



General Purchasing Terms and Conditions

For all orders done with KMF Kärntner Maschinenfabriken Egger GmbH, in the following named **client** apply exclusively the following terms and for any relations with the supplier, in the following named **contractor**. Other terms and conditions are no subject matter of any even if we do not formally disagree.

1) Scope

The general purchasing terms and conditions apply to all procurement transactions of the client. Changes have to be marked equally in the contract (contract, order) between client and contractor. Oral orders without a written acknowledgement within 5 days are illegal. In such cases the contractor has to take the delivery risks (demand, refusal) without any legal claim.

2) Acceptance of order, performance guarantee

Our order has to be confirmed with an acceptance of order within two days. The acceptance of order has to include the price and the delivery date. If we have no written acceptance of order and/or silence of the contractor, we consider the acceptance of order at the terms and conditions we fixed. If the contractor accepts and completes our order, he also agreed to our terms and conditions. Possible variations - especially concerning delivery conditions - of the contractor are without a written agreement of the client illegal. Oral agreements need a written agreement for effectiveness. These terms and conditions apply for all orders done in future, even if orders come off without enclosure of this purchasing conditions. If there is no other agreement the client has to open a performance guarantee of 10% of the contract price at least amounting to the agreed penalty.

2.1) Addendum of contract and amendment of contract

Every addendum of contract and amendment of contract has to be in written form. The statement quits enough for requirement per fax. This applies also for a waiver of the requirement. Explanations via email do not apply to the requests.

2.2) Mistake refutation and customisation of contract

A refutation or a customisation of contract concerning of a mistake is debarred for the contractor. This includes mistakes of calculation.

3) Scope of delivery and scope of services

Kind and volume of contractor achievements are laid down in the order. If there are refers to other documents – but without a ranking – the following ranking takes effect:

1. Order
2. Description of service and drawing documentation's for the order
3. Basic agreement
4. General purchasing terms and conditions
5. General technical terms and conditions
6. General delivery terms of the industrial union of machine industry and steel industry of Austria.
7. Law, standards and other technical directions which are applicable for the case

The contractor agrees to understand the order with acceptance of order. The contractor agrees also to have the necessary expertise and capacity to fulfil the order. The transfer of order to third parties as subcontractors needs a invariable written agreement of the client.

4) Schedule/date of delivery/time

For all orders of components, toll-manufacturing and supply of services there have to be put over time schedules with the acceptance of order. The time schedule has to include the most important work steps. The schedule concluded with the acceptance of order is the basis for tests and inspections and the flash point for penalty. The prescribed date of delivery is that day on that the ordered goods have to arrive at the prescribed delivery address. As soon as the contractor knows that a delivery is impossible for him – he has to inform as immediately as possible with enclosed reasons for late delivery. At default also (only with one part) we are enabled to regress from the contract either from the whole delivery, from the striking part of delivery or we insist a paper fulfilment of the order. At default we do not have to lay extension of time. We are authorised to impose a fine of 1% of the whole contract price and max. 10% of the whole contract price for every beginning week of the missed deadline.

5) Packaging/consignment/insurance and taking over

Delivery and consignment are free of charges unless otherwise expressly agreed. Costs and dangers of delivery and consignment bears the contractor until our prescribed address of dispatch. If the definitive date of shipment is known the consignment has to be notices prior by fax or by email. The contractor has to make sure an accurate packaging, depending on the contract of goods. If the client desires, the packaging assumes ownership. The packaging has to be selected carefully – depending on the transportation risks. If there are any inscriptions on the packaging a proper identification and a proper determination of bulk has to be guaranteed. The contractor is liable for disadvantages because of faulty packaging. Is there a quality check at the company of the contractor this is only regarded as sample. The contractor is liable for quality and performance. The client does not have to accept services before date of compliance. Nevertheless, the date of payment is running at designated day of delivery. The contractor has to pay for damages if the delivery or service comes to soon and if the client thereby arises damages.

