

# General Terms and Conditions of Sale of Fural Systeme in Metall GmbH

Software translation - in case of doubt, the original German text applies.

## I. General – Scope of Application

- Our terms and conditions of sale shall apply exclusively. We do not recognize any terms and conditions of the customer that conflict with or deviate from our terms and conditions of sale unless we have expressly agreed to their validity in writing. Our terms and conditions of sale shall also apply if, in the knowledge of conflicting or deviating terms and conditions of the customer, we carry out delivery to the customer without reservation.
- Our terms and conditions of sale, as amended from time to time, shall also apply to all future transactions with the customer without any need for renewed reference thereto.
- All agreements made between us and the customer for the purpose of performing this contract must be in writing in order to be valid. This shall also apply to any waiver of this written form requirement.
- Our terms and conditions of sale shall apply exclusively to entrepreneurs within the meaning of Section 1 of the Austrian Commercial Code (UGB), legal entities under public law, and special funds under public law.

## II. Offer – Technical Approval – Conclusion of Contract

- Our offers are subject to change and non-binding. This applies in particular to product proposals prepared by our employees on the basis of a site inspection.
- If a customer order is to be qualified as an offer, we may accept it within four weeks. A contract shall only come into existence upon dispatch of our written order confirmation or upon execution of delivery by us.
- All technical specifications, plans, and dimensions relevant to production and delivery, including in particular any actual dimensions recorded by us on site, must be reviewed and approved by the customer in writing prior to the start of production ("technical approval"). The version approved by the customer shall constitute the sole and binding basis for the scope of delivery. The customer shall bear sole responsibility for errors, deviations, or incompatibilities based on documents, plans, or dimensions provided or approved by the customer. To the extent permitted by law, our liability for the preparation of plans, the recording of actual dimensions, and any other advisory activities shall be limited to intent.
- We reserve all ownership rights, copyrights, and other intellectual property rights in all documents prepared by us (e.g. plans, technical drawings, calculations) as well as in the know-how made available. Without our express written consent, the customer may not use them for other purposes, copy, reproduce, or make them accessible to third parties.

## III. Scope of Delivery – Delivery Time

- The scope of delivery shall be determined exclusively by our written order confirmation in conjunction with the technical approval granted by the customer pursuant to Section II.3.
- Delivery periods and dates stated by us are non-binding estimates unless they are expressly designated as binding in the order confirmation and in writing.
- A binding delivery period shall commence no earlier than the date of our order confirmation, but not before all commercial and technical details of the order have been fully clarified, in particular not before receipt of the customer's written technical approval pursuant to Section II.3, as well as receipt of any agreed down payment. The delivery period shall be deemed complied with if the delivery item has left our factory or notification of readiness for dispatch has been given before expiry of the delivery period.
- We shall be entitled to make partial deliveries and issue partial invoices to the extent reasonable for the customer.
- Delays in delivery and performance due to force majeure or due to unforeseeable, unavoidable events for which we are not responsible (e.g. war, pandemics, labor disputes, operational disruptions, raw material shortages, bottlenecks or failures at our suppliers or within our own group of companies) shall entitle us to postpone delivery for the duration of the hindrance plus a reasonable start-up period, or to withdraw from the contract in whole or in part with respect to the part not yet performed. Claims for damages by the customer are excluded in such cases. This shall also apply if the aforementioned circumstances occur after we have already fallen into default.
- Our liability for delay in delivery for which we are responsible shall be excluded in cases of slight negligence. In cases of gross negligence or intent, we shall be liable in accordance with statutory provisions, whereby liability in cases of gross negligence shall be limited to the foreseeable damage typically occurring.

