

**General Terms and Conditions  
of Purchase for Supplies and Services  
Business Upper Austria – OÖ Wirtschaftsagentur GmbH  
Hafenstrasse 47-51, 4020 Linz, FN 89326, LG Linz  
(valid from March 3rd, 2026)**

The following terms and provisions shall apply to the supplies and services that we have ordered. Divergent terms, e.g. from (previous) tenders or order acceptance letters from the Contractor, shall only be binding upon us when we expressly confirm their validity in writing.

For future enquiries, orders and contracts on our part, these General Terms and Conditions of Purchase shall also apply even when they have not been sent to the Contractor again, or no reference is made to them. Divergent terms of the Contractor shall also not bind us in this respect.

In as much as the term “Order” is employed subsequently, this shall mean a contractual purchase, work and/or services relationship. The “supplier” or “provider” will be referred to hereinafter as the “Contractor” and the order allocation as a “Contract”.

## **1. Tenders**

Tenders on the part of the Contractor shall be binding. If in tenders no specific reference is made to divergences from the enquiry, it shall be taken as agreed that the supplies and services offered therein correspond with our enquiry. As far as errors or uncertainties in our enquiry or in the documentation and information provided by us are concerned, the Contractor shall be duty bound to warn us immediately in writing, otherwise it shall bear the additional expense relating to the uncertainty or the error. Our provision with tenders shall be free of charge even if we commission such tenders from the Contractor. Models and samples shall also be free of charge. Through the submission of a tender, the Contractor declares and is liable for the fact that all the prerequisites for the fulfilment of its supply and/or service, in particular with regard to the legal conditions (e.g. commercial licences), are given. All the documentation (e.g. plans, models, etc.) and items that are passed to the Contractor in connection with enquiries or contracts, as well as the completion of the Order shall remain our property and without our prior written consent may not be used for other purposes, be duplicated or made accessible to third parties. Upon our request, they shall be returned immediately. This shall apply from the acceptance of a document. The Contractor shall be fully liable for any subsequent damages emanating from the disregard of this provision. We shall also be entitled to merely accept parts of a tender without explanation. We may accept tenders of the Contractor that do not contain an explicit acceptance deadline during an expiry period of up to three months. We will not return tender documentation from the Contractor.

## **2. Acceptance/Order**

We shall allocate all orders by letter or e-mail. The allocation of orders verbally, by telephone, or understanding shall only be binding for us, when we have confirmed them subsequently by letter or e-mail. The same shall also apply to any amendments to the Contract or the Order. Upon our acceptance of a tender (i.e. the allocation of an Order) these Terms and Conditions of Purchase shall become part of the contractual content.

Otherwise, all the terms of the main Order shall apply to possible Contract or Order extensions and supplements, as well as orders for spare parts, etc.

## **3. Price and payment modalities**

The agreed prices shall be fixed prices and understood as incorporating free delivery to the destination and all expenses of the Contractor in connection with the fulfilment of the supply/service (transport, insurance, packing, assembly, taxes, duties and levies, etc.). Accordingly, in particular the Contractor shall also bear the costs and risks of dispatch including all related public levies, taxes and charges. We shall only bear costs that are expressly listed in the Order as being our obligation.

Unless no other written agreement has been reached, we shall pay invoices within thirty days following the orderly delivery/provision of the service. Payments in advance or on account will not be made. Until corrected, invoices containing formal legal, factual or calculatory inaccuracies or errors shall not represent a due date. All invoices shall show the mandatory value added tax separately and contain the necessary bank details including IBAN and BIC. Electronic invoices will not be accepted and therefore shall not create a due date or a payment obligation on our part. Our payments will take place to the recipient bank stated on the invoice by means of a transfer. All bank charges shall be borne by the Contractor.

In the case of incomplete or deficient performance, we shall be entitled to withhold payment until complete and proper rectification without the loss of rebates, discounts or similar payment facilities. When paying the invoice of the Contractor, we shall be entitled to employ all legally permitted offsetting modalities with counterclaims on our part.

Under no circumstances shall payment represent recognition of the correctness of the supply/service and thus a waiver of our rights derived from deficiencies. The unconditional acceptance of payment shall exclude additional demands.

## **4. Delivery and dispatch**

The supply/service shall entail the provision of operational readiness including assembly, commissioning and training, as well as the authorizations and certificates required for utilization. Where the contractual object (also) involves the transfer of analyses (concepts, documents, etc.), the Contractor shall furnish us with these in both written form (on paper) and on generally standard data carriers.