The takeover of the contract goods and the confirmation of the delivery note and payment does not stand for acceptance and according delivery. The contractor is not excused from the commitment of quality and performance of the delivered products. The take over of goods is then only accepted under protest. The takeover can only take place at the specified times of discharge at the work of the client.

The contractor has to provide a sufficient insurance for important and/or unique goods during the consignment. Basically for our ordered consignment goods we arranged "delivered free" without acceptance of any additional costs. If there are any differences we need a written form.

6) Documentation

All consignments need delivery orders and if they are on international transport they need special papers for payment of duty. All documents have to include the complete order number. If the accompanying documents are uncompleted, the costs will have to be dealt with contractor.

The whole required technical documentation as well as the documentation of quality (manufacturing journal, test report, inspection certificate and so on) are basic part of delivery and so they are needed for a complete acceptance. A detention of allocation of those papers has the same consequence for payment and fine as a delivery default of consignment goods. The consignment will be incomplete without corresponding documentation. Invoices have to include vat number, commission number of the client, order number and other essential indices. All documents have to be at least in dual achievement and to be written in German language.

7) quality inspection and performance test, QS-check

Is a temporary acceptance or check of services by reaching a manufacturing state agreed, so the client has to be informed in time to arrange an accordingly acceptance or check. All parts have to be provided easily accessible, depending on the inspection efforts and free of implication of the weather. Measuring instruments and other facilities (cranes and so on) have to be provided free of charge from the client if they are necessary for the inspections.

The transfer of the production order to third parties need agreement of the client. We reserve ourselves the right to check the third firm. The costs of the in-house acceptance has to bear the contractor. Personnel- and travelling costs as soon as cost of room and board for the desired employees of the client charges are for the clients account. If the contractor incurs a rerun of acceptance he has to bear the costs. Independent from the agreed checks and temporary acceptance the client is authorised to do inspections at the contractor and its sub-suppliers without any announcement.

8) Warranty/Guarantee

Noticed failings of quantity and quality can be reckoned at takeover at any time. Except when otherwise stipulated the contractor has to accept the whole guarantee (2 years) [conservation, galvanizing 5 years] for the ordered consignment, the function of products and the compliance of legal prescription as soon as standard prescription.

For occurred failings during the guarantee we have got the optional right for a free of charge replacement (also if the failing can be repaired), a free service, to demand for a adequate price reduction, or we can cancel the contract. The contractor insures that the require of products if done at site of the client is according to the labour-law of Austria and according to the commandments of foreign person employment and has to keep the client in case of violation free of complaints and reimbursed. Urgent cases or if the contractor needs more than 14 days to correct the failings after request, we have got the right to correct failings ourselves or by third firms at expense of the contractor.

In case of hidden defects starts the reprimand of duty and the guarantee only at acknowledgement. Defects which appear during the limitation period can be regarded until two years after the run off of the guarantee. The contractor is obliged to keep us compensated and without complaining in the case of patent protection, protection of trademarks and protection of sample.

9) Detention backlet

To protect the warranty claim and guarantee claim the client can retain a detention backlet of the payable settlements during the agreed warranty and guarantee. The high of the detention backlet is max. 10% of the invoice amount. A replacement by a declaration of liability of a honourable bank is possible. The satisfied invoice can be detained until the execution of notification of defects.

10) Material supplied by client

Material provided from client is our property, it has to be characterised, kept separate and to be reset free of charge directly after construction to the client. The supplier has to issue a certificate of ownership/transfer for the provided value of products.

If the material has attended or converted, the new and altered products become our ownership – also in half-finished state.

11) Product liability

If the client informs the contractor about capacity and application of the finished product he adheres for capacity, for the security relevant demand and utilisability of his sub supplier.

12) Terms of payment

The prices are – unless otherwise expressly agreed – commercially packed free client's address and to costs and risks of the contractor. The prices include all expenses (e.g. freight costs, additional fee of packaging and so on) and are inclusive a possible payment of duty, exclusive value-added tax, but inclusive all other taxes and duties which are fixed prices for the contractor. If the client does not make use of summation of invoices, invoices are due to payment not later than 60 days after receipt of invoice. The invoices have to be confirmed and the consignment and acceptance of goods have to be confirmed with order. Basically the client accepts only one invoice of order per job.

