General Terms of Delivery

of the Austrian Association for the Machine-Building and Steel Construction Industry
of 01 January 2002

The present General Terms of Delivery have primarily been drafted for legal transactions between companies. If, in exceptional cases, they are used as a basis for legal transactions with consumers, as defined in § 1, paragraph 1, item 2 of the Consumer Protection Act, Federal Law Gazette No. 49/1979, they shall only apply to the extent that they do not conflict with the provisions of the first main section of the aforementioned law.

It is mutually agreed that the UN Convention on Contracts for the International Sale of Goods (CISG) of 11 April1980, Federal Law Gazette No. 1988/96, is expressly excluded.

1. Introduction

1.1 Unless the contracting parties have expressly agreed otherwise in writing, the present General Terms of Delivery shall apply.

1.2 The below provisions on the delivery of goods shall also apply mutatis mutandis to performances.

1.3 The Terms of Assembly of the Austrian Association for the Machine-Building and Steel Construction Industry shall additionally apply to assembly projects.

2. Making of a Contract

2.1 A contract shall be deemed to have been made if Seller has sent a written order confirmation upon receipt of an order and if there is no evidence that Buyer has opposed it within ten days.

2.2 Seller shall confirm in writing any modifications of and amendments to a contract in order to make these valid. Seller shall be bound by Buyer's conditions of purchase only if Seller has accepted them separately.

2.3 In the event that import and/or export licences or foreign-currency permits or similar authorizations are required for the performance of a contract, the party responsible for obtaining such documents shall make every reasonable effort in order to obtain the necessary licences or permits in due time.

3. Drawings and Documents

3.1 The data on weights, measures, content, prices, performances, or alike, as contained in catalogues, brochures, circular letters, advertisements, pictures and price lists, etc. shall only be definitive if the cost estimate and/or order confirmation expressly refers to them.

3.2 Drawings, design drafts, cost estimates and other technical documents, which may also be part of the cost estimate, as well as samples, catalogues, brochures, pictures and alike shall always remain the intellectual property of Seller. Any use, copying, reproduction, dissemination and transfer to third parties, and any publication and presentation thereof may only be effected with the express approval of the owner.

4. Packaging

4.1 Unless other arrangements have been agreed upon
a) the listed prices are without packaging;
b) the goods are packaged according to normal trade practice in order to avoid, under normal transport conditions, any damage to the goods on the way to their agreed destination. The goods are packaged at Buyer's expense, and the packaging material will only be taken back if so agreed by the parties.

5. Passage of Risk

5.1 Unless otherwise agreed, the goods shall be deemed to have been sold "ex works" (EXW) (ready for collection).

5.2 Furthermore, the INCOTERMS shall apply in the version valid on the date when a contract is signed.

6. Period of Delivery

6.1 In the absence of any other agreement, the period of delivery shall begin at the latest of the following dates:
a) the date of the order confirmation;
b) the date on which Buyer has complied with all technical, commercial and financial preconditions for which Buyer is responsible under the contract;
c) the date on which Seller has received a payment on account that is due prior to the delivery of the goods, and/or a payment guarantee has been issued or otherwise provided.

6.2 Seller shall have the right to make partial or advance deliveries.

6.3 If a delivery is delayed on account of a circumstance on Seller's part that constitutes a reason for relief according to Article 14, a reasonable extension of the period of delivery shall be granted.

6.4 If Seller has caused a delay in delivery, Buyer may either demand the performance of the contract or withdraw from the contract, granting a reasonable respite.

6.5 If the respite according to Article 6.4 is not used, due to Seller's negligence, Buyer may withdraw from the contract by means of a written notice, regarding all undelivered goods. The same shall apply to delivered goods which, however, cannot be used appropriately without the outstanding goods. In this event, Buyer shall have the right to be refunded any payments made for the undelivered goods or for the goods that cannot be used. Moreover, in the event that the delay in delivery is due to a gross negligence on Seller's part, Buyer shall be entitled to a refund of any justified expenses that Buyer has had to incur up to the dissolution of the contract and which cannot be used for any further purpose. Buyer shall return to Seller any delivered goods and the goods that cannot be used.

6.6 If Buyer does not accept the goods supplied under the contract in the contractually agreed place or at the contractually agreed time, and if the delay is not due to any action or omission on Seller's part, Seller may either demand the performance of the contract or withdraw from the contract, granting a respite.

When the goods have been segregated, Seller may store the goods at Buyer's cost and risk. Seller shall also be entitled to claim a refund of any justified expenses that Seller had to incur in connection with performing the contract and that are not covered by the payments received.

6.7 Any other claims of Buyer against Seller for Seller's delay than those listed in Article 6 shall be precluded.

7. Acceptance Test

7.1 If Buyer wishes to have an acceptance test made, such a test shall be agreed expressly in writing when entering a contract. Unless otherwise agreed, the acceptance test shall be made at the place of manufacture, or at a place to be indicated by Buyer respectively, during the normal working hours of Seller. In this connection, the general practice of the industry in question shall govern the acceptance test.

