

General Sales and Delivery Conditions

§1 Scope of application:

- (1) The following conditions shall apply to all supplies and services (e.g. installation, design) by Alpla. These conditions shall also apply to future business.
- (2) Contrary terms and conditions, in particular Terms and Conditions of Purchase of the customer, are not applicable, without any explicit disagreement of Alpla.
- (3) Any amendment to these conditions must be in writing. Submission of an order or acceptance of delivery shall constitute acceptance of these conditions.

§2 Quotation, acceptance, order confirmation:

- (1) Quotations by Alpla are subject to change.
- (2) Alpla accepts orders by written order confirmation. If Alpla's order confirmation should deviate from the conditions of an order, the legal transaction shall be performed under Alpla's conditions, unless the customer sends a written objection immediately after receipt of the order confirmation.

§3 Price:

- (1) All prices are quoted net ex works in the currency of the country in which the supplying factory is located. Unless otherwise agreed, the prices valid on the day of delivery shall apply.
- (2) If prices were agreed and the costs, on which these prices were based, should change, Alpla has the right to adjust the prices in accordance with the change in costs.

(3) If delivery is carried out on a later date due to circumstances within the control of the customer, Alpla is entitled to offset the resultant higher costs by corresponding higher prices. This shall not affect Alpla's right to compensation for loss caused otherwise.

(4) The customer shall bear all taxes, duties and other charges which it has to pay upon receipt of the delivery, unless Alpla has undertaken in writing to take delivery.

§4 Place of performance, delivery:

(1) The place of performance is the respective supplying factory of Alpla.

(2) Dispatch and transport take place for the account and risk of the customer. As soon as delivery has been tendered at the place of performance, the risk passes to the customer. If the customer does not accept the delivery, it is in default of acceptance. Furthermore, Alpla's delivery is deemed to have been carried out in this case and Alpla is entitled to store the goods at the customer's expense. The storage costs incurred shall immediately be refunded to Alpla.

(3) Alpla is entitled to partial deliveries; they are subject to these conditions in their entirety.

(4) If Alpla is unable to deliver on the agreed date, due to unforeseen circumstances beyond its control (force majeure, delivery delays of suppliers, etc.), Alpla has the right to deliver on the earliest possible date, provided the customer is able to accept delivery on this date. Otherwise, Alpla shall be entitled to withdraw from the contract. In other cases of delayed delivery, Alpla shall only be liable in the event of its own gross negligence and intent.

(5) The non-granting of an import license shall not discharge the customer from performance.

§5 Warranty and liability:

(1) Alpla guarantees that the goods correspond with the agreed specifications. The customary margins shall apply. Alpla provides no guarantee for information on products in catalogues, sales letters, brochures, etc.

(2) The customer shall check the goods carefully on receipt and shall notify any defects in writing within ten days of handover by sending a sample of the faulty goods, otherwise any claims, even claims for consequential loss, shall be excluded. If a defect is notified in due time, Alpla shall, at its discretion, remedy it by improvement or replacement, take back the faulty goods crediting the purchase price or grant a price reduction. The customer shall have no other rights.

(3) The warranty period is 24 months and begins as soon as the goods are tendered for delivery at the place of performance.

(4) The customer is not entitled to reserve payment against warranty or other claims, of whatever kind.

(5) Alpla cannot be held liable in the case of slight and simple gross negligence. Alpla shall not be liable for consequential loss, particularly lost profit. Alpla's liability is limited to EUR 60 million depending on the amount. Alpla shall satisfy product liability claims (for damages) up to the sum of EUR 60 million.

(6) Returning faulty goods requires prior explicit consent of Alpla. If goods are returned without prior consent, Alpla is entitled to refuse acceptance of the goods returned and to send them back to the customer at the latter's expense.

(7) Samples may differ in quality, properties, shape, design and functionality from the delivery.

§6 Retention of title

(1) Alpla shall retain title to the delivered object of the contract (goods subject to retention of title) until fulfilment of all duties incumbent upon the customer, in particular until full payment of the purchase price.

(2) The customer is entitled to resell the goods subject to retention of title. The entitlement shall cease if the customer defaults on payment or has concerns that it will not be able to make the full payment to Alpla.