## IV. Transfer of Risk – Transport – Acceptance

- Unless otherwise stated in the order confirmation, delivery ex works (EXW Gmunden, Incoterms 2020) shall be agreed. Risk shall pass to the customer as soon as the goods are made available for collection and the customer has been notified accordingly.
- If dispatch or collection is delayed due to circumstances for which the customer is responsible, the risk shall pass to the customer on the day notification of readiness for dispatch is given.
- If the customer so wishes, we will cover the delivery by transport insurance; the costs incurred in this respect shall be borne by the customer.
- If special requirements are imposed on the quality of the purchased goods, if the products are delivered to third parties, or if delivery is made abroad, the customer shall be obliged to accept the goods at our factory in Gmunden prior to shipment. Acceptance must take place within 5 working days after our notification that the goods are ready for acceptance. If the customer fails to comply with this obligation in due time, the goods shall be deemed accepted as free from defects (deemed acceptance). All costs associated with the acceptance procedure shall be borne by the customer. In the event of default of acceptance, the entire purchase price claim shall become immediately due for payment. We shall also be entitled to charge reasonable storage costs.

## V. Prices – Terms of Payment – Price Adjustment

- Unless otherwise stated in the order confirmation, our prices shall apply ex works, excluding packaging; packaging shall be invoiced separately. Prices are based on labor and material costs at the time the offer is submitted (base calculation).
- Statutory value-added tax is not included in our prices; it shall be shown separately in the invoice at the statutory rate applicable on the date of invoicing.
- Unless otherwise agreed in writing, the purchase price shall be due net (without deduction) within 14 days from the invoice date. This shall also apply to partial invoices issued for partial deliveries pursuant to Section III.4. Any deduction of cash discount requires a separate written agreement.
- In the event of default in payment by the customer, the statutory default interest of 9.2% above the base interest rate shall be deemed agreed. We shall also be entitled to charge a lump sum for recovery costs in the amount of EUR 40.00 pursuant to Section 458 UGB. We reserve the right to assert any further damage, in particular higher costs for collection by lawyers or a debt collection agency.
- If the customer defaults on a payment – including under a partial invoice – or if justified doubts arise as to the customer's creditworthiness, we shall, without prejudice to any other claims, be entitled at our option to declare all claims arising from the business relationship immediately due and payable, to withhold performance of our own obligations under this and all other contracts until full payment of the outstanding amounts, to demand advance payments or securities, and/or to withdraw from the contract after setting a reasonable grace period.
- Set-off against counterclaims of the customer or the exercise of a right of retention shall be excluded unless the counterclaim is undisputed, acknowledged by us in writing, or established by a final and binding court judgment.

7. We shall be entitled to adjust the agreed price and obliged to reduce it if costs decrease, if certain cost factors change between the date of submission of the offer and the agreed delivery date. An adjustment shall only be made if the percentage change in one of the indices named below exceeds or falls below the threshold of 5%.

8. The cost factors relevant for the price adjustment and their weighting in the total price are:

- Labor cost share, e.g. 40%
- Material cost share, e.g. 50%
- Other share (fixed), e.g. 10%

9. The adjustment of the cost shares shall be based on the following parameters:

a) Labor costs: The labor cost share (Section V.8.a) shall be adjusted by the percentage change in the collectively agreed minimum wage for the relevant employment group, e.g. "skilled worker," in the metalworking industry since the date of submission of the offer.

b) Material costs: The material cost share (Section V.8.b) shall be adjusted by the percentage change in the Producer Price Index 2020 (PPI 2020) for the goods group "CZ 25.99 Other fabricated metal products n.e.c." as published monthly by Statistics Austria. The index published for the month in which the offer was submitted shall serve as the base value. The index published for the month preceding the agreed delivery date shall serve as the comparison value.

10. The price change shall be calculated according to the following formula:

New Price = Old Price × (Other Share in % + Labor Cost Share in % + Labor Index Factor + Material Cost Share in % × Material Index Factor)

The "index factor" shall in each case be the quotient of the new index value and the base index value (new value / old value).

11. Price changes shall be notified to the customer in writing before delivery, stating the basis of calculation. We reserve the right to waive a price increase even if the conditions for such increase are met. Such conduct shall not give rise to any claim by the customer for waiver of future price adjustments.

