

TERMS OF PURCHASE

of Ögussa Österreichische Gold- und Silber Scheideanstalt Ges.m.b.H

1. Scope of application

The present Terms of Purchase apply to all agreements concluded with ÖGUSSA Österreichische Gold- und Silber Scheideanstalt GmbH (hereinafter ÖGUSSA) as purchaser / customer. The seller / contractor hereby expressly declares its consent to ÖGUSSA purchasing merchandise and services exclusively subject to the terms and conditions defined in these terms and conditions. Any agents of ÖGUSSA are entitled to enter into obligations for ÖGUSSA only within the framework of these Terms of Purchase.

The conclusion of a contract and all ancillary agreements – in particular those that deviate from these Terms of Purchase – have legal effect only when in writing. Any general terms and conditions of the seller / contractor deviating from these Terms of Purchase shall be valid only if ÖGUSSA has given its express consent in writing. Acts by ÖGUSSA in fulfilment of contractual obligations are not considered consent to any contractual terms deviating from these terms and conditions. If nevertheless some unclear points remain in the interpretation of the agreement, these are to be remedied in that every content is considered agreed that is normally agreed in similar cases.

2. Conclusion of agreements

2.1. All orders, conclusion of contract and delivery calls, and any amendments or supplements thereto, must be in writing.

2.2. Each order is to be confirmed by the seller / contractor to ÖGUSSA in writing. The contract comes into legal effect only with written confirmation of the order by the seller / contractor.

2.3. ÖGUSSA can rescind an order in the context of a business deal within 14 days, even if the seller / contractor has already accepted the order. This does not apply to consumers in the sense of KSchG.

2.4. If the order confirmation deviates from the order, ÖGUSSA shall be bound only when it has expressly confirmed the deviations in writing.

2.5. The scope of delivery comprises in case of doubt all parts that are necessary for proper operation in line with the guaranteed specifications, even if all the individual parts required in this regard are not expressly mentioned.

2.6. All statements made in the order, the drawings and materials lists of ÖGUSSA, and all specifications made in offers, brochures, product descriptions and catalogues of the seller / contractor, in particular adherence to schedules and delivery dates, are considered guaranteed.

2.7. Unless agreed otherwise, offers or cost estimates submitted to ÖGUSSA are binding and free of charge.

3. Shipping

3.1. The seller / contractor delivers to the place of delivery and performance indicated in the order. When dispatched by carrier, all applicable tariff, transport and packing regulations for the relevant means of transportation are to be observed, in particular with regard to any regulations for customs clearance or transportation of hazardous goods. The means of transportation most favourable for ÖGUSSA in terms of price are to be chosen unless ÖGUSSA has expressly stipulated certain transportation regulations.

3.2. Besides the delivery address, transport papers must always include the order data (order number, order date, place of delivery and performance, if necessary the name of the recipient and material number). The delivered objects are to be marked according to the relevant EC/EU regulations and ordinances applying to hazardous good in the current valid version. The seller / contractor is obliged to provide ÖGUSSA in good time before delivery with all necessary product information, for example safety data sheets, processing advice, labelling regulations, work safety measures, etc. in the relevant current version. The seller / contractor must provide to ÖGUSSA all information, including drawings and other documents, that ÖGUSSA requires for installation, operation, maintenance or repair of the delivered items. These are to be made available in good time and without charging of any additional costs.

3.3. The unit weight is to be marked visible and permanently on cargo units (of 1 tonne and more).

3.4. Only packing materials are to be used that comply with the goals and requirements of the national and, if applicable, European packing directives in their relevant valid version.

3.5. If any waste in the sense of the relevant waste statutes, apart from packing materials, arises from the deliveries of the seller / contractor, the seller / contractor shall dispose of or remove these wastes – unless otherwise agreed in writing – at his own cost according to the relevant current provisions of waste law. Ownership, risk and responsibility in the sense with waste law shall be transferred to the seller / contractor at the time of delivery.

3.6. Every delivery must include packing slips or delivery notes indicating the content and the complete ordering data including order number, order date

and material number, when these are mentioned in the order. Different articles are to be packed separately and marked accordingly.

3.7. Deliveries from cross-border traffic of goods are to be delivered to ÖGUSSA duty unpaid in the European Union transit procedure. These deliveries are to be announced to ÖGUSSA well in advance to allow correct customs procedures. ÖGUSSA shall in particular be advised at the same time of all relevant transport data and all documents required for customs clearance provided in good time. If direct delivery to the ÖGUSSA customer has been agreed, the same shall apply accordingly.

3.8. The seller / contractor is in every case liable for compliance with all applicable statutory provisions.

3.9. The seller / customer is entitled to make part delivery only with the express written consent of ÖGUSSA.

4. Delivery dates

4.1. The agreed delivery dates and places are to be strictly observed by the seller / contractor. If the delivery date is exceeded, ÖGUSSA shall be entitled to withdraw from the agreement, after setting an appropriate period for subsequent fulfilment. In this event, the seller / contractor shall be liability towards ÖGUSSA and third parties for all damage arising due to the delay.

