

# Standard Terms and Conditions of Supply Management of Christof Industries GmbH

## 1. Scope

- 1.1. Contractual declarations and contracts of the companies of Christof Industries (hereinafter referred to as "CI") concerning the delivery or the provision of goods and/or services (hereinafter referred to as "supplies") shall be governed exclusively by the present Standard Terms and Conditions of Purchase ("STP") in relation to the contractor/supplier ("the contractor"), unless expressly agreed otherwise in writing.
- 1.2. Conditions of the contractor that deviate from the present Standard Terms and Conditions of Purchase shall only become provisions of the contract if the relevant company of CI ("the customer") expressly agrees to these in writing within the context of each individual business transaction. If no express agreement in writing is concluded, suppletive law shall apply instead.
- 1.3. The execution of the order (initial delivery) shall be deemed to constitute recognition of the present STP, and the contractor shall also accept these as being exclusive and legally binding for all further supply relationships, even if no express reference should be made to them.
- 1.4. If any provision of these STP is or shall become invalid and/or unenforceable, this shall not affect the validity of the remaining provisions. The invalid provisions shall, without further agreement, be replaced by valid and enforceable provisions that best correspond to the function of the invalid and/or unenforceable provisions and the intentions of the contracting parties.

## 2. Quotations made by the Contractor

- 2.1. Unless otherwise agreed, the contractor shall not be reimbursed for the preparation of quotations, plans, cost estimates and the like, irrespective of whatever preparatory work was necessary therefore.
- 2.2. The contractor's quotations must correspond literally with the wording of the inquiry and contain the correct inquiry number. Any possible alternative proposals must be submitted separately and must contain express references to the normative and linguistic deviations.
- 2.3. Quotations which do not fully contain the present STP in full - and, where applicable, additional special conditions based on the customer's inquiry - or, for their part, refer to the contractor's General Terms and Conditions, shall not be accepted by the customer. Any statements made by the customer in relation to such quotations of the contractor shall in no case constitute any acceptance by the customer.
- 2.4. By submitting its quotation the contractor declares and guarantees that all the preconditions for the fulfilment of its supplies are given. It shall not be entitled to claim that the documents submitted to it by the customer are unclear or erroneous or that individual supplies which - according to industry standards - are integral part of the supplies or are otherwise required for a contractual fulfilment are not mentioned expressly. If the contractor is of the opinion that the documents delivered to it are unclear or erroneous, the contractor must advise the customer immediately in writing of any possible shortcomings or concerns. The written warning by the contractor must be presented in a way that is comprehensible to the customer and be accompanied by sound proposals for a solution.
- 2.5. Quotations by the contractor which do not contain any express time limit for acceptance can be accepted by the customer for a period of 12 (in words: twelve) weeks counted from the date of their receipt.
- 2.6. No contract conclusion provided the contractor shall be obliged to return to the customer immediately all relevant documents made available by the customer with respect to the expected contract conclusion without being expressly requested to do so.
- 2.7. The customer shall be entitled to retain all plans, cost estimates and samples provided by the contractor.

## 3. Conclusion of Contracts

- 3.1. Invitations for tenders made by the customer to potential contractors shall not give rise to any obligations whatsoever for the customer.
- 3.2. Solely written purchase orders made by the customer shall be legally binding. Purchase orders sent by e-mail or fax shall satisfy the requirement for the written form.
- 3.3. The contractor shall immediately accept purchase orders by the customer in writing upon their receipt, however at the latest within 5 (in words: five) working days. Otherwise the customer shall no longer be bound by them.
- 3.4. Any agreements, confirmations or subsequent changes shall only be valid if confirmed by the customer in writing.
- 3.5. Without written consent of the customer the contractor shall not be entitled to pass on orders to third parties in whole or in part. The aforesaid shall not apply to the unavoidable procurement of primary material and/or standard parts and special components. The violation of this provision shall entitle the customer to cancellation of the order without compensation and without prejudice to entitlement of further claims.
- 3.6. The minutes of the negotiations, if applicable, shall form an integral part of the order and shall in any case be deemed precedent to the present STP.
- 3.7. The contractor shall not be entitled to dispute or adjust the contract on the grounds of error (including calculation error). In addition, the contractor waives the right to dispute the contract on the grounds of laesio enormis.