The supply/service deadline shall commence on the date of the Order allocation. Agreed supply/delivery dates shall be adhered to without fail. Advance or partial deliveries shall only be permitted with our consent. The resultant additional costs shall be borne by the Contractor. A predictable supply/service delay shall be made known to us immediately, or within two days after the cause arises together with the reasons.

In the case of a delay, we shall retain the right to choose to withdraw entirely or partly from our Order without the granting of a period of grace and either demand damages for the non-fulfilment of the Order, or contractual fulfilment and compensation for the delay damages.

In the case of supplies and services provided in parts, owing to a general agreement or a continuing obligation, we shall retain the right to cancel the uncompleted part of the supply/service. In the case of a cancellation, the Contractor shall be entitled to pro rata payment for the already completed supply/service. §1168 Para. 1 of the Austrian Code of Civil Law shall be waived.

A fully completed delivery note shall accompany all deliveries. The confirmation of Contractor delivery notes, work slips, assembly reports, etc. shall not be regarded as evidence that the delivery corresponds with the agreed conditions. COD deliveries will not be accepted.

## **5. Ownership and risk transfer**

Ownership of the goods/services shall pass to us upon handover. Retentions of title shall not be agreed. We shall retain the right to pass on or sell purchased goods/service to other companies, contractors and enterprises.

## **6. Warranty and liability**

The Contractor shall guarantee and be responsible under tort law that its supply or service demonstrates proper and careful quality and completion and that the Contract corresponds with the valid legal regulations, the norms applied at the place of fulfilment, the relevant standards and the state of the art. The application of §§ 377ff of the Austrian Commercial Code is excluded.

The deadline contained in § 924 of the Austrian Commercial Code with regard to the burden of proof shall be extended to two years. The Contractor shall also provide a warranty for such defects, especially material defects that occur within two years from the handover or are recognized by us, whereby a further period of six months shall be available to us for the legal assertion of claims to the right of warranty from the date of the occurrence or recognition of the defect.

In the case of supply/service defects, we shall be free to either demand improvements (rectification or the addition of what is missing), the exchange, or according to our choice, an immediate and reasonable, payment reduction (price reduction), or the cancellation (transformation) of the Order.

The correction of defects shall be completed immediately upon our request. In the case of the rejection or failure to carry out rectification and/or transformation, we shall be entitled to undertake replacement at the expense of the Contractor without any prejudice to the further liability of the Contractor.

It is established that the Contractor shall be liable to us as an expert pursuant to § 1299 of the Austrian Code of Civil Law and in particular that the delivery object/service can be used by us for

the foreseen purpose. Should the Contractor subsequently become aware of circumstances that could justify noncompliance with the already completed supply/service, the Contractor shall be obliged to inform us immediately of cognitions of this type.

Our liability with regard to gross negligence and beyond shall be limited to those cases in which claims asserted against us are covered by our third party liability insurance. Our liability for purely financial damage, loss of earnings or damages to third parties shall be excluded fully.

## **7. Protective rights, rights of use, licences**

The results of the Order shall be our free property over which we may dispose at any time. We shall be entitled to obtain legal protection for the results of the Order (patent, model and brand protection, etc.). In this connection, the Contractor recognizes expressly that we alone have the sole right to the registration of such protective rights without the need for a separate agreement or special payment. The Contractor shall undertake an obligation to us to hand over all the necessary legal declarations and declarations to authorities and other third parties, irrespective of whether they be in simple or notarially certified form, that might possibly be required for the effective registration of protective rights in our favour.

The Contractor shall retain the copyright to works created in the course of contractual completion. However, the Contractor shall allocate to us exclusive, unrestricted and in particular indefinite rights of use to all elaborations (concepts, documents, etc.) completed by it in the course of the completion of the contract, including the right to publication, duplication and utilization, without the need for a separate agreement or special payment.

Our right of use shall also include the right to make necessary or practical changes, as well as the right to complete, change or allow a third party to carry out the concept without the separate consent of the Contractor. We shall also be entitled to the right of use should the contractual relationship be terminated prematurely. The Contractor shall only be entitled to the right of use regarding the elaborations completed by it during the completion of the Order following discussions with us, and our granting of written consent.