4.2. In case of delay in delivery, the seller / contractor can claim that ÖGUSSA failed to deliver the necessary documents, information, etc only if he has not received such materials and information within a suitable period despite having submitted a written reminder.

4.3. ÖGUSSA shall be entitled to withdraw from the agreement in its entirety, after setting a suitable period for remedy, even in the event of partial failure

of delivery. In the event of a delivery failure, ÖGUSSA shall be entitled to retain the entire purchase price until such time as the seller / contractor has provided complete performance in accordance with the agreement. ÖGUSSAS has a right of withdrawal in relation to customers in the context of section 6 (2), line 1 KSchG (German Consumer Protection Law).

4.4. Purchase of goods by ÖGUSSA establishes an obligation to deliver to place of business. The seller / contractor therefore bears the costs and the risk of transport. The risk of loss or damage shall be transferred to ÖGUSSA only when the goods have been delivered.

5. Proof of performance/acceptance

Any contractually agreed proof of performance and acceptance of deliveries are to be recorded in writing.

6. Execution

The seller / contractor is obliged to maintain a quality management system, for example pursuant to DIN EN ISO 9000ff and/or DIN ISO 14001. ÖGUSSA is entitled to inspect by agreement the system used by the seller / contractor by way of a quality audit.

7. Weights/quantities

If deviations in weight are reported, the weight established by ÖGUSSA in the inspection of delivery shall apply, unless the seller / contractor can prove that his calculated weight was correctly established at the time of transfer of risk according to a generally recognised method. The same applies to differences in quantities.

8. Price and payment

8.1. Unless otherwise agreed in writing, the prices quoted to ÖGUSSA shall include all costs for delivery, transport, insurance, taxes, duties and charges, as

well as customs clearance and installation when this is agreed, before value added tax. Prices that have been agreed on taken as basis for a contract are considered fixed prices.

8.2. Invoices must be issued in duplicate, with the second invoice being clearly marked as a copy. The invoice must indicate the order number and material number – the reference of invoice amounts to order positions must be unmistakable. Every invoice must be issued in Euro and value added tax indicated separately. The invoice is to be sent separately to the billing address indicated in the order.

8.3. Unless otherwise agreed in writing, payments are due, with reservation of a suitable period for examination of invoice, within 14 days less 2 % discount or within 30 days net. The term for discount payments commences as soon as the delivery or performance has been provided on time and in full and a correctly formulated invoice has been received.

A deduction of discount is also admissible if ÖGUSSA sets off counterclaims or withholds payments to a suitable amount in the case of faults in delivered goods; the term for payment shall in such a case commence anew after the fault has been remedied in full.

If payment is to be made in instalment according to agreement, ÖGUSSA shall not lose its discount facility for part payments remitted in time even if other part payments are not made within the period set for discount and payment term.

9. Warranty and liability:

9.1. The statutory third-party liability of the seller / contractor for warranties and in accordance with product liability law shall apply in full.

9.2. No exclusion of liability of any kind shall be accepted, nor limitations of liability on the part of the seller / contractor, in particular based on guaranty of title or compensation for damages, unless these have been expressly negotiated in the individual case and agreed in writing.

This therefore also applies to any changes to the statutory onus of proof to the detriment of ÖGUSSAS, reductions in terms and deadlines, etc. No exclusion of the right of recourse or recovery pursuant to section 933b ABGB is admissible.

In the event of faults in the delivered goods being established, ÖGUSSA shall be free to choose between replacement, repair or price reduction. This shall not prejudice a possible claim on the part of ÖGUSSAS for change to the order.

If ÖGUSSA insists on repair or replacement, ÖGUSSA shall be entitled to withhold the entire payment until the due performance/delivery has been executed in full.

The obligation to examine faulty deliveries of goods according to section 377 UGB (notice of faults) does not apply.

9.3. For parts subject to preventive or corrective maintenance within the statutory liability periods, the statute of limitations shall commence anew from the point in time when the seller / contractor has fulfilled the claims for replacement or improvement in full.

9.4. The seller / contractor is liability towards ÖGUSSA and third parties for every damage arising due to the faulty or incomplete execution of delivery or performance.

9.5. The seller / contractor guarantees that all delivered goods are free from all third party claims property rights and indemnifies and holds harmless ÖGUSSA in the event of any infringement.

10. Contract penalty

10.1. The contract penalty for failure to meet agreed delivery dates for reasons for which the seller / contractor is responsible is a sum equivalent to 0.1 % of the net order value for each working day, but maximum 5 % of the total order value.

If a delivery date is delayed for reasons for which the seller / contractor is not responsible, the date for commencement of the contract penalty shall also be postponed in line with the newly agreed schedule. In the event, that the delivery is delayed at the fault of the seller / contractor for more than 10 weeks, ÖGUSSA shall be entitled – provided ÖGUSSA insists on continued fulfilment of the order – to demand interest on part payments already made at the statutory amount in the case of business between two companies (section 352 UGB) at 8% above the basic interest rate, and in the case of business with consumers in the sense of KSchG, at 4% p.a. (section 1000 (1) ABGB).

