

## GENERAL TERMS OF SALE AND DELIVERY

for Heidenbauer Management GmbH, Heidenbauer Metallbau GmbH, Heidenbauer Pools GmbH and Heidenbauer Dach Wand GmbH.

**Scope of validity:** The following terms and conditions apply to companies as specified herein above (the Contractor), unless the special terms and conditions of the accepted purchase order specify anything to the contrary. By passing the purchase order, the Purchaser states agreement with the subject terms and conditions. The Purchaser's general conditions of contract or of business shall not become part of the contract, even not in a case when the Contractor has or has to have knowledge of them and has not explicitly rejected them.

**Quotations, acceptance and amendments of the purchase order, documentation provided, prerequisites specified by the Purchaser:**

All quotations of the Contractor are non-binding and without obligation, they will be prepared on the basis of the documentation for execution and planning provided by the Purchaser. The Purchaser confirms being satisfied with the functionality and technical design of the work to be executed. Purchase orders passed by the Purchaser are considered accepted only upon written order confirmation or tacitly by performing them. Supplements to and amendments of purchase orders are subject to the Contractor's written consent, this applies also to any waiver of this requirement to be issued in writing. Changes in volumes and work executed authorize the Contractor to adequate adjustment of the prices and to adjustment of delivery deadlines by mutual agreement. The cost of any amendment or deviation from the specification of the works on the basis of structural or technical requirements or conditions imposed by the authorities are part of the Purchaser's scope of responsibility and the Purchaser shall remunerate such cost separately. In a case of cancellation of a purchase order The Contractor has in any case the right to charge compensation of cost for any work already performed or materials purchased. Moreover the Contractor is entitled to all statutory claims (for example sec 1168 Civil Code). For any work/service ordered but not executed the Contractor is entitled to the remuneration for the work involved, less any expense not yet incurred. The information specified in the documentation provided in the Contractor's quotation, such as drawings, images, samples, flyers, technical data and catalogues and other technical data are non-binding, they do not exonerate the Purchaser from verification of the products as to their fitness for the intended purposes, procedures and deployments. They shall become part of the contract only and to the extent as explicitly confirmed by us as binding. Whenever products are delivered on the basis of specifications, drawings, images, samples and other technical data provided by the Purchaser, the Purchaser shall assume the risk of suitability for the contractual purpose intended; the Contractor's responsibility is the statutory obligation to verify and warn. Whenever the Purchaser provides incomplete, contradictory, illegible or wrong requirements which result in additional work for the Contractor, the Purchaser shall remunerate the Contractor for such additional expense at the Contractor's customary hourly rates. If CAD drawings are to be provided by the Contractor, the time input required for doing so shall be remunerated by the Purchaser at the Contractor's customary hourly rates.

**Standard of work to be executed / scope of performance:** Steel construction work shall be calculated and executed in accordance with Austrian standard ÖNORM EN 1090, weld seams are to be inspected also in accordance with ÖNORM EN 1090. The general tolerances for welded constructions shall be narrowed down in accordance with EN ISO 13920 – fineness C and G, respectively. Weld seam inspection shall be evaluated in accordance with EN 25817 D. Welded aluminium constructions shall be executed in accordance with EN 30024 D. To performance of steel structure work also applies, if not stated otherwise, steel quality S 235JRG2 (1.0038) pursuant to EN 10025 shall be used. Evidence of welding qualification [Schweißbefähigung] shall be provided through valid certification pursuant to EN 1090-2. The Contractor holds a valid certification pursuant to EN 1090-2 in categories EXC1, EXC2 and EXC3, as well as verification of procedure pursuant to Austrian standard ÖNORM EN ISO 15614-1 for the welding processes 135 (massive wire electrode [Massivdrahtelektrode]) and 111 (bar electrode [Stabelektrode]). Preparation of welding seams to be provided pursuant to EN ISO 9592-1. The general tolerances are defined in accordance with ÖNORM EN 22768, tolerance category C (rough). The tolerances for welded constructions shall be ascertained pursuant to Austrian standard ÖNORM EN ISO 13920, tolerance category C and G, respectively (tolerance category G for straightness and flatness, however, shall not apply to structural elements under stability load). For verification of welding seams for steel structures EN ISO 5817 category C shall apply. Corrosion prevention work shall be carried out pursuant to Austrian standard ÖNORM ISO 12944, as well as to the standard for contracts for work ÖNORM B 2299, hot dip zinc coating pursuant to EN ISO 1461. Execution and invoicing of structural steel work is to be carried out pursuant to ÖNORM B 2225. Unless agreed otherwise, the Purchaser shall provide foundations in load-bearing condition and locate the anchor elements supplied by the Contractor in exact position. The Purchaser shall also provide all casting work and work within cast [Untergussarbeiten]. The Contractor shall provide wedging and/or bolting structural steel elements with each other. Unless agreed otherwise, all erection work shall be performed during standard working hours without any interruption or new staff arrival travelling. Unless explicitly quoted as separate items, no advance services (drill holes, butt straps, etc.) for subsequent work (wood structure, electrician, building services, etc.) are contained in the Contractor's scope of work.

**Delivery:** Delivery deadlines are – subject to express confirmation – non-binding. For delivery of goods the prices are quoted ex works. If erection on site is part of the PO, the prices are to be understood for delivery at site, including erection. In such case the Purchaser is responsible for making available access roads suitable for the elements involved and that the Contractor's staff is provided unobstructed access to the erection site during construction works. Access and erection areas shall be suitable for a wheel load of not less than 50 kN. All approvals by authorities required for performance of the Contractor's work shall be obtained by the Purchaser at the Purchaser's expense before placing the PO. This applies accordingly also to structural

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verification if required, soil expertise or surveying of plant elements. Restoration of open fields and/or outdoor facilities is not part of the Contractor's scope of performance. From the date of delivery at site, the Purchaser is responsible for protection of the work performed against damage, fire and other natural disasters, The risk of damage and accidental destruction of the work performed shall pass to the Purchaser as of the date of commencement of deliveries at site.

