

## **General terms of business**

### **§ 1 General**

- (1) Our terms of business apply only to companies defined **by Austrian Civil Code**.
- (2) Only our terms apply. We (AE=advanced engineering) do not recognize deviating terms proposed by the customer, unless we have given our explicit and written approval. This is also the case when we, being aware of the deviating terms of the customer, unconditionally fulfil the order.
- (3) Our business terms also apply to all future business transactions with the customer, even if this is not explicitly stated. Applicable is always the final version at the closing of the contract

### **§ 2 Contract Closure, Documents of Tender**

- (1) Our offers are subject to confirmation. Statements concerning weight, size, price, performance as well as pictures and drawings are considered to be approximate as long as they are not explicitly stated as being binding.
- (2) If a customer gives us an order based on an offer we have made, we reserve the right to turn down the order within two weeks of receiving the order. This also applies to orders from customers with whom we maintain a business relationship. Also, a contract is not closed until we have acknowledged the order in writing.
- (3) Our offer is based on manufacturing data and samples as presented to us or as described in the requirement specifications. If changes are made to the specifications or to the technical parameters, we reserve the right to correct the offer with regard to performance, price and delivery times.
- (4) Any work which was not agreed upon, which becomes necessary after the placing of the order, will be charged separately.
- (5) We reserve ownership rights of all pictures, drawings, calculations and other documents. Our customers are under the obligation not to pass on any of these documents to third parties without our explicit, written approval.

### **§ 3 Pricing, Payment**

- (1) All prices, except single-use packaging and transport insurance, are free-on-truck (FCA, Incoterms 2010). Packaging is charged at cost price.
- (2) Prices are net prices; the respective VAT will be charged separately.
- (3) Cash discounts require specific, written agreement.
- (4) For the supply of goods which are invoiced, payment has to be made within 30 days of receipt of the invoice.
- (5) We are not obliged to accept bank drafts or cheques; the acceptance of drafts or cheques in any case, occurs only in compliance with the contract. All costs incurred with cheques or drafts are to be carried by the customer.
- (6) If a customer does not pay on time, then we are entitled to charge default interest at the legal rate. We reserve the right to claim further damages.
- (7) The customer is entitled to set off costs and/or to hold back payment only if his claim is either undisputed or has been legally established.

### **§ 4 Delivery, Transfer of Risk, Force Majeure**

- (1) Unless otherwise agreed, our delivery obligations are fulfilled when the goods are loaded onto a means of transport within our grounds; on loading, the risk is transferred to the customer.
- (2) Prerequisites for the commencement of the designated delivery period is that agreement has been reached on all technical points, and that all the necessary bureaucratic obligations have been fulfilled.

(3) Our compliance with our delivery commitment also requires the proper fulfilment of all cooperative dealings and other duties on the part of the customer - in particular the payment liabilities.

(4) If the period determined for delivery is exceeded, we are granted an extension of three weeks. If we are unable to deliver due to the fact that our suppliers did not fulfil their contracts to us, then we reserve the right to withdraw from the contract, if despite the utmost efforts, we were unable to obtain the necessary goods.

(5) We are entitled to make partial deliveries, as long as this is reasonable for the customer.

(6) Should the customer be in default by not accepting the delivery offered or by not fulfilling a necessary cooperative action, then we have the right to store the equipment/unit at his expense and risk.

(7) Should we be unable to deliver due to force major, in particular due to a shortage of raw materials, energy or labour, to strikes, serious transport delays, e.g. road blocks, unforeseen (through no fault of our own) downtimes, incalculable bureaucratic measures or other unforeseen events, then we are not obliged to deliver as long as the difficulties last. The delivery times in this case is extended for the duration of the delay. If this delay lasts longer than three months, both parties have the right to withdraw from the contract.

### **§ 5 Installation and Putting into Operation**

(1) Only agreed in writing, the equipment/unit will be installed and put into operation by AE service engineers. Prerequisite for the smooth installation and putting into operation is that the equipment/unit has been unloaded, completely unpacked and placed in its final position by the customer. In addition, all requirements given in our installation and operating conditions as well as our installation plan have been fulfilled and adhered to by the customer (e.g. energy supply etc.).

(2) The price of our offer is also based on the fact that personnel and possibly also hoisting equipment will be put at the disposal of the responsible AE service engineer, free of charge.

(3) The costs of installation, putting into operation and training are included in the offer according to specifications which are shown separately. These do not include installations at weekends or weekday public holidays. Any such costs will be charged at our respective installation and service rates.

(4) Interruptions not caused by us, will be charged separately.

### **§ 6 Provision of Materials**

Provided that delivery and performance are supplied by the customer, the customer is responsible for the timely and proper provision of materials and provides this in quantity and good quality to the contractor free of charge. This covers information, commitments, premises, samples, drawings etc. If these requirements are not, or not satisfactorily fulfilled, then this can result in a reasonable extension of the delivery period as well as in the resulting costs at AE being charged to the customer. This would include costs for certification. The notification of delivery capability is not affected by this.

### **§ 7 Reservation of Title**

(1) The equipment/unit remains our property until all obligations stated in the supply contract have been fulfilled. For PC software, the customer receives a licence for unlimited use at each workstation.

(2) We are entitled, at the cost of the customer, to insure the equipment/unit against theft and damage through fire and water, if the customer does not prove that he has such an insurance policy.

