

## **General Terms and Conditions of the FURAL Systeme in Metall GmbH**

### **I. Scope**

- 1.) All of our deliveries and performances (deliveries and performances of the FURAL Systeme in Metall GmbH, 4810 Gmunden) are subject exclusively to the following terms and conditions. The purchaser's deviating terms and conditions of purchase to which we have not expressly consented are not binding, even if we do not expressly contradict them or provide the delivery or performance to the purchaser in knowledge of such deviating conditions.
- 2.) The general terms and conditions also apply to all future transactions with the purchaser, without the need for specifically basing such transaction thereon, inasmuch explicit notification is not given that new general terms and conditions shall apply.
- 3.) All agreements, subsequent amendments, supplements, ancillary agreements, etc. must be made in writing to be valid, i.e., also including the original signature or secure electronic signature.
- 4.) These general terms and conditions apply vis-à-vis companies, legal entities under public law, and special funds under public law. They do not apply to consumers.

### **II. Offer and Contract Formations; Technical Documents**

- 1.) Our offers are subject to change and are generally not binding. All of our offers are generally made without providing technical reports, in particular planning documents, detail drawings, bills of quantities, audit reports, etc.
- 2.) A contract is formed only when our written order has been sent.
- 3.) We reserve proprietary rights and copyrights on all of the documents created by us, as well as on the know-how provided. The purchaser may not use, copy, or reproduce these, nor give or divulge them to third parties without our consent. They are to be returned without delay at our request and in the event that an order is not placed.
- 4.) No rights may be derived from our use of symbols or numbers to mark the order or the item ordered.
- 5.) We do not provide any planning services, nor do we provide for technical details, such as compatibility with connections, prior assembly, etc. The purchaser is, in this respect, responsible for specifying the order and sufficiently clarifying the technical details.
- 6.) 6.) Cost estimates are prepared by us with the greatest care, but no guarantee can be given for their correctness. Should cost increases in excess of 15% occur after the placement of the order, we will inform the contract partner accordingly without delay. No separate agreement is necessary for unavoidable cost overruns of less than 15% and these costs can be invoiced without further notice. Cost estimates shall be subject to payment.

### **III. Scope of Delivery**

- 1.) The scope of delivery depends on our written order confirmation.
- 2.) We reserve the right to make modifications and improvements to the construction, material use and the design to take into account the current state of technology, inasmuch as this does not significantly or negatively alter the item to be delivered and the alteration is reasonable for the purchaser.

### **IV. Delivery Lead Time**

- 1.) A transaction is only considered to have been made for a fixed date, if this is expressly stipulated. A stipulated delivery period begins after full and final technical release of the delivery by the purchaser on the date that the unamended order confirmation on the part of the purchaser is returned. A delivery deadline is deemed met if the item delivered has left the factory in Gmunden or the readiness of dispatch has been communicated.
- 2.) We are entitled to make partial deliveries within the specified delivery deadline, inasmuch as a detriment to use does not result.
- 3.) If delivery deadlines were specified by us and these have been made to form the basis of the order placed, these deadlines shall be extended for the duration of hindrances in our fulfilment of these obligations due to the occurrence of unforeseen circumstances independent of party intent and that we could not avoid even while taking the necessary caution reasonable under such circumstances (e.g. war, force majeure, and labour disputes, in particular strikes and lockouts). This also applies if such circumstances occur at suppliers and subcontractors.
- 4.) In the event that, after the due date, the purchaser sets a reasonable deadline of at least 1 month to perform and the deadline is not met, the purchaser is entitled to rescind in accordance with the general provisions.
- 5.) If the purchaser is in default of acceptance, we are entitled to charge the purchaser, beginning 1 week after the readiness for dispatch has been communicated, for the storage costs incurred and not less than 2% of the invoiced amount per week if the storage is at the factory of the seller. In addition, we may exercise our statutory rights. If damages are claimed, we are entitled to demand either compensation for the actual damages incurred or, alternatively, lump sum compensation equal to 15% of the net purchase price, inasmuch as the purchaser does not prove that less damage was incurred. Alternatively, after a subsequent deadline set has expired without result, we are also entitled to dispose of the delivery item elsewhere and deliver to the purchaser later within a reasonable subsequent deadline.

### **V. Transfer of Risk**

- 1.) The risk transfers to the purchaser upon dispatch from the factory or warehouse, even if carriage prepaid has been stipulated. In the event that the shipping is delayed due to circumstances for which the purchaser is accountable, the risk shall transfer to the purchaser when the dispatch is ready.

- 2.) Insurance against damage caused by breakage, transport, and fire is the responsibility of the purchaser, who shall also bear the costs thereof.

