

SALES AND DELIVERY CONDITIONS

MKW Kunststofftechnik GmbH // 4675 Weibern, Jutogasse 3, AUSTRIA



In case of discrepancies between the English and German versions of this document, the German version shall prevail.

1. DEFINITIONS

Offer: Non-binding invitation by MKW Kunststofftechnik GmbH, FN 183925 d, to place an order.

Order Confirmation: Acceptance of an order by MKW Kunststofftechnik GmbH, FN 183925 d. This may deviate from the order.

Conditions: These sales and delivery terms in their current version.

Order: Request by the contracting party to accept an order based on the offer.

MKW: Refers to MKW Kunststofftechnik GmbH, FN 183925 d, Jutogasse 3, 4675 Weibern.

Contract: The contract concluded on the basis of the offer, the order, and the order confirmation regarding the delivery of goods from MKW to the contracting party.

Contracting Parties: The contracting party and MKW.

Contracting Party: A natural or legal person who intends to conclude or has concluded a contract with MKW.

Goods: Standard and/or custom services/products from MKW's portfolio to be provided under the contract.

2. GENERAL TERMS

- a) These conditions apply to all offers, orders, deliveries, payments, legal actions, legal transactions, and other services of MKW, especially the delivery of goods. They remain valid even if not explicitly referenced in individual cases. Deviations and modifications to these conditions are only valid if and to the extent that MKW has accepted them in writing.
- b) Any general terms and conditions of the contracting party are explicitly rejected. These do not bind MKW, even if MKW does not explicitly reject them at the time of contract conclusion or during service provision. Even if such conditions state that their validity is a prerequisite, MKW is not obligated by them. The application of different conditions (especially general terms and conditions) of the contracting party is not recognized, even if no explicit contradiction exists.
- c) In case of contradictions, the following descending hierarchy applies: (i) these conditions, (ii) written amendments or deviations from these conditions, (iii) order confirmation:
- d) MKW reserves the right to unilaterally amend the terms and conditions during the ongoing contractual relationship, provided that such amendments are necessary to eliminate subsequent disruptions to the balance of interests or to adapt to changed legal or technical conditions, and that the contracting party is not unreasonably disadvantaged. The contracting party will be informed of any amendment, including the content of the revised provisions, at least four weeks before the amendment(s) take effect, via the last contact address (postal or email) provided by the contracting party. The amendments shall become effective unless the contracting party objects to them in writing or by email to office@mkw.at within four weeks of receiving the amendment notice.

3. DELIVERY

- a) Deliveries/services by MKW are made, unless otherwise agreed, ex works Weibern or the works in Haag/Hausruck, at the expense and risk of the contracting party.
- b) In the case of express shipments or postal dispatch, the advanced transport costs, as well as handling fees, storage fees, or similar expenses, will be charged. Transport insurance for the inbound and outbound shipment of goods is covered by MKW.
- c) MKW is entitled to make partial deliveries or provide partial services, as well as to deliver or perform services ahead of schedule. These will be invoiced separately upon dispatch. Where possible, the contracting party will be informed of this in advance by MKW.

4. PAYMENT

- a) Unless otherwise specified, invoice amounts and other charges are due for payment without deduction within 30 days from the invoice date. Payments are considered made only upon crediting to MKW's account.
- b) Unless otherwise agreed in writing, cash discounts will not be recognized.
- c) All ancillary costs associated with the payment shall be borne by the contracting party.
- d) If agreed (partial) payments are not made by the due date, all other outstanding claims, regardless of their legal basis, shall become immediately due for payment.
- e) From the due date onward, the contracting party is obligated to pay default interest at the rate specified in § 456, first and second sentences, of the Austrian Commercial Code (Unternehmensgesetzbuch UGB).
- f) Without prejudice to MKW's rights and other remedies, in the event of payment default, MKW is entitled to withhold, suspend, or terminate further deliveries/services until full payment of the outstanding amount has been received. This also applies to any advance performance that may be required.
- g) In the event of default in acceptance or payment, MKW is entitled to commission third parties with the collection of the outstanding balance without further reminder. All dunning and collection costs incurred in this context, including those of MKW, as well as extrajudicial attorney fees and expenses of creditor protection associations, shall be borne by the contracting party. This also applies to the costs of filing a claim in insolvency proceedings.
- h) Invoice issuance is carried out in accordance with Austrian VAT law and complies with the guidelines for electronic invoices (E-Rechnung).
- i) MKW has a right of retention over all items provided by the contracting party (e.g., delivered goods, materials, and other objects) in accordance with § 369 of the Austrian Commercial Code (Unternehmensgesetzbuch UGB) until all outstanding claims arising from the business relationship have been fully settled.