(3) The customer must not give the equipment/unit in pledge, nor must it be assigned by way of security. The customer must inform us immediately in writing of any such actions or other intervention by third parties.

(4) If any particular measures should be necessary for the delivery of the equipment/ unit to any importing country with regard to the right of ownership, then the customer must inform us of these and carry out the necessary measures at his own cost. Should the laws in an importing country not recognize the rights of ownership, but allow us other rights to the goods, then we will exercise all

these rights. If equal protection of our rights cannot be guaranteed, then the customer is obliged, at his own cost, to obtain other securities for the delivered goods.

## **§ 8 Use of software**

(1) If software is supplied with our products, the customer is granted the non-exclusive right to use this software, including any documentation associated with it. The software is provided exclusively for use on the product supplied. It is not permitted to use the software on more than one system.

(2) All copyright and property rights, as well as any other rights to the software and the documentation remain with us or with our software suppliers. The customer undertakes not to remove or alter any manufacturer information, including but not limited to copyright labels. The customer may only copy, revise or translate the software or convert the object code to the source code in exceptional cases and to the legally permitted extent (Sections 69 a ff. Copyright Act (UrhG)). The customer is not permitted to distribute the software nor to issue sub-licenses.

(3) Full transmission is permitted under exceptional circumstances if the customer can be shown to have a legitimate interest in passing the software on to a third party (discontinuing their own use), for example, in the event that the product supplied is to be resold. In this case, the customer is obliged to contractually obligate the purchaser to comply with the rights to which we are entitled.

## **§ 9 Warranty**

(1) If there is insignificant damage to the equipment/unit, the customer has no rights. In any case, the customer can demand post fulfilment only. We reserve the right to choose between repairing or replacing the equipment/unit. Our right to refuse post fulfilment remains unaffected.

(2) If attempts to rectify defects have failed or if repair has been refused, the customer is entitled to demand at his option either a reduction (of the price) or the cancelation of the contract. A defect which affects only a small fraction of the delivery owed, does not give the right to cancel the whole contract.

(3) We are not obliged to carry the costs of repair if these costs are increased due to the fact that the equipment/unit was moved to a location other than the customer's place of business, unless this complies with the use of the object as agreed.

(4) We offer a 12-month warranty for a one-shift operation, or up to a maximum of 2,000 operating hours, whichever occurs first. Warranty begins at the time when the goods are accepted, however not longer than 6 weeks after delivery. Activities made necessary by an insignificant defect will also be included within the duration of warranty.

(5) Materials which are specified as wearing parts in the documentation, are excluded from warranty, unless the wear and tear is proved as being untypical.

(6) Our warranty pledge applies solely to work carried out by ourselves. Any work commissioned to third parties as well as materials provided by the customer are explicitly excluded from warranty.

(7) Anything we have supplied is not deemed faulty a) if the objects or software supplied by us are used as a functioning part of the customer's operations in connection with hardware or software components which are either already present or supplied by a third party, provided the fault is caused by components not supplied by us or by their incompatibility; b) if and in as far as a fault is due to the customer not ensuring compliance with technical framework conditions specified in the documentation and these supplementary documents or the customer has modified the software without the authorization to do so. The service calls required to fix the faults described under a) and b) must be paid for by the customer at our usual rates.

(8) The customer may only ask that software errors be fixed outside of our factory if this must be done at the place of use for technical reasons and if it makes economically sense for us to do so. The customer must use an unmodified version of the software to provide evidence of errors.

(9) The customer is obliged to perform a regular data back-up, usually daily. We are not liable for lost data if the loss would have been avoided by correctly backing up the data.

(10) Claims for damage by the customer due to a defect remain unaffected, irrespective of § 9 of these business terms.

## **§ 10 Liability**

(1) The customer is not entitled to claim for damages in the case of slight negligence. In particular we are not liable for losses in profit or other losses of earnings for the customer caused by slight negligence.

(2) The suspension of liability according to section (1) does not apply to claims arising from a guarantee, from damage/injury to life, body or health, to claims in accordance with §§ 1 and 4 of the product liability law as well as for the careless violation of important contractual obligations. In the case of careless violation of important contractual obligations, however, liability is limited to compensation of typical damage foreseeable at the closing of the contract. The same applies to gross negligence on the part of auxiliary workers.

(3) Wherever our liability is excluded or limited, this also applies to the personal liability of our employees, representatives and auxiliary workers.

## **§ 11 Execution of Customer Rights**

(1) If the customer has given us a reasonable deadline for work or repairs and this deadline has expired before the requested work has been done, then he is obliged to remind us in writing and then to inform us, also in writing, within two weeks, whether he wants to claim damages or to cancel the whole contract.

(2) If the customer does not inform us within this set time, then the rights are no longer eligible.

## **§ 12 Statutory Period of Limitation**

The statutory period of limitation is not impeded by the commencement of negotiations concerning a claim or by conditions brought about by a claim. This does not apply to claims for damages.

## **§ 13 Miscellaneous**

In the case of export limitations, the fulfilment of the contract on our part is dependent on the granting of the necessary approval by legal authorities in Austria

(1) For domestic deliveries to exporting companies, it must be noted that these companies are themselves responsible for the application for export approval.

## **§ 14 Venue, Applicable Law**

(1) Austrian law alone applies to all legal negotiations. The CISG (Contracts for the International Sale of Goods) does not apply. (2) **Venue is Hallein.**