(3) If the reserved property is resold by the customer, it shall assign to Alpla all accounts

receivable from resale or any other realisation up to the amount of the purchase price demanded by Alpla. The customer undertakes to record this assignment in its books. Until further notice the customer shall be authorised to collect these assigned accounts receivable in its own name on behalf of Alpla. The customer undertakes to retain title to the reserved property if it resells it on credit.

(4) The customer shall assign to Alpla insurance or compensation claims arising from destruction or damage of the reserved property.

(5) Pledging the reserved property and transferring it by way of security shall not be permitted.

§7 Payment and default

(1) The place of performance for payment is the respective supplying factory of Alpla.

(2) Bills of exchange and cheques are only accepted for the purposes of payment and in the case of written agreement.

(3) The purchase price must be paid in full within 30 days of the date of the invoice.

(4) If the payment is not made when due, Alpla has the right to:

- delay performance of its obligations until the outstanding payment has been made,
- claim an appropriate extension of the delivery or performance deadline,
- demand payment of the whole outstanding amount,
- offset all dunning and collection costs and the statutory default interest or
- in the case of non-compliance with a reasonable time extension, withdraw from the contract, with the entitlement also to withdraw from the contract as a whole in the case of divisible delivery. Should Alpla withdraw, the customer shall pay it an immediate cancellation charge of 10% of the price and reimburse losses above this and all lost profit.

(5) If judicial execution is levied upon the customer's assets, or it is doubtful that the customer will be able to pay, Alpla is entitled to:

- immediately demand all accounts receivable regardless of their due date,
- withhold all deliveries from non-fulfilled contracts and only execute delivery against advance

payment. Should the customer refuse to pay in advance, Alpla may withdraw from the contract and also claim compensation for lost profit.

(6) If the customer is in default of acceptance, the payment is due immediately.

(7) Even if originally allocated elsewhere, payments are always calculated on the highest debt and the interest and costs incurred.

§8 Place of jurisdiction and applicable law:

(1) All legal relations between Alpla and the customer are subject to Austrian substantive law. The UN Convention on Contracts for the International Sale of Goods shall not apply.

(2) The exclusive place of jurisdiction for disputes within the scope of the scope of the Lugano Convention or *the Council Regulation on the Jurisdiction and the Recognition and Enforcement of Judgements in Civil and Commercial Matters* is Feldkirch, Austria.

It is agreed that the international court of arbitration of the Chamber of Commerce of Austria in Vienna shall be responsible for all cases outside this scope of application. The place of arbitration is Vienna, Austria. The language of arbitration is German. If the contract is set up in a language other than German, English shall be the language of arbitration.

Alpla has however the right in all cases to bring an action against the customer before another competent court.

§9 Final provisions:

(1) The customer is not entitled to offset any claims against Alpla with claims for payment against it by Alpla. The customer has no right of retention.

(2) The customer is not entitled to assign its accounts receivable on delivery of the object of the contract to another.

(3) Rescission of a contract on the grounds of error by the customer shall be excluded.

(4) Documents or information on Alpla, its products, sales partners or other customers, which

are made available to the customer or which it otherwise gains knowledge, may not be passed on to third parties, particularly to rival companies or be made public in any other way. This applies analogously to documents such as samples, drawings, drafts, estimates or advertising material which are passed on to the customer or of which it otherwise gains knowledge. Alpla retains all rights to such documents.

(5) The customer shall guarantee that no third party rights pertain to the drawings, sketches, models, etc., provided by it. It shall indemnify Alpla and hold it harmless from all claims arising from a breach of such rights. If such rights are asserted, Alpla is entitled to withdraw from the contract without setting a time extension and to immediately suspend deliveries, without checking the legal situation and without entitling the customer to assert claims against it.

(6) If provisions of the contract should be or become invalid or unenforceable, it shall not affect the validity of the rest of the contract. These invalid or unenforceable provisions shall be deemed replaced with valid and enforceable provisions which most closely reflect the intended economic purpose (Severability clause).

(7) For the interpretation of the contract, the German wording shall prevail.