

**GENERAL TERMS AND CONDITIONS of BUSINESS and CONTRACT  
of WOOJIN PLAIMM GMBH (GTCs)  
VERSION 20.07.2017**

**1. VALIDITY**

The company Woojin Plaimm GmbH (hereinafter referred to as Contractor) shall conclude contracts with its customers (hereinafter referred to as CUSTOMER) exclusively on the basis of these terms of contract and delivery.

If the CUSTOMER rejects these GTCs of the Contractor during the introduction of a business or after the preparation of an offer, no contract shall be concluded, unless the CUSTOMER pays the demanded advance payment of 30% and thus conclusively indicates his intention to conclude the contract on the basis of these GTCs (this was pointed out explicitly in the offer within the meaning of Section 864a ABGB [Austrian Civil Code]).

In the case of current business relationships, the GTCs shall apply by references to the validity in offers and invoices.

**2. OFFERS AND CONCLUSION OF CONTRACT**

Offers by the Contractor shall be valid for the period specified in the offer, unless stated otherwise in the offer (e.g. offer non-binding).

The contract shall be concluded with the CUSTOMER if the acceptance of the offer is received within the deadline set (e-mail suffices) and the 30% advance payment is received on the Contractor's account within the applicable terms of payment (see Section 4).

The contract shall, in addition to these GTCs, be based on the offer with any fully worded additional terms of contract.

In modification of Section 922 Par. 2 ABGB, promises in advertisements or contents on the Contractor's homepage [www.woojin.eu](http://www.woojin.eu) shall be information only and not become part of the contract.

Retrospective change requests by the Customer shall only be valid if the Contractor agrees to these explicitly, to which the Contractor shall not be obliged however.

Any technical and commercial documents, such as plans, drawings, process flows, application software, technical solutions, applied patents or word/picture marks shall not be transferred into the property of the CUSTOMER, so that the property and copyrights shall remain with the Contractor.

The CUSTOMER undertakes not to transfer the documents etc. specified in the above paragraph, inasmuch as they are not accessible in public advertisements, to third parties for or without compensation, nor to make reproductions and copies without the approval of the Contractor, whereby the aforementioned obligations shall relate both to written documents as well as electronic files.

The CUSTOMER's obligation shall also apply as duty of secrecy towards third parties.

**3. PRICES AND DELIVERY ITEM**

The prices stated in all documents shall be in euros net plus applicable statutory sales tax and in each case without packaging, loading, transport and transport insurance, cancellation, customs clearance, assembly and commissioning (inasmuch as included in the agreed scope of contract); any other costs shall all be borne by the CUSTOMER separately.

If a period of more than 6 months lies between the conclusion of contract and the delivery, the Contractor shall be entitled to increase the price, inasmuch as such increase is based on circumstances beyond the control of the Contractor and that influence the project costs, such as e.g. collective bargaining agreement increases, increase of raw material prices, transport tariffs and the like.

Invoices issued in euros may only be paid in euros.

The delivery item shall be specified in the offer as stated in the technical specifications.

The CUSTOMER must check himself whether the technical specifications comply with his requirements and the orders made; the Contractor shall be released from any warning duty in relation to circumstances that were not stated by the Customer in advance. The Customer must check the specific statutory provisions, safety and administrative regulations by the authorities applicable at his operating site in his country/federal province himself; the Contractor shall also be released from any warning duty in this respect.

The delivery item shall comply in terms of usual nature and quality with the technical data and state of technology at the time of preparation of the offer; special characteristics or special services were not promised.

If a machine, spare part or commodity is manufactured on the basis of design specifications, drawings or models of the CUSTOMER, the Contractor shall be released explicitly from testing the suitability of these specifications, so that the CUSTOMER shall bear the risk of the designs according to his specifications alone.

This shall not apply if the deficiency of the design specifications, drawings and models is evident and obvious without any additional examinations and technical tests.

#### **4. TERMS OF PAYMENT**

Unless otherwise specified in the offer or agreed upon conclusion of contract, the purchase price shall be paid as follows:

- 30% not later than 5 bank days after conclusion of the contract;
- 60% not later than 5 bank days after the notice of readiness for shipment by the Contractor;
- 10% not later than 5 bank days after handover of the machine to the CUSTOMER, however not later than 30 days after the date of invoice.

If acceptance of the machine was agreed at the CUSTOMER, the residual payment of 10% shall be received not later than 5 bank days after performance of the acceptance by an employee or representative of the Contractor at the CUSTOMER, however not later than 30 days after the date of invoice.

The deadline shall be deemed met for all payments, if the covered payment order is issued by the Customer to his bank on the last date of the deadline and the amount is credited to the Contractor's business account not later than 5 bank days afterwards.

In the case of default of the CUSTOMER, 12% default interest p.a. shall be deemed agreed; furthermore the CUSTOMER shall pay all reasonable costs for dunning and collecting fees, even if these were not determined by a court, as well as the costs of assertion and pursuance in court.

The Contractor shall be entitled to withhold his own service or interim service or rescind the contract setting a 10-day period of grace in the case of default with a part payment or an agreed collaboration duty by the CUSTOMER.

