

	GTC	 
		QUALITY ASSURANCE SYSTEM

General Terms and Conditions of Business and Delivery

1. General Information

1.1. The acceptance and execution of orders and thus the conclusion of legal transactions shall take place solely on the basis of our terms and conditions of sale and delivery listed below. The version valid at the time of the conclusion of the contract shall be applicable. On principle, we conclude contracts only on the basis of these conditions. The customer expressly acknowledges having accepted these terms and conditions of sale and delivery in a legally binding manner to the effect that they have become a component of the contract. This shall also apply should the customer make reference to their own general terms and conditions.

These terms and conditions of sale and delivery shall also be applicable to all future contractual relationships, even if this is not explicitly stated in additional contracts.

Any general terms and conditions of the customer shall not be accepted – even with knowledge thereof – unless otherwise agreed upon explicitly and in writing in individual cases.

General terms and conditions of the customer are hereby expressly excluded. No further exclusion of the GTC of the customer is required. Changes to the terms and conditions of sale and delivery shall be made known to the customer and shall be considered agreed upon if the customer does not object to the changed terms and conditions of sale and delivery within 14 days. The customer shall be explicitly informed about the significance of silence in the agreement.

1.2. Our offers are subject to change and are non-binding unless they are explicitly indicated as binding. A contract is concluded with legal effect only by means of a written order confirmation on our part. In the case of short-term deliveries, the invoice shall replace the order confirmation.

2. Delivery

2.1. Our deliveries are always performed freight collect and at the expense of the customer (ex works), unless agreed upon otherwise.

2.2. We shall be obligated to perform the service only after the customer has fulfilled all of the obligations required on their part for the delivery (e.g. the agreed down payment has been received). We shall honour the delivery periods and dates to the greatest extent possible. Unless they have been explicitly stipulated as binding, they are non-binding and are always to be understood as the expected date of the delivery and handover to the customer. The customer shall be able to withdraw from the contract due to a delay in delivery only if an appropriate grace period of at least two weeks has been set. The withdrawal shall be asserted per registered letter. The right of withdrawal shall apply only to the part of the delivery or service for which the delay exists.

2.3. The delivery period has been adhered to if the object of delivery has left our plant/warehouse or the readiness for dispatch has been communicated by the end of this period. Subsequent changes and additions requested by the customer extend the delivery time accordingly. The same shall apply in the event of unforeseen obstacles that are out of our control, such as force majeure, strikes, lock-outs, or delays in the delivery of important raw materials, other materials or parts.

2.4. Claims for compensation on the part of the customer are excluded in all cases of delayed or unperformed deliveries, even after the expiry of the grace period, except in cases of intent or gross negligence.

File	Created by	Revised	Date	Page
General Terms and Conditions	Management	Rev. 2	01/01/2019	1/7

	GTC	 
		QUALITY ASSURANCE SYSTEM

2.5. Our liability for damages caused by delay is limited to 0.5% of the value of the delivery experiencing delays and at most 5% of the total order value.

2.6. Goods which are not accepted on the stipulated delivery date shall be stored for a maximum duration of four weeks at the risk and expense of the customer. The customer shall bear all costs for storage. At the same time, we are entitled either to insist upon fulfilment of the contract or, after having set an appropriate grace period, to withdraw from the contract and utilise the goods for other purposes. In the event of utilisation, a contractual penalty of 30% of the invoice amount (excl. VAT) shall be deemed agreed upon.

3. Dispatch, Transfer of Risk, Insurance

The customer is obligated to accept our deliveries and services. We deliver without insurance. The risk is transferred to the customer as soon as the object of delivery is transferred to the forwarder or other person responsible for dispatch or starting at the time of readiness for delivery in the case of delay in acceptance on the part of the customer. This shall also be the case should partial deliveries be made or if we have undertaken to perform additional services. If nothing else has been expressly agreed upon, the goods shall be sold ex works/ex warehouse.

4. Prices

4.1. For our deliveries, we essentially charge the net prices indicated in the price lists applicable in each case.

4.2. All price information is subject to changes and stipulated in euros, exclusive of value added tax, unless otherwise specified. All transport and packaging costs, shipping and insurance expenses, customs duties, fees and levies shall be paid by the customer.

4.3. The statutory value added tax shall be invoiced additionally in the applicable amount in each case. All fees shall be paid by the customer.

