

1. Preamble

Our deliveries and services are provided exclusively on the basis of these terms and conditions of business. By placing an order, the customer accepts these as being binding without exception. They also apply to all subsequent deliveries associated with the order. The customer's General Terms and Conditions of Purchase and Business are not recognised by us unless their validity has been expressly agreed to by us in writing.

2. Offers, Prices and Contract Conclusion

Our offers are subject to confirmation and non-binding. This applies both to price lists and individual offers. Unless otherwise specified, the offer is valid for 2 months. There is a minimum order value of CHF 100.00. All accompanying enclosures such as samples, dimensional drawings and descriptions remain the property of Vulkan AG and may not be reproduced or made available to third parties. Any change to a component of our costs entitles us to carry out a corresponding price adjustment. The quantities, dimensions, weights and other details contained in the offer are drawn up with the utmost care, but their accuracy is not guaranteed. Our offers are subject to deviations from information contained in brochures, illustrations and samples in terms of colour, structure, quality and size. Unless explicitly mentioned in the offer, we supply all radiators and systems excluding mains connection cables. Connection cables for externally provided switch cabinets will be charged for. If no technical specifications are submitted for offers, all additional items will be subject to a charge. The customer's order represents a contract offer to us, even if the order is recorded by our employees, and is only deemed to have been accepted by us upon the despatch of an order confirmation or the start of delivery.

Offer and transfer prices are quoted exclusive of VAT. All changes after written production release are subject to a charge.

Contrary to orders that state otherwise, we produce exclusively according to our GENERAL CONDITIONS OF SALE AND DELIVERY, supplemented by the GENERAL DELIVERY TERMS FOR MACHINES AND EQUIPMENT, 2006 EDITION according to VSM.

By placing an order, the customer accepts these as being binding without exception. Offers are submitted subject to price increases as a consequence of rises in the price of raw materials, wages, etc. that occur during execution of the contract, as are price adjustments in foreign currency due to significant fluctuations in exchange rates. Upon delivery, excess or short deliveries of up to 5% of the ordered quantity shall be accepted by the customer. The accounting shall be based on the quantities of the actual delivery or service as stated on the delivery notes. Unless otherwise agreed, the prices contained in offers and price lists are stated strictly net, ex works. Repairs: Repair offers are subject to a charge if no order is submitted.

3. Delivery Time

The stated delivery times are complied with by us to the best of our ability and practical circumstances. A delay in the delivery due to acts of God, strikes, transportation difficulties, war, late or incorrect deliveries of the necessary raw materials, semi-finished or finished products shall not give the purchaser the right to cancel the contract, nor entitle him or her to direct or indirect damages. The delivery period shall be extended by a reasonable amount if the purchaser or a third party is in arrears with the work to be performed by them or with the fulfilment of their contractual obligations, in particular if the purchaser fails to comply with the payment terms. If it has been agreed that the customer is to collect the items him/herself, he or she shall be obliged – after being informed by us – to collect the ordered goods stored on our premises. Partial deliveries are possible. If goods from framework agreements are not purchased by the agreed date, we reserve the right to increase prices.

4. Dispatch

Items are dispatched at the customer's risk. This also applies even if the transportation costs are included in the price and irrespective of by whom the transport is carried out. Consignments are unloaded at the expense and risk of the customer by the customer him/herself or by third parties assigned with this task by the customer. The customer shall ensure an appropriate storage area. The individuals signing the delivery note shall be deemed by us to be authorised to accept the goods. In the absence of such authorisation, the person signing the delivery note shall be personally liable. The details recorded on the delivery note shall also be authoritative if the customer or his/her/its authorised representative is absent and the delivery note is not signed as a result. In the case of a delay in acceptance by the customer, we are entitled to put the goods into storage at the expense and risk of the customer, to charge for the goods and declare that they are due for payment as agreed or to withdraw from the contract and sell the goods elsewhere. Complaints concerning transport damage are to be submitted in writing to the forwarding agent by the customer immediately upon receipt of the goods.

5. Payments

Invoices shall be submitted if possible immediately after delivery. Payments are to be made free of charge in accordance with the payment terms stated on the invoice. The payment period shall be 10 / 30 days strictly net from the invoice date and up to the date of posting to our bank account. For partial invoices, the payment terms stipulated for the overall order shall apply by analogy. In the case of orders which comprise several partial deliveries, we are entitled to submit an invoice after every individual delivery or service. The customer is not entitled to retain payments due to incomplete deliveries, guarantee or warranty claims or claims for defects. In the event of a default in payment, we charge default interest at the customary rate charged by banks. Payments received by us are used first of all to pay off compound interest, interest and ancillary charges, pre-litigation costs such as costs for a consulted lawyer or debt collection agency, then the outstanding capital, starting with the oldest debt. In the event of default in payment of even one part of the overall outstanding invoices, we shall be entitled to declare that the entire outstanding balance is due for immediate payment. In the event of failure to comply with our terms of payment – and if we have a justified concern with respect to the solvency of the customer – we are entitled – without assuming any consequential costs – to retain any outstanding supplies and services, demand advance payments or securities or to withdraw from the contract without setting any period of grace. The offsetting of customer claims against our receivables from deliveries to the customer is not permitted.