## 4. Premature Termination of Contract

- 4.1. The customer shall also be entitled to dissolve the contract in due course for the following reasons in particular:

- existing doubts concerning the solvency of the contractor, and if the latter fails to provide suitable surety on the customer's request prior to the supplies;
- change of the ownership structure of the contractor;
- assignment of claims against the customer and assignment of collection of claims against the customer to third parties;
- violations of statutory regulations or the provisions of these STP by the contractor;
- if the contractor has - to the disadvantage of the customer - entered into immoral contracts or has entered into agreements with other companies that contravene the principles of competition;
- if the contractor has directly or indirectly promised or given benefits to customer's employees who are involved in the conclusion or performance of the contract, or has threatened them with or inflicted disadvantages upon them;
- if - for reasons attributable to the contractor - the commencement, execution or continuation of the supplies became impossible or is further delayed despite a reasonable grace period.

- 4.2. The contractor shall be obliged to inform the customer immediately in writing of such circumstances.

- 4.3. In the event of a violation of material contractual provisions by the contractor, the customer shall be entitled to withdraw from the contract prematurely at any time in whole or in part, with or without setting a grace period without prejudice to entitlement for further claims by the customer.

## 5. Assignment

- The customer shall at any time be entitled to fully assign the contract with the contractor to another company of CI. In such event the customer - besides the new customer - shall continue to be liable to the contractor with respect to its contractual claims. An assignment by the contractor to third parties shall be subject to prior written consent by the customer. The contractor shall not be entitled to assign or transfer its contractual rights - be it in whole or in part - to a third party without the written consent of CI. Any assignment or transfer executed in contrary to this prohibition shall be

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invalid.

## 6. Customer's right of suspension

The customer shall be entitled, without giving any reasons, to request the suspension of the contractor's supplies and to adjust contractual deadlines. The contractor shall only be entitled to compensation with respect to the duration of suspension respectively the change of deadlines if the total extent of the suspension or time for the adjustment of deadlines exceeds 50 % (in words: fifty percent) of the agreed time for the supplies. This right for compensation shall be limited to the amount of the actual idle time costs as evidenced by the contractor.