5. Terms of Payment

5.1. Our invoices are payable on the invoicing date, free of charges and other deductions unless agreed upon otherwise. Bank transfers shall be considered payment only after the amount has been credited to our account. Bills of exchange or checks shall be accepted only after written agreement and solely on account of payment, and shall exclude a cash discount deduction. Discount interest and all bank expenses shall be borne solely by the customer.

5.2. In the event of delayed payment on the part of the customer, we shall be entitled to demand compensation for the damage actually incurred or default interest at the applicable statutory rate, as we see fit. Currently, (as of 2019) this is 9.2% p.a. above the base lending rate for entrepreneurs. In the event of delayed payment on the part of the customer, we shall also be entitled to demand compound interest starting on the day of the transfer to the customer. In the event of delayed payment, the customer undertakes to compensate us for any reminder and collection costs incurred to the extent necessary for appropriate prosecution. In any case, this shall include a lump sum of EUR 40.00 as compensation for operating costs as per § 458 of the Austrian Commercial Code. The assertion of additional rights and claims shall not be effected by this. In the event of delay on the part of the customer regarding a (partial) payment, we shall be

File	Created by	Revised	Date	Page
General Terms and Conditions	Management	Rev. 2	01/01/2019	2/7

	GTC	 
		QUALITY ASSURANCE SYSTEM

entitled to make payable and due invoice amounts that are open but not yet due and/or demand advance payment or a guarantee for future deliveries and services.

5.3. Offsetting with counter-claims of the customer that are disputed by us or not enforced by law shall be excluded, as shall be the exercise of a right of retention without legally enforceable titles or due to claims from other legally enforceable transactions.

6. Warranty/Guarantee

6.1. We guarantee the fundamental suitability of the goods delivered for the intended designated use taking into account the agreed properties and under the prerequisite of strict compliance with the storage conditions and processing guidelines on the part of the customer. The warranty period is a maximum of 12 months after the acceptance of the goods. Application, usage and processing of the products takes place outside of our sphere of control and is therefore solely in the domain of responsibility of the customer. We shall therefore not provide a warranty for the coatings created using the coating material we delivered.

6.2. Complaints regarding defects shall be made in writing immediately after the goods receipt and within three days of it at the latest, and complaints regarding hidden defects shall be made in writing within three days of their discovery. Complaints shall be justified sufficiently and substantiated by proof.

6.3. In the case of justified defects, the warranty shall be limited to a new or subsequent delivery of the lacking goods, whereby only claims for the exchange delivery of goods from our current programme shall exist. Multiple subsequent improvements and replacement deliveries are permissible. Conversion claims and claims to price reduction are excluded. We shall not accept any liability for damage caused by inappropriate or improper usage, application or processing, natural wear, or incorrect or negligent treatment or storage.

6.4. No warranty, guarantee or liability whatsoever shall be assumed for reject goods at reduced prices or those delivered as stipulated in the agreement.

6.5. Insofar as this does not contradict compelling law and nothing else has been arranged to contrary in these terms and conditions, we shall only accept liability for compensation of damages which we have caused through gross negligence or intent. However, this limitation of liability does not apply to compensation for bodily injury. We shall not accept any liability for incidental damages, lost profit, losses of interest, savings that did not materialise, consequential and pecuniary damage and damage resulting from third-party claims. In the event of gross negligence, the amount of liability shall be limited to the value of the goods delivery.

6.6. Liability for damage to property or bodily injury as per the product liability act is excluded. The customer undertakes to subject their customers to this exclusion of liability as well, if necessary.

7. Retention of Title

7.1. We retain the title to the goods delivered until the complete payment of the purchase price. The customer shall bear the entire risk for conditional goods, especially for the risk of destruction, loss or deterioration. In the event of handling and processing or combination of the goods with other objects, our title shall apply to the new object. The customer is entitled to sell the goods delivered in the ordinary course of business. Until complete payment of the purchase price, the customer shall assign to us all claims and security interests out of such resale on account of payment. The customer undertakes to note this assignment in their books.

File	Created by	Revised	Date	Page
General Terms and Conditions	Management	Rev. 2	01/01/2019	3/7

	GTC	 
		QUALITY ASSURANCE SYSTEM

In the event of delayed payment on the part of the customer, we are entitled to notify the repurchaser of the goods, whom the customer shall make known to us, of the assignment and demand payment to us.

7.2. Any pledging or collateral assignment of our goods delivered under retention of title to the benefit of third parties is not permissible without our consent. The customer shall immediately inform us of any seizure by third parties. Acknowledgement of balance shall not affect the retention of title, nor payment by bill of exchange or cheque, until correct and effective redemption. Should we be forced to make use of our retention of title and take back the goods, the credit for the goods taken back on the basis of the retention of title shall be granted under consideration of a price reduction appropriate for the storage period, wear and tear and other circumstances but at least 30% of the invoice value. The buyer shall undertake to notify us before filing insolvency proceedings so that we can take back goods delivered under retention of title and owned by us.