## VI. Liability for Defects

- Claims for defects by the customer require that the customer has properly complied with its statutory duties of inspection and notification of defects (Section 377 UGB). Defects must be notified to us in writing without undue delay, but no later than 7 days after receipt of the goods. Hidden defects must be notified in writing without undue delay after their discovery.
- If a defect in the purchased goods exists for which we are responsible, we shall, at our option, be entitled to subsequent performance either by remedying the defect or by delivering a new defect-free item.
- If subsequent performance fails, the customer shall be entitled, at its option, to demand a price reduction or, in the event of a material defect, rescission of the contract.
- We shall be liable in accordance with statutory provisions if the customer asserts claims for damages based on intent or gross negligence, including intent or gross negligence by our representatives or vicarious agents. Unless we are accused of intentional breach of contract, liability for damages shall be limited to the foreseeable damage typically occurring. Liability for slight negligence is excluded, except in cases of personal injury.
- Liability for culpable injury to life, body, or health shall remain unaffected; this shall also apply to mandatory liability under the Product Liability Act.

## VII. Overall Liability

- Any liability for damages beyond that provided for in Section VI shall be excluded, irrespective of the legal nature of the asserted claim. This shall apply in particular to claims for damages arising from culpa in contrahendo, other breaches of duty, or tort claims for compensation for property damage.
- To the extent our liability for damages is excluded or limited, this shall also apply with regard to the personal liability for damages of our employees, workers, staff members, representatives, and vicarious agents.

## VIII. Retention of Title and Advance Assignment

- The goods delivered shall remain our property until full payment of all claims arising from the business relationship with the customer has been received (goods subject to retention of title).
- If the goods subject to retention of title are processed, combined, or mixed by the customer, we shall acquire co-ownership of the new item in proportion to the invoice value of the goods subject to retention of title to the value of the new item. If the customer's item is to be regarded as the principal item, the customer hereby transfers proportionate co-ownership to us and shall keep the new item in safe custody for us free of charge.
- The customer shall be entitled to resell or install the goods subject to retention of title in the ordinary course of business. In this case, the customer hereby assigns to us, already now, all claims in the amount of the final invoice total (including VAT) of our claim arising to it from the resale or installation against its purchasers or third parties. We hereby accept this assignment. The customer shall remain authorized to collect these claims even after assignment. Our authority to collect the claims ourselves shall remain unaffected; however, we will not collect the claims as long as the customer duly meets its payment obligations.
- The customer may neither pledge the goods subject to retention of title nor assign them as security. In the event of access by third parties to the goods subject to retention of title, the customer must refer to our ownership and notify us immediately in writing.

## IX. Confidentiality

The customer undertakes to maintain secrecy regarding all business and trade secrets becoming known to it within the scope of the business relationship, in particular technical information and prices, and not to disclose them to third parties without our consent. This obligation shall continue to apply after termination of the business relationship.

## X. Limitation Period

- The limitation period for defect claims shall be 12 months from transfer of risk.
- Other claims for damages by the customer that are not based on personal injury shall become time-barred within one year from knowledge of the damage and the damaging party.
- Notwithstanding the statutory provisions, our claims for payment shall become time-barred after 5 years.

## XI. Place of Performance – Applicable Law – Place of Jurisdiction

- The place of performance for all obligations arising from this contract shall be our registered place of business in Gmunden, Austria.
- These terms and conditions of sale and the entire legal relationship between us and the customer shall be governed exclusively by the laws of the Republic of Austria, excluding the conflict-of-law rules of private international law and excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- The exclusive place of jurisdiction for all disputes arising directly or indirectly out of the contractual relationship shall be the Austrian court having subject-matter jurisdiction for our registered office in 4810 Gmunden. For customers having their registered office in the Federal Republic of Germany, the court having subject-matter jurisdiction in Traunstein (Bavaria) shall also, at our option, be deemed the agreed place of jurisdiction.