Until settlement of notification of defects the invoice can be retained. During the guarantee we can retain an amount of 10% of the contract price. The settlement takes place with reservation of a possible mistake, and does not signify an acknowledgement of claim – neither by size or merits – nor the acknowledgement of the failing of a consignment.

Settlements will only be accept with complete order number and purchase order date. From advance payment there is an advance guarantee (bank guarantee) necessary which is due with the invoice in advance. Every invoice needs an explanation which aims for all demands of the contractor. Email invoices do not meet the requirements and thus will not be accepted.

13) Terms of payment

Our terms of payment are generally 14 days with 3% discount, 60 days net after correct, complete and confirmed consignment and billing. Other terms of payment can not be kept because of administrative reasons. The settlements are on in time, if they are sent at the latest day of the terms of payment from the clients domicile or rather the allocation of payment put at the last day of the terms of payment from the client. If the contractor does not make a written objection and reasoned during the 6 weeks after allocation of the final payment from the client, all demands of the contractor against the client are regarded as paid of the actual case.

Partly payments are instructed basically in accordance with agreement and after businesslike and technically check.

14) Damages, right of withdrawal, summation of invoices

In case of defectiveness of the parts the client can desire replacement and the contractor has to commit to refund all costs of the alternative consignment and all costs of the liability.

During default of consignment or parts of the consignment, the client is enabled to retire from the whole consignment or from the outstanding part of the consignment without extension of time; or the client can still ask for the complete compliance. Regardless of the particular terms of payment the client has the right of summation of invoices. Amounts for adjustments of the claims can be retained from current payments.

15) Compliance, jurisdiction, law

As the place of delivery applies our quoted destination. Exclusively agreed jurisdiction is Villach for all conflicts, also conflicts of coming up, of determining, of cancelling, of ineffectualness and reversed transaction. The client has the right to choose the jurisdiction in Vienna or the location of the acceptance work of the contractor. At this contract is used the material law of Austria. The "UN-agreement of Vienna" regarding the international commodity trade is not used.

15.1) Ineffectualness of clauses of contract

If some of the points of general purchasing terms and conditions are illegal, or they will illegal, the validity of the other points will not be altered. In such case the contractor is committed to accept, a similar legal and commercial arrangements of the client.

16) Property right, drawings, know-how

All documents and drawings provided from the client have to be put back with the consignment. They are not allowed to be copied, saved or in no other way remain by the contractor. The contractor is also not allowed to put the documents and drawings to third parties. Copies which have been made for the production have also to be put back to us. Know-How information has to be kept in confidence and is only allowed to be used for the contractual commitment. The contractor is liable for not violating the trademark right of the client and also for foreign trademark rights. He also has to keep the client compensated and without any legal complaining from any side.

17) error message

It is possible that there are sometimes defective deliveries. In such case we need error message journals for the traceability. Error messages are issued in the case of errors of amount (overdelivery, underdelivery), errors of quality and transport damages. Because of the accumulated costs we demand for our expenses the rate of EUR 72,00 + 20% value-added tax open for, all the administrative work. The accumulated costs include: issuing the error messages, approach with the contractor, meetings about arrangements to correct, the failings.

18) General

The contractor is also liability for the compliance of our general purchasing terms and conditions on the part of his sub-suppliers. Beyond the required terms the contractor is liable for the proper fulfilment of the order. The order has to be done in due diligence and with the best knowledge and competence. The contractor has to check all standards, instructions and other directions which are applied and he has to advise the client of drawbacks. Those advise has to be immediately, written and has to be reasoned (duty to warn).

All guarantees have to be certificated from banks of Austria or other honourable foreign banks. Because of the EN ISO 9001:2000 quality certification all suppliers have to be checked periodically by the client. If necessary also the CE-identification has to be achieved from certain machines.