5. RETENTION OF TITLE

- a) The delivered goods remain the property of MKW until the contracting party has settled all outstanding claims, regardless of the legal basis (e.g., invoice amounts, interest, costs, dunning fees, etc.), related to the respective contract, or until all bills of exchange and checks issued by MKW for payment have been honored, even if the purchase price for specifically designated claims has been paid. The goods subject to retention of title must be stored separately and adequately secured against fire and theft, with all associated costs borne by the contracting party. In the case of an open account, the retained ownership serves as security for the outstanding balance claim of MKW. Until all claims due to MKW under the respective contract have been fully satisfied, the contracting party is only authorized to resell, process, or combine the goods with the prior written consent of MKW, except in cases where the goods are expressly intended for resale, processing, or combination.
- b) In the event that the contracting party processes, combines, or mixes the goods supplied by MKW with other goods not owned by MKW, MKW shall acquire co-ownership of the new item in proportion to the value of the retained goods relative to the other goods at the time of processing, combining, or mixing.
- c) The contracting party must handle the retained goods with care and maintain them properly. The contracting party is not allowed to rent, lend, or gift MKW's property, nor may they send it for repair to third parties during the warranty period.
- d) Pledging or transferring ownership of the goods or machines delivered by MKW as security before the final payment of the purchase price is not permitted. In the event of seizure, confiscation, or any other disposition by a third party, the contracting party must immediately notify MKW.
- e) If the contracting party defaults on payment or otherwise fails to meet its obligations under the retention of title, MKW may demand the return of the goods from the contracting party.

6. PRICES

- a) Unless otherwise agreed in writing, prices are non-binding. The applicable price is the one in effect on the day of dispatch of the goods or notification of delivery readiness.
- b) MKW considers itself bound by firmly agreed prices. However, if the basis for price calculation changes between order placement and the start of production of the goods or provision of other services due to circumstances beyond MKW's control - such as relevant legal changes, increases in raw material costs, or other significant market changes - MKW is entitled to unilaterally adjust the prices accordingly in a reasonable manner. The price adjustment shall, in any case, take place if there are changes of at least 10% in (a) labor costs due to laws, regulations, collective agreements, or company agreements, or (b) other cost factors necessary for service provision, such as material costs, based on recommendations of parity commissions or changes in national or global market prices for raw materials, fluctuations in relevant exchange rates, etc., occurring after the conclusion of the contract. MKW shall provide justification for the changed circumstances. In such a case, the contracting party has the right to withdraw from the contract without incurring penalties. However, if the contracting party does not submit a written declaration of withdrawal within the reasonable period set by MKW, the new prices shall be deemed agreed upon.
- c) In the event of payment default, suspension of payments by the contracting party, or the initiation of insolvency proceedings, MKW is expressly entitled to revoke any granted or promised bonuses or discounts of any kind.