10.2. The above shall not prejudice any liability on the part of the seller / contractor for damaged exceeding the contract penalty (section 1336 (2) ABGB).

11. Insurance

The seller / contractor must maintain third-party liability insurance with normal terms and conditions for the sector for the duration of the contractual relationship including the guarantee and warranty periods, and shall furnish evidence thereof to ÖGUSSA on request. The minimum insurance amount for any single damage event must measure at least 2 million Euro. Lower cover amounts can be agreed in writing with ÖGUSSA only in some individual case.

12. Transfer of orders to third parties, assignment of claims

12.1. The transfer of execution of orders to third parties (sub-contractor) without the written consent of ÖGUSSA is not permitted and will entitle ÖGUSSA to withdraw from the agreement in part or in full and demand damages.

If ÖGUSSA has agreed to the seller / customer employing a sub-contractor, then this sub-contractor shall indicate the seller / customer as his client in all correspondence and delivery documents, indicating the order data.

12.2. Claims of the seller / contractor towards ÖGUSSA may be assigned only with the written consent of ÖGUSSA.

13. Access of persons and vehicles to the plant / construction site:

13.1. When persons or vehicles access the ÖGUSSA plant or any construction sites, the instructions of the relevant personnel must be followed. Access of persons or vehicles to the plant/ construction site is to be announced in advance in good time. StVO regulations (German highway code) must be observed. If performance is provided on plant/ construction site, the relevant plant/construction site ordinance shall apply.

13.2. ÖGUSSAS is in no way liable for injury to persons or damage to property of the seller / contractor, insofar as such exclusion of liability is legally admissible.

14. Regulations on money laundering

The provisions of sections 365m ff *Gewerbeordnung* (Industrial Code) 1994 shall apply accordingly. This statute provides for identification of the contract partner in all cash transactions with a value of € 15,000.— and more. This is irrespective of whether a permanent business relation is established or a

transaction is performed merely occasionally in a single act or in more than one act.

According to these provisions, ÖGUSSA is entitled to establish the identity of the seller / contractor by demanding presentation of a valid personal ID card, passport or driving license before entering into a business relationship or before undertaking a transaction. This covers also verification of the representation authorisation of a person acting on behalf of the seller / contractor.

15. Supply of materials, planning materials, documentation

15.1. Material provisions remain the property of ÖGUSSA and are to be stored, identified and managed separately and without charge. They are to be used exclusively in the fulfilment of orders for ÖGUSSA. In the event of decrease in value or loss, the seller / contractor shall provide suitable replacement.

15.2. All drawings, designs, etc. (planning materials) prepared by the seller / contractor according to special instruction of ÖGUSSAS shall become the unrestricted property ÖGUSSAS without any additional payment. Any declarations by the seller / contractor to the contrary are not binding. Planning materials are to be presented at the delivery date together with the any additional documents that have been agree or are necessary for start-up, corrective and preventive maintenance, including documentation, source text, assembly and operation instructions (documentation papers). Notwithstanding any more far-reaching rights, ÖGUSSA is entitled to withhold satisfaction of claims of the of the seller / contractor to an appropriate extent until the planning and documentation materials have been presented in full.

16. Advertising materials

16.1. Reference to ÖGUSSA in information and/or advertising materials shall require express prior written consent.

16.2. The seller / contractor is obliged to maintain confidentiality regarding all information, knowledge and documents, irrespective of their nature, that is obtained from ÖGUSSA or originating in the sphere of an affiliated enterprise (UMICORE company), for example technical and other data, measuring values, engineering, operational experience, sketches, plans, business secrets, know-how, drawings and other documentation (information). The seller / contractor shall not make such materials and information accessible to any third party and shall use it exclusively for the purpose of processing the relevant order. These materials and information remain the intellectual property of ÖGUSSA and are protected by copyright.

The above shall not apply if the information was already known to the seller / contractor or become known without any unlawful act on the part of the seller / contractor or a third party. On completion of the business relationship with the seller / contractor, the seller / contractor undertakes to return all physical information, such as documents, models, samples, software etc., immediately to ÖGUSSA, without retaining any copies or records thereof, and confirm the complete return of all such materials to ÖGUSSA in writing.

17. Severability clause

The invalidity of ineffectiveness in law of any provision in the present agreement or the present Terms of Purchase shall not prejudice the validity of the remaining agreement or the remaining terms.

18. Legal venue, applicable law, place of performance

18.1. Exclusive legal venue for all disputes arising directly or indirectly from the agreement is – apart from jurisdiction over consumer contracts – the court with material jurisdiction for the official domicile of ÖGUSSA. Notwithstanding this agreement, ÖGUSSA can also take legal action at the general legal venue of the seller / contractor.

18.2. This agreement is subject to the law of Austria, and the provisions of UN Sales Convention shall not apply, and to the provisions of the regulation on conflict of laws referring to foreign law.

18.3. Place of performance for deliveries and performance is the place of delivery indicated by ÖGUSSA, and payments the official domicile of ÖGUSSA.