In the case of rescission, the Contractor shall be entitled to assert either the proven damages incurred or a lump-sum compensation for damages in the amount of 30% of the net purchase price.

If the opening of a documentary credit is agreed in the concluded contract, the ERA600 standard conditions for documentary credits as amended shall apply.

These conditions can be retrieved by the CUSTOMER at [https://en.wikipedia.org/wiki/Uniform\\_Customs\\_and\\_Practice\\_for\\_Documentary\\_Credits](https://en.wikipedia.org/wiki/Uniform_Customs_and_Practice_for_Documentary_Credits) and form part of these GTCs.

#### **5. DELIVERY AND FULFILMENT**

All deliveries by the Contractor shall be made "ex works Korea" from the Woojin headquarters site in Korea.

In the case of cooperation projects, the Contractor shall be entitled to make part and preliminary deliveries and invoice these separately, this under prorated application of the terms of payment as set out in Section 4.

Delivery terms included in the offer shall be binding, inasmuch as the customer has fulfilled his collaboration duty and the delivery is not delayed or prevented by force majeure (strike, war, weather and unrest).

In the case of default with the delivery, the CUSTOMER shall grant the Contractor a grace period of 14 days without the CUSTOMER being able to derive any legal consequences therefrom.

In addition, the CUSTOMER shall grant the Contractor another and last grace period of 10 days should the rescission of contract be declared.

## **6. TRANSFER OF RISKS AND BENEFITS**

If the Customer finances the machine through a leasing company, the ownership of the machine shall transfer to the leasing company after full payment of the purchase price; the contractual relationship with the leasing company shall be regulated by the Customer himself.

The validity of the Incoterms 2010, consisting of 11 clauses, is agreed for the transfer of risk (bearing of risk in the event of loss or damage of the goods, bearing of transport costs).

These form part of these GTCs and can be queried by the Customer at <https://en.wikipedia.org/wiki/Incoterms> for example.

If a formal acceptance at the Customer was agreed between the CUSTOMER and the Contractor in the contract, the machine shall be delivered so that the CUSTOMER cannot and may not put it into operation.

If this machine blockage is circumvented by the CUSTOMER or he makes modifications without authorisation, this machine shall be deemed accepted and handed over without requiring any formal acceptance.

## **7. VENDOR'S LIEN**

All machines, goods and spare parts shall be delivered by the Contractor under vendor's lien and remain his property until full payment.

Any resale shall require the explicit approval by the Contractor, whereby the CUSTOMER shall assign his claims vis-à-vis the third party to the Contractor.

As a surety, the CUSTOMER shall already now offer the assignment of his claims vis-à-vis the third party to the Contractor without time limitation, who may but shall not be obliged to accept this offer.

In the case of assertion of the vendor's lien, the Contractor shall also be entitled to assert, in addition to the surrender of the delivered machine, spare parts or goods, the full purchase price or residual purchase price in court (compliant with applicable judicature).

Any additional costs incurred to the Contractor by assertion of the vendor's lien, such as disassembly, transport, dunning and handling fees, court costs, shall be borne by the CUSTOMER.

Should the CUSTOMER be in default with an outstanding part payment after completed delivery, he shall be obliged immediately to provide the machine with an uneasily detachable sticker along with a text according to which this machine is in the reserved ownership of the Contractor (exact company name and address plus phone number).

In the case of executive seizure, the CUSTOMER shall be obliged, otherwise constituting liability for damages, to notify the Contractor of the seizure without delay, in order to enable the Contractor immediate attachment nullity proceedings.

## **8. INFORMATION AND COLLABORATION DUTIES**

The CUSTOMER shall obtain regulatory permits for operation of the machine, spare parts and goods at his own costs; such services shall not become part of the contract.

If special statutory provisions apply for the delivery at the place of delivery, the CUSTOMER shall point this out explicitly to the Contractor in the invitation for preparation of an offer (inquiry by customer) by the Contractor.

If the CUSTOMER fails to do so, any liability of the Contractor for possible extra costs shall be ruled out; necessary extra costs of the delivery shall in return be borne additionally by the customer.

The CUSTOMER shall be under obligation to collaborate in the delivery; he shall take all structural or material measures to enable the machine to be delivered to the CUSTOMER without obstructions, so that the preparatory works for power supply, foundation and other connections are already available.

If the Contractor incurs additional costs as a result (such as e.g. standing times, additional assembly and connection costs and other technical requirements, energy and operating resources), these shall be payable separately by the CUSTOMER at reasonable prices.

If the CUSTOMER fails to fulfil his collaboration duty, the Contractor shall be entitled to rescind the contract setting a 10-day period of grace, assert damages or a lump-sum compensation for damages (see Section 5 and 10) or bring about the requirements for commissioning himself at the costs of the CUSTOMER or award the contract for that to third parties in the name of the CUSTOMER.

## 9. WARRANTY AND NOTIFICATION DUTY

In accordance with Section 377 *UGB* [Austrian Business Code], the CUSTOMER shall be obliged – a business-related transaction being given in any case for both contractual parties – to examine the delivered goods and report any defects identified thereby within a reasonable period.