7. DELIVERY DELAY / FORCE MAJEURE / MATERIAL SHORTAGES

- a) Force majeure refers to the occurrence of an event or circumstance („force majeure event“) that prevents MKW from fulfilling one or more of its contractual obligations under the contract, if and to the extent that MKW, as the party affected by the event or circumstance, demonstrates that (i) this obstacle is beyond its reasonable control; and (ii) it could not have been reasonably foreseen at the time of the contract conclusion; and (iii) the effects of the obstacle could not have been reasonably avoided by MKW. The following events or circumstances shall in any case be considered as „force majeure events“: natural disasters (fire, earthquake, landslides, etc.), wars or war-like conditions, revolution, epidemics, pandemics, civil unrest, operational disruptions, government measures, labor disputes, power outages, energy and raw material shortages, failure or refusal of delivery by a key, hard-to-replace supplier, and similar comparable circumstances.
 - a) MKW will notify the contracting party in writing without delay about the event or circumstance.
 - b) Regardless of other contractual agreements, all delivery/performance deadlines and dates are expressly subject to unforeseen production disruptions and the sufficient self-supply of the necessary raw materials, semi-finished goods, and other external services required by MKW for performance. Exceeding the delivery and performance deadlines confirmed with such reservations does not constitute a breach of contractual obligations or any other duties on the part of MKW. MKW is fully or partially relieved from timely contract performance if it is hindered or prevented from doing so by force majeure events. These events entitle MKW to postpone the performance of the contract for the duration of the hindrance or to withdraw entirely or partially from the contract concerning any undelivered goods and/or services. These circumstances also entitle MKW to a reasonable extension of the performance, delivery, and collection deadlines (at least for the duration of the hindrance), even if they occur with its suppliers. In the aforementioned cases, no default consequences shall apply to MKW. In the

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event of prolonged delays, MKW is entitled to withdraw entirely or partially from the contract, without any claims (e.g., claims for direct damages and/or lost profits and/or indirect damages and/or intermediate damages and/or consequential damages and/or punitive damages, contractual penalties and/or lump-sum compensation) being made against MKW.

- c) In the event of termination of the contract in accordance with this clause, MKW is entitled to reimbursement of incurred costs, particularly for custom-made materials that have already been produced.

8. PACKAGING

- a) The stated prices do not include packaging.
b) If the goods are packaged in a commercially customary manner to prevent damage during transport to the designated destination under normal conditions, the costs shall be borne by the contracting party and will only be refunded upon agreement.

9. WITHDRAWAL FROM THE CONTRACT

- a) The cancellation of a contract by the contracting party is only possible with the written consent of MKW. In the event of contract termination, MKW is entitled—without prejudice to any further claims—to invoice the contracting party for goods that have already been manufactured but not yet shipped, particularly in cases involving contracts for custom or special productions.
b) MKW is entitled to withdraw from the contract if circumstances arise that threaten its claims.

10. CLEANING

Coated or painted goods are delivered by MKW in a clean condition. After delivery and outside of MKW's operations, cleaning of the goods coated or painted by MKW is no longer part of the contract, and MKW assumes no responsibility or liability for this.