6. Retention of Title and Assignment of Claims

All goods supplied shall remain our property until the full payment of all claims associated with the delivery. If the goods are processed or combined with other items, we shall become the co-owners of the new item to the level of the share resulting from the value of the processed goods subject to the retention of title to the value of the new item. The customer is entitled to pass on the goods in the ordinary course of business, provided that he or she is not in arrears with payment. The customer hereby assigns – without any requirement for a separate assignment declaration – all claims which the customer has against his/her/its customers from the resale of the goods subject to the retention of title for the payment of all our claims with all ancillary rights to the level of the value of our delivery. The consent of the customer to the above right shall be deemed to be confirmed by every submission of an order to us. The debt-discharging payment by the customer's principal can only be effected to us from this time on. The goods subject to the retention of title may not be pledged or transferred by way of security by the customer. In the event of the seizure of goods subject to a retention of title by creditors of the customer, the latter shall inform us immediately of this and shall pay all costs incurred by us for the release of these products from third party rights. In the event of the opening of insolvency proceedings against the assets of the customer, or in the case of default in payment lasting more than 30 days from the due date, we shall be entitled to collect the goods subject to the reservation of title from the customer and use them for our own purposes. If we take back goods that have been supplied on the basis of the above retention of title, the customer shall be responsible for any reduced proceeds occurring upon the resale of these goods and shall also reimburse the costs for their return and onward transport. In the case of deliveries made in conjunction with a running account, the retention of title shall be used as security for our balance claim. Any claims against an insurer are hereby assigned to us in accordance with the Insurance Contract Act.

7. Notices of Defects / Warranty / Product Liability

As our radiators and systems are subject to various stresses from case to case, we can only submit a warranty in response to a specific request. We are liable in accordance with the statutory regulations (Sections 13.1-13.7 of the General Conditions of Delivery for Machines and Equipment 2006 of the VSM, Association of Swiss Machine Manufacturers) for industry-standard quality. If the customer is not aware of these regulations, they should be requested from us. No warranty of any kind shall be provided for repairs to third-party products. When received by the customer or the customer's representative, the goods are to be checked visually with respect to their quantity and properties. Rejected goods must not be further processed. Any objection must be submitted to us in writing without delay. A defect shall not be deemed to exist if the delivered goods are in line with the order but not suitable for the intended purpose. In the event of a complaint relating to various product groups, the product features shall be deemed to be those notified by us in an attachment to the offer or in the confirmation of the offer in the form of leaflets or technical instructions etc. With the exception of personal injury, claims for damages by the customer due to delayed or incorrect delivery or withdrawal from the contract shall be excluded, provided that we or persons for whom we are responsible have not caused the damage either wilfully or as a result of gross negligence.

8. Returns of Goods

If an excessive number or incorrect goods are ordered by the customer, these shall only be taken back after consultation if the goods are undamaged and returned in the original packaging. For returned goods which are not objected to by us, the customer shall receive a credit note for the original price ex works, less a contribution of 15% to the expenses incurred. The costs of the return transport shall be borne by the customer. Goods which have been produced for a specific project cannot be taken back or reimbursed. Our credit notes may only be used to purchase new goods.

9. Order Cancellation

In the event of a full or even only partial withdrawal by the customer from the contract that has been concluded, a cancellation fee of 20% shall be deemed to have been agreed. Furthermore, an invoice shall be submitted for the costs of the ordered/purchased material.

10. Place of Performance, Place of Jurisdiction and Applicable Law

For all obligations of the purchaser and supplier under this contract, the place of jurisdiction shall be the location of the supplier's registered office (Rorschach District Court or the Commercial Court of the Canton of St. Gallen), with the purchaser renouncing the right for the place of jurisdiction to be at the his nor her place of residence. Swiss law applies to these provisions. The contract language is German.

11. Data Protection, Change of Address and Copyright

The customer hereby agrees that the personal data contained in the purchase agreement may be stored and processed automatically by us for the fulfilment of this contract. The customer is obliged to inform us of any changes to his or her residential or business address for as long as the legal transaction forming the subject matter of this contract has not been fulfilled by both parties. If no such notification is submitted, declarations shall be deemed to have been received if they are sent to the last known address. Plans, sketches or other technical documents, as well as samples, catalogues, brochures, illustrations and the like shall remain our intellectual property at all times; the customer shall not be provided with any usufructuary rights or exploitation rights to them whatsoever.

12. Final Provisions

Insofar as individual provisions of these terms and conditions of sale and delivery are or become invalid or ineffective, this shall not affect the validity of the remaining provisions.