

## **General Terms and Conditions TWONG Engineering GmbH**

### **1. Applicability:**

The terms below apply on all our proposals and offers, as well as on all orders and instructions we have accepted, unless otherwise agreed in writing. The terms shall only apply on the business transaction relevant in the specific case. Any terms and conditions printed on our customer's purchase order forms or other forms shall not be applicable and are not object of the agreement. In the event the customer refuses to accept all or parts of our sales conditions or terms of delivery, we are entitled to withdraw from the transaction without assuming liability for damages toward the customer.

### **2. Proposals and contracts:**

Our proposals or offers are always without engagement and non-binding, unless agreed otherwise in writing. In the event that the execution of an order at the agreed terms is impossible or unreasonable due to force majeure, strikes or other important events beyond our control, such as supply shortages on the part of our subcontractors, we shall be entitled to withdraw from the contract. In such case, our contractual partner shall not be entitled to lodge any claims or claim damages in connection with the subject agreement.

### **3. Prices and terms of payment:**

Our prices are without engagement and non-binding. Unless otherwise agreed, they exclude the value-added tax and are quoted ex-factory, without packaging. We invoice the prices valid on the day of delivery. Our customers may not retain payment of our invoices to apply the amount therein to any potential counterclaims toward our company unless they have been recognized by us. In the event that agreed terms of payment are not complied with or the customer's financial situation or credit rating has deteriorated, we shall be entitled to accelerate all accounts receivable from the customer, including those with regard to other transactions. In such case all payments shall be due immediately, irrespective of the previously agreed due date. In the case of orders still in process we may request adequate security or prepayment, or withdraw from the contract without the customer being entitled to claim damages or compensation arising thereof. Such withdrawal on our part, however, does not waive our rights to claim compensation or damages from the customer. Unless otherwise agreed in writing, our invoices are payable immediately, without discount and at no cost to us. In the event of delayed payment we shall be entitled to charge default interest of at least 14% annually, plus the applicable VAT. Any costs incurred by us through the collection of the outstanding amounts, including (extrajudicial) legal fees or fees from collection or credit rating agencies shall be at the buyer's expense.

### **4. Delivery dates:**

Our commitment to delivery dates is made in all conscience and good faith and shall be deemed as fulfilled if we notify the buyer of our readiness to deliver within the agreed term. In the event that we default on any agreed delivery dates, the customer shall be entitled to withdraw from the contract only after having notified us of our default by registered letter in which withdrawal from the contract is threatened and the delivery date is extended by at least four weeks. In the event of special orders, the grace period shall be extended in a manner to correspond to the specific requirements of the order, however by at least eight weeks. The customer shall not be entitled to damages or other compensation if the delay

in delivery is due to late deliveries on the part of our suppliers or subcontractors, or if the delay has not been caused by gross negligence on our part. In the event of force majeure, requirements imposed by government agencies, missing documents and specifications, as well as the occurrence of other circumstances that are beyond our control, the agreed delivery date shall be postponed by the respective term during which such situation prevails.

#### **5. Returning and storing of ordered goods:**

Buyers may only return or exchange delivered goods if agreed by us, in particular in the event of special or customized orders made to suit specific measurements. Any costs incurred in this connection shall be borne by the buyer. The amount to be credited to the buyer's account shall be our re-sales price less 20% to cover sales costs, unless otherwise agreed in writing. Any goods ordered for customer pick-up or on call, shall be stored at the customer's full risk and expense from the date we announce readiness for delivery, either at our premises or at a third party's facility of our choice.

#### **6. Delivery and transition of risk:**

In the event "freight-paid" has been agreed, delivery shall be made to the destination or railroad station of the destination, using the means of transport chosen by us. Unless delivery has explicitly been agreed as freight or carriage-paid, transportation costs shall be at the buyer's expense. If the means of transport are defined by the customer, the agreed prices are deemed as ex-factory. In such case, the buyer shall always bear the freight costs. All risks and hazard shall pass to the buyer from the moment the goods leave our plant or from the moment the buyer has been informed of our readiness to deliver. If we take out insurance on the goods, the costs shall be at the buyer's expense. We shall only be obliged to take out insurance if the buyer has explicitly requested insurance in writing.

#### **7. Warrantee and liability:**

We shall not recognize any deficiencies on goods that were previously accepted at our plant as free of flaws. In the event of any other deliveries, we shall be immediately notified in writing of any defects or deficiencies. The buyer's warrantee rights shall lapse if the processing of our goods or their delivery to third parties has made it impossible to examine the deficiency. In the event of justified claims we shall chose to either replace the goods or grant a discount on the purchase price. The buyer may only claim refund of the payment if the goods are totally useless and this situation cannot be remedied. The buyer shall not be entitled to damages or compensation beyond this scope, as well as in any other case of contractual breach, activity or omittance, in particular also with regard to claims for lost profit, incurred production or processing costs, freight costs, collateral or consequential damage, except if such situation is due to intent or gross negligence on our part. We totally disclaim any liability for the deficiency of the delivered goods or services. Any compensation for physical damage pursuant to product liability law is excluded, unless the buyer is a private consumer. In the event we are instructed to manufacture goods based on drawings or other customer specifications, the customer shall hold us harmless and indemnify us if such manufacture infringes upon copyrights or other rights of third parties.

**8. Retention of title:**

We retain ownership of all goods delivered by us until the purchase price has been fully paid and the buyer has settled all receivables due to us, also from other transactions, including interests and costs. In the event that the goods under retention are processed or combined with other goods that are not owned by us, our ownership rights shall not lapse but we shall gain ownership of the new thing on a pro-rated basis. Thus, our retention right shall be maintained as a commensurate co-ownership share. In the event that the outstanding purchase price or other payables due to us are not settled, the buyer shall, upon our request, return the goods which are subject to retention rights, even if the agreement has not been cancelled. This obligation shall also apply on those goods of which we have co-ownership, following their processing and combination with other goods. In such case the buyer authorizes us to collect the goods and to store them without giving rise to any claims for trespassing or damages on its part. After the expiry of two further months we shall be entitled to sell the goods in the open market. In such event the amount corresponding to the customer's co-ownership share shall be credited to the customer's account, less 20% for re-sale costs.

In the event the customer plans to re-sale the goods under retention, the customer undertakes to impose our rights on its customer in turn, until the purchase price has been fully paid. Furthermore, the customer undertakes to offer us assignment of its receivables due from any potential re-sale of the processed or unprocessed goods, including any ancillary rights. Such assignment made to secure the payment of our purchase price shall be irrevocable. As soon as we have accepted such offer, we shall be entitled to notify our customer's customer of the cession, to ensure that the payments will be made exclusively to our account, thereby reducing our customer's debit balance.

**9. Place of fulfillment and jurisdiction:**

This agreement is subject to Austrian law. Place of fulfillment for ex-factory orders is the place of our plant, place of fulfillment with regard to payments is Vienna. Any disputes shall be carried out at the competent court in Vienna.