11. WARRANTY / EXCLUSION / LIMITATION OF LIABILITY

- a) Unless specific agreements are made in writing, the statutory warranty period according to the Austrian Civil Code (Allgemeines Bürgerliches Gesetzbuch - ABGB) applies.
b) The contracting party is obligated to immediately inspect the goods delivered by MKW for defects upon receipt, on a random basis. If detectable defects are found, the entire delivery must be inspected.
c) Defect complaints and objections must be submitted to MKW—under threat of losing warranty claims—immediately, providing possible causes, and no later than 4 days after receipt of the delivered goods, in writing. If such a defect complaint or objection is not made, or not made in a timely manner, the delivered goods are considered approved, and the contracting party can no longer assert any legal claims based on defects. Any hidden defects must be reported in writing no later than 7 days after discovery. The contracting party must provide proof of the time of discovery. After the completion of an agreed acceptance, complaints about defects that could have been detected during the acceptance are excluded.
d) As part of the warranty, the defective goods will be either repaired (improved) free of charge or replaced with defect-free goods, at MKW's discretion. No further claims by the contracting party exist with regard to defects, especially no right to contract cancellation, price reduction, or damages. Replacement by third parties is not permitted. The fulfillment of warranty obligations is carried out at MKW's expense (excluding transport costs to MKW); costs incurred by the contracting party in connection with the warranty will not be reimbursed.
e) The contracting party has no warranty claims if defects arise:
- Due to improper handling by the contracting party,
- If the goods are altered by components of external origin,
- If statutory or MKW's installation, modification, or treatment instructions are not followed by the contracting party or its customers,
- If the goods were produced according to the specifications of the contracting party and the defect is attributable to these specifications or drawings.
- Due to faulty assembly or commissioning by the contracting party or third parties,
- Due to natural wear and tear,
- Due to transport damage,
- Due to improper storage,
- Due to disruptive operating conditions,
- Due to chemical, electrochemical, or electrical influences,
- Due to failure to perform necessary maintenance or poor maintenance,
- Due to improper handling or overuse,
- If statutory or operating/installation instructions issued by the contracting party are not followed.
f) The warranty limitations must be fully passed on to any potential recipients, with the obligation to further transfer them to subsequent recipients.
g) MKW's liability is generally limited to cases of intentional misconduct and gross negligence, to the extent permitted by applicable law. MKW, its employees, agents, representatives, or contractors are in no case liable to the contracting party or third parties under contract, tort, or otherwise for cases of slight or minor gross negligence, nor for actual or anticipated loss of profits, business, revenue, reputation loss, loss of goodwill, time loss, lost usage, lost production, lost interest, capital costs, third-party claims, financial losses, unachieved savings, or for compensation of special damages, incidental costs, indirect damages, or consequential damages related to the delivery/performance. MKW's liability is also limited to typical, foreseeable damages, without prejudice to any other

restrictions. The burden of proof lies—with the extent permitted by law—on the contracting party in all cases. The foregoing provisions do not limit MKW's liability for personal injury and death, product liability, or any other liability to the extent that such liability cannot be limited or excluded under applicable law.

- h) Claims for damages and reimbursement of expenses against MKW are subject to a limitation period of 12 months from the delivery of the goods. In the case of tortious liability, the limitation period begins from the knowledge or grossly negligent ignorance of the circumstances giving rise to the claim or the identity of the liable party.

12. EXCLUSION OF OFFSETTING

The offsetting of claims by the contracting party, for whatever legal reason, against claims of MKW is excluded, as is the objection of defective maturity due to warranty issues, etc., unless MKW has explicitly committed in writing to remedy the defect.

13. JURISDICTION, PLACE OF PERFORMANCE, AND APPLICABLE LAW

- a) The jurisdiction for all disputes arising directly or indirectly from the contract shall be the competent court for the location of MKW. However, MKW reserves the right to refer to any other court that has jurisdiction over MKW or the contracting party.
b) The place of performance for delivery and payment shall be the location of MKW, even if the delivery takes place at another location as agreed.
c) Any contractual relationship between the contracting parties shall be governed exclusively by the substantive law of Austria, excluding the conflict of laws provisions of international private law and the UN Sales Convention (CISG).

14. SIDE AGREEMENTS, CONTRACT AMENDMENTS, AND SUPPLEMENTS

Side agreements, amendments, and supplements to any contractual relationship require written form to be valid and must be signed by all contracting parties. This written form requirement is also fulfilled if the contracting parties send identical original documents signed by them to the other contracting party by mail (registered), by fax, or digitally via email.

The requirement for written form can only be waived in writing.

Headings in these terms and conditions are for convenience only and shall not be used for interpretation.

15. INVALIDITY OF INDIVIDUAL PROVISIONS OF THESE TERMS AND CONDITIONS

In the event that individual provisions of these terms and conditions are deemed invalid, the remaining provisions shall remain fully effective. The contracting parties will replace the invalid provision with an effective provision that comes closest to the economic purpose of the invalid provision. This also applies in the event of any gaps in these terms and conditions that require supplementation.

16. DATA PROTECTION

MKW takes all necessary technical and organizational measures to comply with data protection regulations regarding the confidentiality of third-party personal data.

MKW processes personal data in accordance with the privacy policy, which can be accessed here: <https://www.mkw.at/en/data-protection/>