The Contractor shall be responsible for the fact that neither the supply/service nor their use is either entirely or partly subject to the intellectual property rights (e.g. patent, design, brand, utility patent rights or copyright) of third parties and should such rights exist, the Contractor shall obtain us the right to their use and should this fail, indemnify us fully against claims by the owner of the rights. Should the purchase of intellectual rights be required this shall also have been paid for with the agreed price.

The Contractor shall also agree to indemnify us against all damage, losses or costs that arise owing to the claims of third parties in recourse proceedings based on the aforementioned rights.

## **8. Obligation to maintain secrecy**

Any information in whatever form received by the Contractor in the course of our Contract/Order that is not generally accessible may not be made available to external personages without our written consent. The Contractor may only employ such information for the fulfilment of its duties and obligations within the framework of the Order. The Contractor shall be obliged to include in its obligations to maintain secrecy all its personnel and authorized representatives to whom it is entitled to make the confidential information available. The Contractor shall be responsible for the compensation of damages resulting from the verbal or written transfer of information to third parties in breach of these obligations. Equally, the Contractor shall be liable for the culpability of all its personnel and authorized representatives.

All information relating to our Contract/Order that the Contractor supplies to third parties, as well as the exhibition of results, etc. according to our stipulations shall require our prior written consent. The use of the Contract/Order for advertising purposes is not permitted.

Insofar as the Contractor provides us with information that it regards as being confidential, this shall be designated as such expressly in a written communication to us. Consequently, information that is made available to us without the appropriate reference to confidentiality shall not be regarded as confidential.

## **9. Special obligations of the Contractor**

If the Contractor provides services for us in or in connection with projects funded by the federal government, state government, European Union or other funding agencies (e.g., as a subcontractor or third party in the Horizon funding program, etc.), the Contractor is obliged to observe the provisions of the funding program, insofar as these are available to it or have been made known to it, and to comply in full with the provisions relating to it or its services. In particular, it is obliged — if necessary and requested by the funding body — to grant the funding body access to its business premises and to provide it with all documents it requires for its auditing activities.

## **10. Transfer of our contracts/enquiries**

The transfer of our contracts to third parties is only permitted subject to our explicit written consent. Related contraventions shall entitle us to immediate withdrawal from the Order and the assertion of claims for damages.

## **11. Force majeure**

Circumstances of force majeure, which include natural occurrences, mobilization and the outbreak of war, operational interruptions of all types, employee strikes and lock-outs and other causes and events, which result in the cessation or limitation of our business activities, shall entitle us to delay the fulfilment of assumed acceptance obligations, or to withdraw entirely or partially from the Order. Claims for damages cannot result.

## **12. Data protection**

The Contractor declares that it is fully aware of our company's purpose and thus our field of activity or business purpose, as well as our data protection declaration ([www.biz-up.at/rechtliches/](http://www.biz-up.at/rechtliches/)). We are entitled to use personal data entrusted to us within the scope of the purpose of the order. The Contractor guarantees that all necessary measures (in particular in accordance with data protection law: consent of the persons concerned) have been taken. If the Contractor transmits third-party data to us, it guarantees that it is authorized to transmit this data and that we have the right to process it.

## **13. Assignments, pledges**

The Contractor shall only be permitted to assign or pledge its rights derived from this Contract entirely or partially to third parties with our prior written consent.

## **14. Advantages for employees**

Our employees and their relations may not accept any personal advantages from contractors or interested parties.

## **15. Continued validity of conditions**

The rights and obligations determined under Items 8,9 and 10 shall also apply after the expiry or termination (also in the case of a withdrawal or transformation) of the Contract/Order and be binding upon the parties, their legal representatives, individual or overall legal successors and authorized representatives.

## **16. Partial invalidity**

Should a provision of these General Terms and Conditions of Purchase or the other contractual agreements be or become ineffective, this shall have no effect upon the validity of the remaining provisions. The contractual partners shall be obliged to replace the invalid provision by a provision that comes as close as possible to the economic purpose of the invalid provision.

## **17. Written form**

In order to be valid, amendments and supplements to these General Terms and Provisions of Purchase and the other contractual agreements shall require the written form. This shall also apply to a departure from this requirement for the written form.

## **18. Place of performance and jurisdiction**

The place of performance and the venue for all claims shall be Linz/Upper Austria. We shall retain the right to take legal action against the Contractor at another judicial venue.

## **19. Applicable law**

Austrian material law subject to the exclusion of references shall be applied exclusively to legal relationships. The use of UN purchase rights is specifically excluded even when the business address of the Contractor is outside the territory of the Republic of Austria.