This reasonable period shall be defined as agreed as 14 days as of handover; the notification of defect shall be detailed in writing, thereby specifying the defect and its effects on the machine's operation.

If the CUSTOMER fails to provide this notification, he shall no longer be able to assert claims for warranty and damages for the defect itself, as well as an error regarding fault-freeness of the matter.

The same period shall apply with the specified statutory legal consequences for defects that have occurred at a later stage.

The warranty period is agreed by mutual consent to be 12 months as of handover, whereby the statutory assumption of 6 months shall be excluded in modification of Section 924 *ABGB*, so that the CUSTOMER shall bear the burden of providing proof of the defect right from the start.

(The limitation of warranty and this circumstance is already pointed out explicitly to the CUSTOMER in the offer within the meaning of Section 864a *ABGB*).

The Contractor shall fulfil a warranty claim at his discretion either by improvement, replacement or, upon consultation, price reduction.

Warranty shall be ruled out if the delivered machine, spare parts or goods were not used, serviced and maintained by the CUSTOMER in accordance with the co-delivered documentation, operating instructions and according to the state of technology and the defect was not caused by any other than the intended use.

In the event that unusual discounts are granted on the basis of the valid price list of the Contractor, the warranty can be restricted or ruled out fully as compensation for that.

In the case of major and non-remediable defects, the CUSTOMER may demand cancellation and reversed transaction of the contract.

If the delivered machine, spare parts or goods were operated properly by the CUSTOMER until occurrence of the mentioned defect, he shall bear a reasonable utilisation fee as well as a drop in value of the delivery item of 3% per month of use, based on the net purchase price, which shall be deducted upon reversal of the purchase price.

Use that is not in conformity with the intended use shall be for example if any materials, add-ons or spare parts were used or modifications were made to the machine, spare parts or goods which were not approved in writing by the Contractor.

## 10. GUARANTEE

**Inasmuch as a voluntary contractual guarantee was granted to the CUSTOMER in the offer, this shall apply as follows:**

- Guarantee period in accordance with the offer as of handover;
- Excluded from the guarantee shall be wear and tear parts, minor deviations from production properties, unusual use or use that is not in conformity with its dedication, external impacts,

abnormal environmental conditions, improper operating conditions, non-compliance with specifications for maintenance and use, cases of transport damage that are not at the fault of the Contractor, incorrect use, deficient and unprofessional installation and assembly, inasmuch as commissioning was not carried out by the Contractor, as well as insufficient care;

- The guarantee shall lapse if repairs or interventions are carried out without authorisation by the Contractor or if the machine is provided with foreign spare parts, supplementary or accessory parts which are not authorised by the Contractor;
- The guarantee service shall be performed by free repair or by replacement of flawless parts. No new guarantee period shall be started by the repair or replacement with flawless parts, nor shall the granted guarantee period be extended.

Claims in excess thereof shall not be covered by the guarantee.

## **11. COMPENSATION FOR DAMAGES**

The Contractor's liability for damages is limited to cases of grossly negligent behaviour, whereby this limitation shall not apply for personal injuries.

Liability for pure pecuniary damages, indirect damages, consequential damages due to defects and loss of profit shall be ruled out completely.

In the case of liability of the Contractor, the claim for damages shall be limited to the value of the delivered machine, spare parts or goods.

The claims shall lapse within 6 months as of knowledge of the damage and liable party; expiry of the limitation shall only be interrupted within this period by action in law.

If the CUSTOMER has violated third-party property rights, which were integrated and used in the machine, he shall hold harmless and indemnify the Contractor.

## **12. GOVERNING LAW AND VENUE**

The contract concluded with the CUSTOMER shall be governed by Austrian law under exclusion of the UN Convention on Contracts for the International Sale of Goods.

In accordance with Section 104 *JN* [Judicial Norm], Wiener Neustadt Regional or District Court, depending on the height of the value in dispute, shall be agreed as the exclusive venue for any disputes arising out of the contractual relationship.

## **13. MISCELLANEOUS**

The Contractor shall be entitled to store, assess, process and delete the data of the CUSTOMER in the name of the business transaction; he shall comply with the data protection regulation thereby.

The CUSTOMER grants his approval that the data and pictures of the sold machine, spare parts or goods may be duplicated and published on the Internet or other media for reference purposes.

Both contractual parties undertake to keep the business and operating secrets received by them under the business relationship absolutely secret for the period of use of the machine, the spare parts or the goods and 5 years afterwards, unless these are publicly accessible anyhow.

The place of fulfilment for all obligations under the concluded contract shall be the seat of the company in Leobersdorf - Austria.

If a contract is drawn up in German and English language, the text in the German version shall be legally and economically binding in the case of doubt.

In doubt of the meaning and interpretation of a version of these General Terms and Conditions that are not in German language, the text of the German version is legally and economically binding.

Notifications, messages and deeds may also be transmitted by electronic means, merely settings of grace periods and declarations of rescission/cancellation must also be sent by registered letter in addition to the electronic means.

Leobersdorf, this July 20<sup>th</sup>, 2017  
428/16 h/c