## 7. Delivery

- 7.1. The agreed deadlines for delivery cannot be changed unilaterally. The decisive factor for timeliness of the supplies shall be the receipt at the place of performance. The durations and deadlines for the supplies shall be calculated from the date of the placing of the purchase order by the customer.
- 7.2. If - in accordance with the contract - the contractor is required to provide attestations, certificates, test certificates, quality documents, legally or contractually necessary documents, certifications, operating, service or maintenance instructions or other documents, the fulfilment of the supplies shall also prerequisite the receipt of these documents.
- 7.3. The execution of (partial) supplies prior to the agreed due dates shall only be executed with the customer's prior written approval, and do not constitute any preliminary claim for payments.
- 7.4. The inspection carried out by the customer upon taking over shall be binding for the determination of the quantity delivered. In the case of supplies provided in instalments, the customer shall be entitled to make use of the supplies in instalments even before the fulfilment of the entire supplies, without any acceptance of contractual fulfilment in such case.
- 7.5. The contractor must inform the customer immediately in the event of a foreseeable delay with respect to the supplies. The acceptance of the delayed supplies by the customer shall not constitute a waiver of any claims of whatever nature, in particular for indemnity claims.
- 7.6. The contractor shall be obliged, in the event of deadlines being exceeded, to undertake the quickest possible measures in order to reduce such delay. The costs of these measures shall be borne by the contractor.
- 7.7. In the event of a delay attributable to the contractor, the customer shall be entitled upon the expiry of 14 (in words: fourteen) calendar days, to withdraw from the contract with immediate effect, without being required to grant a grace period. If a fixed deadline has been agreed, then the contract shall be deemed to be dissolved upon the date when the deadline has been exceeded, unless the customer requires fulfilment of the contract within fourteen 14 (in words: fourteen) calendar days.
- 7.8. Unless particularly agreed otherwise, even if an adjustment of the deadline has been accepted by the customer, the customer expressly reserves the right to charge a contractual penalty of 1 % (in words: one percent) per calendar week or part thereof of the delay, up to a maximum of 25 % (in words: twenty-five percent) of the total amount of the order. Provided acceptance of an adjustment of the deadlines for documentation (see Sec. 7.2) by the customer, the latter expressly reserves the right to charge a contractual penalty of 0.5 % (in words: zero point five percent) per calendar week or part thereof of the delay, up to a maximum of 12 % (in words: twelve percent) of the total amount of the order.
- 7.9. The goods must be packaged appropriately. The delivery must comply with the Austrian safety, packaging and hazardous material regulations. Documents relating to the delivery (in particular those required in accordance with Sec. 9 of the present STP) must be enclosed with the delivery. The packaging chosen must take into account the applicable packaging standards in such a way that damage-free delivery and effective internal handling by the customer shall be guaranteed.
- 7.10. An appropriate delivery resp. dispatch note giving details of the customer's complete consignment description, purchase order date including CI's order number, article number, product identification number (article code) and the quantity delivered shall be enclosed with each delivery and shall be part of each corresponding invoice. The contractor is obliged to note the country of origin in purchase order confirmations and corresponding invoices of its delivered goods and declares to be informed and comply with all legal regulations with respect to the issue of such certificate of origin. The invoice shall be submitted three-fold to CI. In case of nonfulfillment of the above conditions CI shall not be obliged to take over the goods concerned resp. to pay the invoiced amount. Additionally, in such case processing fees may be invoiced to and shall be borne by the contractor.
- 7.11. The contractor shall be obliged to collect contract goods to be returned and invoiced to CI on its own cost. In any case, transport of such contract goods to be returned shall be executed at the contractor's cost and risk. An offset of processing fees with respect to such goods shall not be acknowledged by CI. Irrespective of any further claims of CI, in particular for compensation delivery, delayed or incomplete collection of goods to be returned attributable to the contractor shall be deemed as a contractor's waiver of such goods thus CI shall be entitled to dispose about such goods at its sole discretion if applicable.  
In case of purchase orders issued by CI considering higher volumes of goods as actually needed and required for works to be executed by CI for an ultimate customer, the contractor shall be obliged to collect and take back the goods concerned on its own cost and risk from the place of delivery after respective price adaptation.

## 8. Place of Performance / Transfer of Risk

- 8.1. Transfer of risk shall be affected for services following formal acceptance, and for deliveries at the agreed place of performance. In the absence of the latter the place of delivery notified by the customer shall be deemed to be the place of performance.
- 8.2. Unless other agreements have been reached between the parties, transfer of ownership shall be affected upon completion of the unloading process at the place of performance.

## 9. Quality and Documentation

- 9.1. The contractor must carry out a quality control process that shall be appropriate in terms of its nature and scope and that shall correspond to the latest state of the art. The contractor shall be obliged to provide all legally or contractually necessary documents, certifications and attestations in the required form and language. Operating, service and maintenance instructions must also be included in the delivery without this being stipulated separately and at no additional cost.
- 9.2. The contractor shall be responsible to the customer for the submission of the documents and for their correctness and completeness, and shall indemnify and hold the customer harmless in this respect.
- 9.3. Whilst executing the orders entrusted to it, the contractor shall comply with all normative and statutory regulations and rules, in particular with reference to environmental protection, the recycling of waste material and the personal safety of employees. The relevant proof shall be carried out at the request of the customer.
- 9.4. The contractor undertakes to execute its deliveries in compliance with the state of the art, all relevant environmental legislation and environmental standards. Furthermore, the contractor shall also ensure (respectively as far as can reasonably be expected under economic aspects) that all supplies are executed in a manner that is environment-friendly according to environmental law and the Austrian Waste Management Act ("Abfallwirtschaftsgesetz") as amended from time to time. This shall include the selection of environment-friendly and recyclable materials, as well

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as choosing low-emission, low-polluting and energy and resource-saving solutions. The contractor shall be obliged to ensure that the Waste Management Plan is up to date and shall submit proof thereof on request. Should the contractor be certified according to ISO14001, the relevant procedures and requirements with respect to environmental management shall be disclosed upon request by CI.

