of the vendor. We have the right at any time to receive from the handling of our order any material paid for, engineering or crafted parts of our choice at the usual trade prices.
- 10.3. We have the right to demand from the vendor at any time a pause in carrying out the order further. In such a case the vendor must point

out to us the ensuing consequences and offer us the economically best possible changes in further deadlines connected with the project. On adjournments of up to 3 months max. the vendor will make no demands.

#### **11. Invoices**

11.1. All invoices must be drawn up according to the necessary criteria and simply handed in, unless otherwise agreed. In no case may the invoice accompany the delivery. The order number and position must be given as well as all other order data and the date of dispatch. Invoices for services must be accompanied by receipts. One invoice may not list several orders. We reserve the right to return invoices which do not follow our guidelines. In this case, invoices do not count as valid until properly set out and sent.

#### **12. Payment**

12.1. Payments must be made, unless otherwise agreed, within 14 days minus 3% discount or net within 60 days of delivery and receipt of the invoice. If the delivery is unsatisfactory, payment will not be made until the fault is rectified. Should the agreed documentation and/or certificates be missing at the due date for payment, the delivery counts as not made and payment will follow the presentation of the missing documents.

12.2. The vendor declares themselves in agreement with a mutual settlement of claims and responsibilities of every kind.

12.3. Payment in cash will not be accepted unless otherwise agreed in advance.

12.4. Assignments shall require our written consent.

#### **13. Reservation of title**

13.1. The goods ordered by us undergo further work in our products, which annuls the reservation of title. Should the receipt for the order or the invoice nevertheless contain a reservation of title, these are ineffective even without our express objection.

#### **14. Order documents**

14.1. Information given in our inquiries or orders, drafts and drawings enclosed, models provided by us and other similar items remain our property and may not be used for other purposes without our written permission. They must be returned with the offers or after successful completion of the order. No fee will be granted for the preparation of offers, plans etc.

14.2. The order and all associated information, documents etc. are to be treated in confidence and may not be passed on to third parties. Violation of this condition makes the vendor liable to pay compensation.

14.3. We may request later changes to the delivery or extent of delivery, e.g. in models ordered or number, if special operational circumstances demand it and the changes are usual in the trade and feasible for the vendor. If the buyer's changes alter the basis for pricing the service outlined in this contract, a new price will be agreed to accommodate the higher or lower costs involved. This agreement must be made before meeting the order.

14.4. Attachments to the order of a technical or business nature form an integral part of the order.

14.5. If the order documents contain contradictory directions, the following rank order applies:

- (1) Text of the order
- (2) Special technical and/or business conditions and their appendices
- (3) General conditions of purchase

14.6. The use of the order for advertising purposes is permitted only with our written acceptance. The vendor has no right to cite as a reference whole documents to which he has contributed significant parts.

#### **15. Headquarters**

15.1. The destination and payment for the delivery is, if not otherwise given, the offices of GAW technologies GmbH, Graz.

#### **16. Court of jurisdiction / law applicable**

16.1. Court of jurisdiction for the contractual parties is agreed to be Graz. In addition to the conditions on ordering, solely Austrian law applies. The application of the UN-sales (Vienna Convention on the Sale of Goods) law is ruled out.

16.2. In the case of single conditions of the contract becoming inoperable, the remaining are upheld.

#### **17. Severability Clause**

17.1. In the case of the invalidity of single conditions of the contract, the lawful validity of the whole is upheld. The place of the invalid directive will be taken by the legal condition best able to fulfil the same purpose.