Seller shall inform Buyer in due time of the acceptance test so that Buyer may be present during the test, or may be represented by an authorized representative respectively.

If the delivery item proves to be contrary to the contract during the acceptance test, Seller shall remedy any defect immediately and produce the contractual condition of the delivery item. Buyer may ask that the test be repeated only in cases of a major defect.

An acceptance record shall be drawn up following the acceptance test. If the acceptance test has demonstrated that the delivery item has been manufactured according to contract and operates properly, the two contracting parties shall confirm this at any rate. If Buyer or Buyer's authorized representative is not present during the acceptance test, in spite of having been informed thereof in due time by Seller, only Seller shall sign the acceptance record. In any event, Seller shall send Buyer a copy of the acceptance record, the correctness of which Buyer may not contest, not even in those cases where Buyer or Buyer's authorized representative was unable to sign it for lack of attending the test.

Unless otherwise agreed, Seller shall bear the costs for performing the acceptance test. Buyer shall, however, bear any costs incurred by Buyer or Buyer's representative in connection with the acceptance test, such as, for example, travel expenses, per diems or similar expenses.

8. Prices

8.1 Unless otherwise agreed, all prices shall be ex works of Seller, without loading.

8.2 The prices shall be based on the costs at the time of the quotation, unless otherwise agreed. In the event that costs change during the period until delivery, these changes shall be in favor, or at the expense of Seller respectively.

9. Payment

9.1 The payments shall be made in keeping with the agreed conditions of payment. Unless specific conditions of payment have been agreed upon, one third of the price shall be due upon receipt of the order confirmation, one third after half of the delivery period has lapsed, and the rest upon delivery. Irrespective of the foregoing, the value-added tax included in the invoice shall be paid within 30 days after the invoice date, at the latest, in all events.

9.2 Buyer shall not have the right to withhold payments due to warranty claims or any other counter-claims that Seller has not accepted.

9.3 If Seller defaults on one of the agreed payments or any other performance, Seller may either insist on the performance of the contract and
a) postpone compliance with Seller's own obligations until Buyer has paid the arrears in payment or provided any other performance,
b) use a reasonable extension of the period of delivery,
c) call for the payment of the full remaining purchase price,
d) charge interest on arrears, as of the due date, in the amount of 7.5% above the respective base rate of the European Central Bank, unless Buyer can claim a reason for relief under Article 14 (see Directive 2000/35/EC of 29 June 2000 on combating late payment in commercial transactions),
or announce the withdrawal from the contract, granting a reasonable respite.

9.4 In all events, Buyer shall refund to Seller the dunning charges and collection costs which constitute a further damage caused by the delayed performance.

9.5 If Buyer has not made the payment due or provided any other performance within the respite according to 9.3, Seller may withdraw from the contract by means of a written notice. Buyer shall return to Seller, upon Seller's request, any delivered goods and compensate Seller for any reduction in the value of the goods that has occurred, as well as refund to Seller all justified expenses that Seller had to incur in connection with the performance of the contract. Regarding undelivered goods, Seller is entitled to make available to Buyer the completed parts, or the parts with incipient processing respectively, and ask for a pro-rated part of the sales price.

9.6 The contracting parties agree mutually that the rights and obligations covered by the contract shall not be affected by the introduction of the euro. Payment obligations, especially the established values of the money shall be deemed to have been agreed in euro as soon as the euro has become the only acceptable means of payment. In all events, any conversion will be made on the basis of the officially established exchange rates.

It is mutually agreed that the conversion to the euro neither creates a right to terminate, to withrdaw from or to contest the contract, nor a claim for damages or modification of the contract.

10. Reservation of Ownership

10.1 Buyer shall reserve the ownership in the object sold until Buyer has met all financial obligations. Seller is entitled to document Seller's ownership on the outside of the delivery item. Buyer shall comply with the required formal regulations to safeguard the reservation of ownership. In case of an attachment or any other recourse, Buyer shall be obliged to claim Buyer's ownerhip and to inform the latter without delay.

11. Warranty

11.1 Subject to the below provisions, Seller shall undertake to remedy any defect affecting the fitness for use which is due to a deficiency in design, material or workmanship. Seller shall also be responsible for any defects concerning expressly requested properties.

11.2 The above obligation shall only apply to such defects that appear within a period of one year, when working a one-shift operation, as of the passage of risk, or as of the completed assembly, in case of a delivery with assembly respectively.

11.3 Buyer may claim the present article only if he informs Seller in writing and without delay of any defects that have appeared. The arrangements on presumption according to § 924 of the Austrian General Civil Law Code are excluded. Once Seller has been informed of defects in this way, Seller shall - if the defects must be remedied according to the provisions of the present article - at Seller's choice:

a) rework the defective goods on site;
b) have the defective goods or the defective parts shipped back for reworking;
c) replace the defective parts;
d) replace the defective goods.