- 9.5. At any time CI as well as its client's representative(s) together with CI shall be entitled without prior information to execute audits with respect to systems, processes or products concerning the works or products subject to the contract or purchase order at the premises of the contractor or its subcontractor(s).

## 10. Acceptance

- 10.1. Inspections, tests, visits, the acceptance or approval of plans, etc. shall not constitute the conclusive acceptance of the performance by the customer.

- 10.2. The contractor's supplies shall be deemed to be only accepted following written confirmation by the customer.

## 11. Prices, Terms of Payment

- 11.1. In the event of doubt, the prices quoted in the contractor's quotation and the prices agreed shall include all overtime, customary packaging and delivery to the place of performance at the contractor's expense and risk and import duties, and all other fees, taxes and duties affecting the contractor, exclusive of value-added tax. If the customer should be required to discharge any taxes and/or duties, except for value-added tax, in connection with the contractor's service, the agreed price shall be reduced by this amount. This principle can only be changed following prior written agreement of the parties.

- 11.2. Payments, unless otherwise agreed, shall be made in the case of supplies as per the contract within 30 (in words: thirty) weekdays with a cash discount of 3 % (in words: three percent) or within 45 (in words: forty-five) week-days net, and in the case of partial instalments, final invoices or partial final invoices within 90 (in words: ninety) week-days net and under consideration of a respective retention of 10% valid from the date of receipt of the respective auditable invoice throughout the warranty/guarantee period.

- 11.3. The payment period shall begin as soon as the supplies were provided in full, have been accepted by the customer, if required, and the properly issued invoice and the material certificates for the materials ordered in accordance with the attestation required have been received by the customer.

- 11.4. Payments shall not constitute acceptance of the supplies as being in accordance with the contract.

## 12. Set-off / Right of Retention

- 12.1. In the event of a defect, the customer shall be entitled to withhold payment completely until due rectification of the defect, and without the loss of any payment reductions, such as rebates or cash discounts.

- 12.2. The contractor shall not be entitled to offset claims to which it is entitled against the customer.

- 12.3. The customer shall be entitled to offset all claims due to it and to CI companies against payments due to the contractor.

## 13. Warranty

- 13.1. The supplies shall in particular correspond with the intended purpose, the contractual agreements, the latest state of the art, the applicable standards and the pertinent regulations of the relevant authorities and professional associations.

- 13.2. The customer's acceptance or approval of the drawings or documents provided shall not constitute a waiver of warranty claims.

- 13.3. The warranty period for the contractor's supplies shall start at the earliest on the date when the supplies are provided in full to the customer at the place of performance. The warranty period shall not be started by partial supplies (even if such have been contractually agreed), or by the commissioning and start-up of partial supplies by the customer.

- 13.4. The warranty period shall be suspended by any written notification of defects.

- 13.5. The contractor waives its right of defence in case of late defects' notifications. The application of Section 377 of the Austrian Enterprise Code (UGB) shall be excluded.

- 13.6. The contractor shall be liable for defects during the warranty period in such a way that the customer – irrespective of its other rights – shall be entitled, at its discretion, to require a replacement of supplies, remedy of the defects, a reasonable price reduction or rescission. When the contractor fails to comply with its warranty obligation upon request within a reasonable period of time, as well as in other particularly urgent cases, the customer shall be entitled, without further ado, to undertake the remedy of the defects by itself at the contractor's expense or to have such remedy carried out by a third party or, if this is not possible, to procure a replacement elsewhere. The loss incurred by the customer due to default supplies shall be reimbursed by the contractor.

- 13.7. The place of performance and the modalities for the remedy of defects within the warranty obligation will be determined by the customer.

- 13.8. All additional costs arising in connection with the remedy of defects (e.g. for installation and dismantling, transportation, disposal, travel costs, further tests, attestations etc.) shall be borne by the contractor.

- 13.9. The warranty period shall be 36 (in words: thirty-six) months. In addition, the customer's warranty rights shall in any event last for at least 24 (in words: twenty-four) months following commissioning by the end-user. If the customer has provided warranty to a business entity, Section 933b of the Austrian Civil Code (ABGB) shall apply mutatis mutandis.

