

Scope of application

Goods shall be delivered and services provided by ECR AG solely in compliance with these general terms and conditions of business. Amendments, additions or secondary agreements are valid only if we have agreed to them in writing. The customer's conditions of purchase are not binding unless they have been acknowledged in writing by ECR AG.

Conclusion of the contract

Offers made by ECR AG are not binding and are submitted without obligation. A contract between the customer and ECR is only established when the contract document has been signed by both parties or upon written confirmation of the order by ECR AG. The contract is governed solely by its content and on the content of the order confirmation and these general terms and conditions of business.

Should technical problems arise in connection with the provision of services after the order confirmation, ECR AG is entitled to cancel its acceptance of the order at any time. Any liability for loss or damage suffered by the customer as a result of such cancellation is explicitly declined.

Prices and payment terms

Prices are quoted net ex-works Rotkreuz (EXW, Incoterms 2000), in the currency stated on the order confirmation, excluding value added tax, charges, customs duties, transport, packaging and insurance.

Invoices issued by ECR AG are payable net by the due payment date. Incomplete payments will be subject to a flat-rate processing charge. If the customer fails to comply with the agreed payment dates, he shall be deemed to be in arrears without warning from the due payment date.

If the customer is in arrears with the payment for services or an instalment payment, ECR AG may postpone further services. In the event of late payment, ECR AG may charge interest on arrears at the rate of 10%, together with all pre-procedural costs incurred by it, in particular attorneys' fees, costs of debt collection agencies and also own expenditure.

Counterclaims of the customer may not be offset without the written consent of ECR AG. Bills fall due for payment even if the customer complains of defects.

Protected rights of third parties

Where the provision of services or the manufacture of products, in compliance with the indications and wishes of the customer infringe the protected rights of third parties, the customer shall be liable for all resulting damage. The customer undertakes to release ECR AG from all third party claims.

Delivery lead-times

Only lead-times assured in writing shall be binding. Such lead-times shall be extended suitably if ECR AG does not receive timely information necessary for performance or if the customer makes subsequent changes and also if obstacles are experienced which lie outside the responsibility of ECR AG, such as force majeure, official dispositions, natural events, war, operational and transport problems, strikes, accidents, illness and late, defective or absent procurement deliveries.

ECR AG is authorised to make partial deliveries and to bill them.

In the event of delay, the customer must allow ECR AG a suitable period of grace for subsequent fulfilment. The grace period shall be no less than the delivery time stated on the order confirmation. If he proposes to decline acceptance of the service in the event of failure to perform before the end of the period of grace, he must notify this in writing in advance to ECR AG.

If the customer delivers components, the customer is himself responsible for the quality and identify of the delivered material. The costs of wastage of delivered material shall be borne by the customer.

Excess deliveries and shortfalls

The customer accepts the excess deliveries and shortfalls amounting to 10% of the ordered quantity which are customary in this line of business. The quantity effectively delivered is charged. In the event of a delivery shortfall, there is no obligation to make a subsequent delivery.

Working documents

Documents, aids and test programs, together with EDP data, are prepared by ECR AG for production purposes on the basis of drawings or electronic data provided by the customer and which are not billed to the customer, constitute production tools and are the property of ECR AG.

Complaints

The customer shall verify the goods and services supplied by ECR AG within seven working days of receipt of the delivery. If no written complaints of defects are made within that period, the goods or services shall be regarded as complete, impeccable and approved in respect of visible defects, identity and quantity. The warranty period and statute of limitation are twelve months starting from shipping day in each case. They are not interrupted by acknowledgment or confirmation of a defect.

Liability

Defects in respect of which ordinary complaints are made must be remedied by repair or replacement delivery within an appropriate period of grace to be granted by the customer at the discretion of ECR AG. The only defects which trigger liability of ECR AG are deviations of the delivered product from the contractually agreed specifications which seriously limit its suitability for the contractually agreed purpose. ECR AG is only liable for prejudice suffered by customers to the extent that such prejudice was demonstrably caused by deliberate intent or gross negligence on its part. Liability for servants is waived. In no case is ECR AG liable for secondary damage and loss of profit.

Export

The customer is responsible for ensuring compliance with all the relevant, domestic and foreign export regulations.

Validity of contractual provisions

Where individual provisions of these general terms and conditions of business are or become invalid or impossible to implement, it shall not affect the validity of the remaining provisions. The provisions concerned shall be replaced by legally valid provisions with equivalent effect.

Applicable law and place of jurisdiction

This agreement shall be governed by Swiss law to the exclusion of Vienna purchasing law (United Nations Convention on contracts for the international purchase of goods).

The place of jurisdiction is the court having authority at the place where ECR AG has its registered office. ECR AG may also take action in the court at the place where the customer has his registered office.

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