#### VI. Prices and Payment Terms

- 1.) The price specified in the order confirmation is binding. Packaging, postage, shipping, freight, and other ancillary charges are, in the absence of a separate agreement, not included and are payable by the purchaser. Additional performances stipulated will be charged for separately. The prices are also subject to value-added tax at the respective amount stipulated by law, which will be shown separately in the invoice.
- 2.) In the event that the costs of labour change due to collective labour agreements in the industry or due to internal financial statements or other costs required for the performances, such as the material, energy, transport, third-party work, financing, etc., we are entitled to adjust the prices accordingly.
- 3.) Payments must, unless otherwise agreed, be made within 14 days net cash after the purchase item has been delivered and the invoice has been handed over or sent.
- 4.) We are entitled to raise a partial invoice for the partial deliveries permitted under Sec. IV No. 2.
- 5.) In the case of default, interest of 8% above the base rate will be charged from the due date, whereby we expressly reserve the right to claim additional damages.
- 6.) In cases of default, even if in default of payment at no fault of its own, the purchaser is obligated to compensate us for the debt recovery costs incurred, inasmuch as they are necessary to assert the corresponding rights and are reasonable in relation to the claim; in particular, the purchaser is to compensate us for the costs incurred if a collection agency is used, inasmuch as these do not exceed the maximum rates granted to collection agencies in the directive of the Federal Ministry of Economics and Labor (i.e., the BMWA). If we conduct the debt recovery process ourselves, the debtor is obligated to pay € 12.00 for each reminder letter, as well as a fee of € 5,00 per half-year for the administration of the debt. In addition, any additional damage — in particular, also the damage that is caused on our part by not being paid the correspondingly higher interest on any credit accounts — is to be compensated regardless of fault for the payment default.
- 7.) Our claims may not be offset against counterclaims, regardless of their type.
- 8.) In the event of payment default or exposure of our claims to loss because the credit worthiness of the purchaser is downgraded, we are entitled to demand collateral security or to make the performance of outstanding deliveries dependent on advance payment or the provision of collateral security.

#### VII. Retention of Title

- 1.) We retain the title to the items delivered until payment has been made in full. In the event that the purchaser commits a breach, in particular in the case of payment default, we are entitled to retrieve the delivered items without delay. The exercising of our retention of title is only deemed a withdrawal from the contract, if this is declared explicitly.
- 2.) As long as the retention of title exists, the purchaser may not modify, alter, or hypothecate the delivered item, nor may the purchaser transfer the delivered item as collateral security or license its use to third parties. In the event of a breach, the claims accruing to the purchaser are assigned hereby to us.
- 3.) The reserved goods are generally also removable and thus capable of being the object of independent proprietary rights, inasmuch as they are connected to other items of the purchaser or third parties. If this capability is lost by becoming a new, uniform object upon being connected to other items of the purchaser, we become joint owners of the new object to the degree that the value of the delivered item relates to the invoice value of the other object. If, in such cases of connection, the purchaser's object becomes the main object, it is deemed stipulated that the purchaser transfers to us joint ownership and stores the object for us free of charge.

#### VIII. Warranty

- 1.) In the case of a defect, we are entitled to fulfil the warranty claim by choosing either to rectify the defect or to replace the defect item. If these primary warranty remedies fail, the purchaser is entitled to either reduce the price or cancel the contract. The purchaser only has a right of cancellation if the defect that occurred is also not insignificant.
- 2.) The goods delivered are to be examined without delay after delivery has been made. Any defects determined, as well as the type and scope of the defects, are to be made known to us at latest within 7 days after delivery has been made. Hidden defects are to be reported without delay upon discovery. If a defect is not reported or not reported in time, the goods are deemed approved. Warranty claims and claims for damages, including indirect damages, as well as the right of contract avoidance for mistake due to defects are excluded in these cases.
- 3.) The warranty period is 1 year for new movables and begins upon delivery of the goods. Warranty claims are excluded for used movables.

#### IX. Claims for Compensation

- 1.) Apart from personal injury, we are only liable if the damaged party proves that we acted with wilful or gross negligence. Claims for damages are barred 6 months after becoming aware of the damage and the damaging party, in any case 10 years after the delivery or performance was made.
- 2.) Any claims for compensation that are made against us under product liability within the meaning of the Product Liability Act are excluded, unless the party making such claims proves that the defect was caused in our domain and as a result of at least gross negligence.

#### X. Place of Performance, Jurisdiction, and Applicable Law

- 1.)** Place of Performance is the head offices of FURAL Systeme in Metall GmbH, in Cumberlandstraße 62, 4810 Gmunden/Austria.
- 2.)** The costs and risks of transport shall be borne by the Customer. For the data, the risk of loss or corruption of the data during the download and during transmission via the Internet shall pass to the Client on crossing the FURAL network interface.  
Sole jurisdiction for all disputes arising out of or in conjunction with the contract – including those on the existence or non-existence of a contract – shall be deemed to lie with the competent courts of law in Wels.
- 3.)** The contract shall be subject exclusively to the law of the Austrian Republic to the exclusion of the United Nations Convention on the International Sale of Goods (CISG). No reference shall be made to foreign legal systems.

#### XI. Miscellaneous

If a provision of these general terms and conditions or a provision within the scope of other agreements is or becomes invalid, the validity of all other provisions and agreements shall remain unaffected thereby.

#### XII. Confidentiality

The Client hereby irrevocably undertakes to observe confidentiality on all trade and business secrets provided by us or otherwise obtained by the Client in conjunction with or on the grounds of a business relationship or contact with us, and not to disclose these to third parties in any way whatsoever without our prior consent. Furthermore, the Client undertakes to use information only on a "need to know" basis and only within the framework of the concluded contract. This confidentiality agreement shall continue to apply even beyond the duration of the business relationship.