- 13.10. When defects are reported within the warranty period, their existence shall be deemed to have existed already at the time of the completion of the supplies. Defects reported within the warranty period can be enforced by legal means for up to 2 (in words: two) years starting from the expiry of the warranty period. The aforesaid shall not affect the customer's right to object the contractor's plea of the statute of limitations.

## 14. Liability

- 14.1. The contractor shall be liable to the customer for all damages in connection with or as a result of the supplies.

- 14.2. If claims are asserted by third parties, the contractor undertakes to provide the customer with all information necessary for the defence against these claims and to join in any litigation as an intervener.

- 14.3. The contractor shall indemnify the customer against third-party claims asserted against the customer on the grounds of a product failure or defect also attributable to the contractor.

- 14.4. The contractor undertakes to take out reasonable and sufficient commercial third party liability insurance in relation to the volume of orders and the provision of the supplies and the associated risks and to provide evidence thereof to the customer on request. If such evidence is not provided or if the contractor refuses to increase the insured amount appropriately, the contractor shall be deemed to be in delay and the customer may prohibit the supplies by the contractor until appropriate confirmation of insurance has been provided, or to withdraw from the contract and to claim indemnity or to take out appropriate insurance and claim reimbursement of the costs from the contractor.

- 14.5. The contractor shall be responsible for ensuring that the supplies are free of third party rights (especially title and lien), that the customer is provided with unencumbered ownership and that the supplies and the use thereof shall not infringe any third-party proprietary or intellectual property rights in Austria or abroad. The contractor shall indemnify and hold the customer harmless in this regard.

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- 14.6. The customer shall only be liable for willful intent and gross negligence in accordance with the statutory provisions.
- 15. Force Majeure**  
“Force Majeure” shall mean external and unforeseeable events that cannot be prevented by taking reasonable measures. If one party is unable to provide its contractual supplies due to “Force Majeure”, it shall inform the other party immediately in writing and provide corresponding evidence, and its obligation to perform shall be suspended until the “Force Majeure” ceases to apply, unless it is possible to circumvent the impairment due to the “Force Majeure”. Neither the failure of upstream suppliers or haulage companies to adhere to deadlines nor the failure of a workpiece shall constitute “Force Majeure”.
- 16. Intellectual Property Rights**  
The contractor shall provide the customer with all intellectual property rights necessary for the proper, contractually agreed and unrestricted use of the supplies.
- 17. Confidentiality**  
17.1. The contractor shall be obliged to treat all contractual documents and information, drawings, calculations and the like received from the customer or otherwise in connection with the preparation of quotations or the performance of the contract as strictly confidential and to use such only to fulfil the contractual obligations. The aforesaid shall not apply to such information and documents whereof disclosure by the contractor is required by law or it can be demonstrated that it is subject to public knowledge or it is ascertainable or obtainable from public or published sources.  
17.2. If the disclosure of information and documents to third parties is absolutely necessary to fulfil the contract, the contractor shall impose the obligation to maintain confidentiality on them and assume liability for their compliance.  
17.3. In the event of a violation of the confidentiality obligation, the contractor shall for each violation pay the customer a penalty of EUR 100,000 (in words: one hundred thousand Euros). The customer shall be entitled to deduct this amount from the purchase price.  
17.4. The contractor shall in any event be liable for any violations by its employees and subcontractors and their employees for compliance with the obligation to maintain confidentiality and shall fully indemnify and hold the customer harmless in this respect.
- 18. Code of Conduct**  
The contractor has taken note of the code of conduct to which the customer has committed itself, and shall comply with it when providing its supplies.
- 19. Applicable Law, Place of Jurisdiction**  
19.1. Austrian substantive law shall apply, with the exception of its conflict-of-law provisions and the UN Convention on Contracts for the International Sale of Goods (CISG).  
19.2. The place of jurisdiction shall be the court with local and material competence for the customer. The customer may at its sole discretion also assert claims before the court with material jurisdiction at the contractor's location.
- 20. Language**  
In case of discrepancies or contradictions between the German and a foreign-language version of the present STP, then the normative content of the German version shall apply exclusively between the customer and the contractor.