11.4 If Seller arranges for the defective goods or parts to be returned to Seller for the purpose of reworking or replacement, Buyer shall bear the costs and the risk of the transport, unless otherwise agreed. The re-shipment of the reworked or replaced goods or parts to Buyer shall be at Seller's costs and risk, unless otherwise agreed.

11.5 The defective goods or parts, which are replaced according to the present article, shall be at Seller's disposal.

11.6 Seller shall only refund any costs for remedying a defect, undertaken by Buyer himself, if Seller has agreed to this procedure in writing.

11.7 Seller's warranty obligation shall only apply to defects that appear when observing the applicable operating conditions and putting the item to normal use. His obligation shall, in particular, not apply to defects that are due to inadequate installation on the part of Buyer or Buyer's representative, inadequate maintenance, inadequate repairs or modifications undertaken by other persons than Seller or Seller's representative without the written agreement of Seller, normal wear.

11.8 Seller shall be liable for those parts of the goods that Seller obtained from subcontractors prescribed by Buyer only to the extent of Seller's own warranty claims vis-à-vis the sub-contractor.

If Seller produces items on the basis of Buyer's design data, drawings or models, Seller's liability shall not extend to the accuracy of the design but as to whether the workmanship complies with Buyer's instructions. In such cases, Buyer shall keep Seller harmless and free from any court action, in the event of an infringement of proprietary rights.

When accepting repair jobs or reworking or modifying old as well as third-party goods, or when delivering second-hand goods, Seller shall not accept any warranty.

11.9 As of the beginning of the warranty priod, Seller shall not accept any liability that extends beyond the scope defined in the present article.

12. Liability

12.1 It is expressly agreed that Seller shall not be liable to Buyer for damages in the event of personal injuries, or for damage to goods that are not the subject of a specific contract, as well as for other damage and loss of profit, unless the circumstances of a specific case reveal that Seller acted with gross negligence.

The reversal of the burden of proof according to § 1298 of the Austrian General Civil Law Code is excluded.

12.2 The purchased object provides only that level of safety that may be expected on the basis of the registration provisions, the operating instructions, Seller's rules on the handling of the purchased object - especially with regard to any possible inspections - and other instructions given.

12.3 For cases of Seller's minor negligence, the damages are limited to 5% of the order amount, or EUR 727,000 as a maximum, unless Article 12.1 applies.

12.4 All claims for damages due to defects in deliveries and/or performances must be filed in court within one year after the expiry of the contractually agreed warranty period if Seller does not expressly accept the defect; otherwise all claims become extinct.

13. Consequential Damage

13.1 Subject to any provisions of a different effect in the present Terms, Seller's liability vis-à-vis Buyer shall be precluded for any standstill in production, loss of profit, loss of use, loss of contract or any other economic or indirect consequential damage.

14. Reasons for Relief

14.1 The parties shall be released in part or *in toto* from the timely performance of the contract if they are prevented by events of force majeure. Events of force majeure shall solely be such events that the parties are unable to foresee and avoid and that are beyond their domain. However, strike and industrial dispute shall be considered to be events of force majeure.

A Buyer affected by an event of force majeure may, however, only claim the existence of force majeure if Buyer informs Seller without delay, at the latest, though, within 5 calendar days, about the onset and anticipated end of an obstruction, by sending by registered mail a statement, confirmed by the respective government authority or chamber of commerce of the delivery country respectively, on the reason, the anticipated effects and the duration of the delay.

In the event of force majeure, the parties shall make every effort to remove, or to mitigate respectively, the difficulties and the anticipated damage, as well as to keep the respectively other party continuously informed thereof; otherwise they shall be liable to pay damages to the respectively other party.

Deadlines or dates that cannot be observed on account of events of force majeure shall be extended by the duration of such events of force majeure, as a maximum, or, if applicable, by a period to be determined by mutual consent.

If a circumstance of force majeure prevails by more than four weeks, Buyer and Seller shall seek a solution for handling the technicalities of its effects by means of negotations. If no solution can be reached by mutual consent, Seller may withdraw from the contract in part or *in toto.*

15. Data Protection

15.1 Seller shall have the right to store, to communicate, to process and delete person-related data of Buyer in the framework of their business relations.

15.2 The parties shall undertake to keep absolutely confidential vis-à-vis third parties any knowledge obtained in the course of their business relationship.

16. Place of Jurisdiction, Applicable Law, Place of Performance, Language

16.1 The place of jurisdiction for all disputes arising directly or indirectly from a contract shall be the relevant Austrian court with competences for Seller's principal place of business.

Seller may, however, also resort to the court with jurisdiction for Buyer.

16.2 The parties may agree that an arbitral tribunal has jurisdiction.

16.3 Contracts shall be subject to Austrian law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980, Federal Law Gazette No. 1988/96.

16.4 Seller's principal place of business shall be the place of performance for deliveries and payments, also in the event that the transfer is agreed to be in a different place.

16.5 In the event of disputes arising from the present certified translation of the contract, the German text shall prevail.