7.3. In the event of delayed payment, we shall be entitled to seize the goods, without nullifying the obligations of the customer issuing from the purchase agreement, especially those concerning payment. The customer shall inform us immediately and in detail in the event of seizure of goods that are under our retention of title. To the same extent, singling out of our goods on the account of impending burden of insolvency while the retention of title exists is impermissible. The goods delivered under retention of title shall be stored properly.

7.4. Should third parties justify a right to the goods or wish to assert such a right, the customer shall notify us of this immediately in writing.

8. Packaging

Deliveries shall be performed only in the container sizes indicated in the price lists relevant in each case. Smaller filling quantities as per customer request or deliveries in loaned packaging must be arranged in writing. Only packaging explicitly designated as loaned packaging shall be taken back. It must be returned to us within three months in a flawless state and free per rail. No credit shall be granted if it is returned after this period. All transport and packaging costs shall be borne by the customer as stipulated above.

9. Electronic Commerce

Orders or other legally binding declarations on the part of the customer can be validly sent using our electronic forms and by e-mail, but require error-free receipt on our part to be effective. Transmission errors – irrespective of their cause – shall be at the expense of the customer. In the event of a malfunction of our data processing system, we reserve the right to revoke the effectiveness of individual or time-related legal business declarations immediately and through appropriate means (individual message, announcement on our website) and to perform or request the repeated and valid communication of the same.

10. Place of performance, legal validity, applicable law, place of jurisdiction, collection of data

10.1. The place of performance is our business address.

File	Created by	Revised	Date	Page
General Terms and Conditions	Management	Rev. 2	01/01/2019	4/7

	GTC	 
		QUALITY ASSURANCE SYSTEM

10.2. Austrian law shall apply exclusively, to the exclusion of the referring statutes of international private law (such as IPRG ROM I VO, etc.) and the CISG.

10.3. The exclusive local jurisdiction of the competent court in Innsbruck is hereby stipulated as the place of jurisdiction.

10.4. Should provisions of these terms and conditions of business and delivery be or become ineffective, invalid and/or void in the course of their duration, this shall not impact the legal effect and validity of the remaining provisions. In this case, the ineffective, invalid and/or void provision shall be replaced by one that is legally effective and valid and comes as close as possible and legally permissible to the economic effect of the original provision.

10.5. The data concerning our business relationships (especially name; address; telephone and fax numbers; e-mail addresses; order, delivery and invoice addresses; order date; ordered or delivered products or services; number of items; delivery dates; payment and reminder data; etc.) shall be stored in our EDP systems and further processed. The customer gives their consent to this.

Terms and Conditions of Purchase orders

1. Applicability and Order of Precedence

1.1. These General Conditions of Purchase apply for the purchase of goods, services, or both (collectively, "Goods") as described in a Purchase Order issued by us from a supplier as described in a Purchase Order or contract or agreement.

1.2. A "Purchase Order" is an order issued by us for the purchase of Goods, together with the specifications, drawings, terms and conditions, or other documents referred to, attached to, or incorporated by reference in a Purchase Order. Any proposal for additional or different terms and conditions (whether included in Supplier's quote, acknowledgement, or any other document) is rejected unless accepted in writing by us.

1.3. Orders from us are only valid, if the order is placed by a Purchase Order in written form, that contains our order number and an order date.

1.4 We shall be entitled to amend order chance orders that have not yet been fully executed within the scope of reasonableness. The parties shall consult with each other in this regard. Changes or amendments that are made at least one month before execution should always be regarded as reasonable.

1.5 The Purchase Order and these General Conditions of Purchase supersede any prior communications, representations, promises, or negotiations, whether oral or written, regarding the subject matter of the Purchase Order.

2. Price

Supplier will furnish the Goods at the prices stated in the Purchase Order. Unless otherwise provided in the Purchase Order, the prices include all packaging and freight to the specified delivery point; applicable taxes and other government charges and all customs duties, fees, or charges that must be separately itemized on all supplier invoices. To the extent that value added tax (or any equivalent tax) is properly chargeable on the supply to Buyer of any Goods, Buyer will pay the tax as an addition to payments otherwise due to Supplier under the Purchase Order, if Supplier provides to Buyer a value-added tax (or equivalent tax) invoice.