**Acceptance:** The Contractor has the right to acceptance by the Purchaser upon completion of the contractual work without gross functional defects, at the latest as soon as it is taken into operation. Occurrence of minor defects shall not delay acceptance, but the Contractor is obligated to eliminate defects within adequate time. In case the deadlines for completion as specified are delayed for more than 60 days for reasons not to be attributed to the Contractor, the Contractor has the right to demand partial acceptance and invoice the cost incurred.

**Retention of title:** The Contractor shall remain owner of the work performed until it is paid in full. The Purchaser shall comply with any formal prerequisites for securing retention of title. In case of attachment or other claims on the part of third parties the Purchaser is obligated to assert the Contractor's retention of title and inform the Contractor accordingly without delay. The Purchaser is authorized to dispose of and process the goods subject to retention of title within the scope of normal business operation. Any other disposal on the part of the Purchaser, such as pledging or transfer by way of security, is not permitted. Resale is only allowed under retention of title, unless it occurs against concurrent payment upon handing over, and in such case the proceeds obtained by the Purchaser must amount to not less than the Contractor's selling price and the Contractor's retention of title shall cover the proceeds obtained for the goods under retention of title in the amount of the selling price. The Purchaser already at this time assigns to the Contractor all amounts receivable the Purchaser is entitled to from the resale vis a vis its purchasers, including the collaterals created for this purpose, and the Contractor accepts such assignment. Any transaction fees incurred on this occasion shall be borne by the Purchaser. The Contractor undertakes not to collect the assigned amounts receivable as long as the Purchaser properly complies with its payment obligations.

**Invoicing, payment:** The Contractor can issue partial invoices for 100% of services performed. Any retention, if agreed, shall be paid in advance against submission of a bank guarantee. Unless agreed otherwise, 30% of the PO amount is due for payment upon acceptance of the order, another 40% before commencing erection and 30% upon handover. All invoices are payable by transfer of the amount within 14 days to the bank account as specified by the Contractor, without any deduction. Payment in cash to the Contractor's agents and other persons authorized are excluded.

**Warranty:** The Contractor warrants within the scope of the provisions of the law. Any defects identified do not postpone the due date of the right to be paid the remuneration of the work performed. Warranty shall not apply if instructions for installation, operation or maintenance have not been complied with, as well as in cases of improper use or use not in conformity with the purpose, improper maintenance, wear and tear, improvement/elimination of defects or modifications carried out by persons other than the Contractor, as well as in cases of breakage of glass. Built in glass elements may result in unavoidable deviations of the quality within the scope of the technological manufacturing process, which therefore does not constitute

any defect. Attention is drawn explicitly to the fact that in spite of careful testing of glass, for example with the so-called heat-soak test, spontaneous breakage may arise and consequently no warranty and/or responsibility may be claimed vis a vis the Contractor.

**Liability:** The Contractor's liability is limited to the amount the Purchaser paid for the work. Any further liability, especially liability for slight negligence, is excluded. The Contractor's liability does not include consequential damage resulting from defects, as well as indirect material or immaterial damage incurred by the Purchaser or a third party directly or indirectly as a result of the Contractor's performance of work. Moreover, restriction on liability in accordance with item 12.3 ÖNORM B 2110 as amended as at 15/03/2013 applies. Contract based protection for the benefit of third parties is excluded, therefore the Contractor's obligations apply only vis a vis its direct contracting party.

**Withdrawal from the contract:** The Contractor has the right to withdraw from the contract with immediate effect whenever the Purchaser's financial situation should deteriorate to an extent which does not warrant performance of the contractual obligations. In such case the Contractor is entitled to compensation for the performance rendered up-to that point.

**Rights of ownership, author's rights and rights of publication:** The Contractor retains title of ownership and author's rights to images, drawings and other documentation provided. Unless consent is otherwise given in writing, they are only permitted to be used for the contractual purpose and must not be made accessible to third parties. In accepting the purchase order, the Contractor acquires the right to publish plans and pictures of the work performed.

**Final stipulations:** Whenever one or more than one of the above stipulations are or become ineffective or their contents restricted, the validity of the remaining stipulations remains unaffected. In place of any such ineffective stipulation such regulation shall become effective which comes as close as possible to its economic purpose, and mutual interests of either party shall be adequately safeguarded. The Contractor may from time to time amend these General Terms of Sale and Delivery. For each contract, the respective updated version as at the time of acceptance of the offer shall apply.

**Choice of law / place of performance / venue:** In case of any disagreement the following documents apply in the order of sequence as listed: Order confirmation and purchase order, respectively, the minutes of negotiations (to the extent available), the quotation involved as amended, ÖNORM B 2110 as amended as at 15/03/2013, and the applicable technological ÖNORM standards. Austrian law applies, referral under collision of law rules is excluded. Application of the UN Convention for the Sale of goods is excluded. The Contractor's registered address shall be deemed place of performance for delivery and payment, also in cases when actual delivery or payment takes place in another place. Venue shall be the court of law having subject matter jurisdiction at the Contractor's registered address. The Contractor may submit disputes at its discretion also before a court of law having jurisdiction for the Purchaser.

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