3. Delivery, Shipment, and Packaging

3.1. Supplier will deliver Goods to location and in the quantities and on the date(s) specified in the Purchase Order. Time is of the essence and failure to deliver Goods in accordance with the date(s) specified in the Purchase Order will be considered a material breach.

3.2. All Goods will be packaged according to Buyer's instructions or, if none, according to good commercial practice in a manner sufficient to ensure receipt in an undamaged condition.

File	Created by	Revised	Date	Page
General Terms and Conditions	Management	Rev. 2	01/01/2019	5/7

	GTC	 
		QUALITY ASSURANCE SYSTEM

3.3. Supplier will provide Buyer with any documents or information Buyer may require to comply with international trade regulations or to lawfully minimize duties, taxes, and fees. The Supplier must provide Buyer with all information and data necessary to comply with shipping and/or export, customs, and foreign trade laws.

4. Invoicing and Payment

4.1. Supplier will submit to Buyer, after each shipment made unless otherwise instructed by Buyer, an invoice listing a description of the Goods provided and, as applicable, part numbers, quantity, hours, unit and total prices, taxes and other government charges itemized and identified separately on the invoice as well as other necessary invoicing information.

5. Warranty

5.1. Supplier warrants to Buyer, its successors, assigns, customers, and end users that all Goods (including all replacement or corrected Goods or components): will be free from defects in material, workmanship, and design; will conform to applicable specifications and other descriptions furnished or specified by Buyer; will be merchantable and fit for the intended purpose (to the extent the Goods are not of a detailed design furnished by Buyer); will comply with all laws; will be free and clear of any and all liens or other encumbrances and will not infringe any patent, published patent application, or other intellectual property rights of any third party. Services will be performed in accordance with the highest standards in the industry.

5.2. The Warranty Period is 24 months from the date of delivery. This warranty survives delivery, inspection, acceptance, and payment by Buyer.

5.3 In the event of a breach of the obligation in clause 5.1, the supplier shall provide us with a replacement product and shall indemnify us against all associated costs, such as additional transport costs, expenses in connection with the removal or rectification of defects (removal and reinstallation costs, etc.) and all other costs arising from the defect.

6. Set Off

Buyer or its affiliates may deduct any amount owing from Supplier or its affiliates to Buyer or its affiliates as a set off against any amount owing to Supplier under any Purchase Order.

7. Termination

7.1. The nonbreaching Party may terminate any Purchase Order or, if applicable, any contract or agreement entered into by the Parties, in whole or in part, without liability, if the other Party commits a material breach and, to the extent such breach is possible to be remedied, the breaching Party fails to remedy the breach within 30 calendar days following receipt of written notice specifying the grounds for the breach. A material breach includes, but is not limited, to late delivery or delivery of Nonconforming Goods, or if Supplier engages in any misuse or disclosure of Buyer's intellectual property rights or Confidential Information that has not been expressly permitted in writing by Buyer.

7.2. A solvent Party may terminate any Purchase Order or, if applicable, any contract or agreement entered into by the Parties, in whole or in part, upon written notice if the other Party becomes insolvent or if any petition is filed or proceedings commenced by or against that Party relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

10. Legal validity, applicable law, place of jurisdiction, collection of data

10.1. Austrian law shall apply exclusively, to the exclusion of the referring statutes of international private law (such as IPRG ROM I VO, etc.) and the CISG.

10.2. The exclusive local jurisdiction of the competent court in Innsbruck is hereby stipulated as the place of jurisdiction.

10.3. Should provisions of these terms and conditions of business and delivery be or become ineffective, invalid and/or void in the course of their duration, this shall not impact the legal effect and validity of the remaining provisions. In this case, the ineffective, invalid and/or void provision shall be replaced by one that is legally effective and valid and comes as close as possible and legally permissible to the economic effect of the original provision.

10.4. The data concerning our business relationships (especially name; address; telephone and fax numbers; e-mail addresses; order, delivery and invoice addresses; order date; ordered or delivered products

File	Created by	Revised	Date	Page
General Terms and Conditions	Management	Rev. 2	01/01/2019	6/7

	GTC	 
		QUALITY ASSURANCE SYSTEM

or services; number of items; delivery dates; payment and reminder data; etc.) shall be stored in our EDP systems and further processed. The customer gives their consent to this.

Innsbruck, on 01/01/2019

Wolftank Adisa GmbH

The Management

File	Created by	Revised	Date	Page
General Terms and Conditions	Management	Rev. 2	01/01/2019	7/7