

GENERAL CONTRACT AND DELIVERY CONDITIONS

of PIPELIFE Austria GmbH & Co KG (subsequently shortened to PIPELIFE)

I. APPLICATION OF THE GENERAL CONTRACT AND DELIVERY CONDITIONS:

1. The following conditions apply without exception for all supplies and services, and also to future orders. Business conditions of any kind, in particular purchasing conditions, which contradict these general contract and delivery conditions are invalid in their full extent, irrespective of whether, when or in what form these were made known to us.
2. Agreements on individual points which differ from the following conditions are only valid for those points and require our express prior written confirmation in order to be valid.
3. Non-disclosure regarding customer business or purchasing conditions does not apply as consent in any event.

II. BID, CONTRACT CONCLUSION:

1. All PIPELIFE bids are non-binding as regards price, quantity, delivery dates and suchlike.
2. Customer orders only become binding for PIPELIFE upon written confirmation or upon delivery or upon service being carried out.
3. The customer remains bound by an order, provided that PIPELIFE has not expressly refused acceptance in writing.
4. Any possible official licences required and fulfilment or compliance with statutory or official conditions in relation to execution, delivery, transport, assembly, accident prevention and suchlike must be procured or observed by the customer. The customer must substantiate this to PIPELIFE in good time.

III. INFORMATION IN PLANS, CATALOGUES, BROCHURES, SAMPLES:

1. Regardless of information to the contrary in catalogues, plans, brochures etc. only those details concerning weights, dimensions, performance values, prices and suchlike which are expressly stated in the order confirmation given by PIPELIFE will be applicable.
2. The same applies to samples originating from PIPELIFE.

IV. FULFILMENT, TRANSFER OF RISK, RETRACTION:

1. PIPELIFE's delivery obligation is fulfilled and risk transferred to the customers, and also upon agreed delivery to "customer on site":
 - a) Upon being shipped with dispatch from the factory or a sales outlet of PIPE- LIFE;
 - b) Upon agreed collection from the time of PIPELIFE giving notification of readiness for collection.
2. Dispatch is always made ex factory or sales branch of PIPELIFE at the receiver's risk. PIPELIFE is not liable for compensation for damages or loss which occur after the period stated in 1.
3. In the absence of any other written agreement each dispatch is made freight forward and without insurance. If the customer requires insurance this is done for the required extent at his cost.
4. With delivery agreed with prepaid carriage the customer must undertake all measures for safeguarding the rights of both contract parties in respect of carriers, haulage contractors and insurers; complaints and reservations must be made promptly in particular.
5. Within six months of accepting the goods the customer is entitled to return unwanted goods, except for custom-made articles, blanks and 12 and 16 metre rods, to a PIPELIFE sales outlet if the goods are in as new condition. PIPELIFE will charge a handling fee of 15% of the net invoice value of the goods for this. If particular expenses are associated with the return and resale in individual cases, PIPELIFE is entitled to invoice an appropriately higher handling fee. In return for offsetting against the freight costs PIPELIFE will also collect the goods from the respective location, insofar as this is reasonable in each individual case.

V. DELIVERY, DELIVERY PERIOD:

1. Every delivery period confirmed by PIPELIFE is understood as being approximate and only comes into effect after order confirmation, and also fulfilment by the customer of all provisions of a technical, financial and commercial nature which he is responsible for as well as proof of any necessary official licences in accordance with II/4.
2. Upon delivery default by PIPELIFE withdrawal from the contract by the customer is permissible but only after an appropriate deadline extension arranged beforehand in writing. For custom-made articles a deadline extension is only appropriate if it corresponds at least to the originally agreed delivery term.
3. Upon justified contract withdrawal by the customer he is merely entitled to the return of advance payments already provided, additional claims by the customer – irrespective under which title they might be raised – are expressly excluded. The latter also applies accordingly for any potential delivery delays.
4. In cases of *force majeure* such as work disputes, fire, seizures, exchange measures, reduction in energy supplies and suchlike, PIPELIFE is entitled to request an appropriate extension of the agreed delivery period or to withdraw from the contract. *Force majeure* also exists if the circumstances involved here entail a supply to PIPELIFE or a delivery made by them.
5. PIPELIFE is entitled to make advance or partial deliveries. Any future justified withdrawal by the customer can only be based on outstanding deliveries remaining, unless the parts already delivered would be completely un-useable on their own, and on condition that the parts already delivered are returned to PIPELIFE in unused and undamaged condition.
6. If the customer defaults on the advance payments he is obliged to make, or in accepting a delivery, PIPELIFE is entitled to request fulfilment or, by setting an appropriate deadline extension (retrospectively too), to withdraw from the contract. So long as PIPELIFE insists on fulfilment they can arrange for storage of the items of supply at the customer's costs and risk and without insurance cover. If goods are stored at their own premises, PIPELIFE can request a fee of 1.5% of the order value for each week or part thereof from the 10th day following default. Also PIPELIFE is not obliged to deliver the goods before settlement of all claim entitlements even where nit yet due, including freight costs compensation, storage fee and also any additional claims.
7. Rectifiable faults in the goods supplied do not entitle the customer to refuse acceptance.

VI. PRICES, PACKAGING, FREIGHT:

1. Where packaging is standard or essential for transport of an item of supply, all prices – with the following exceptions – are understood as being inclusive of such packaging of standard industry type without insurance, loading and other additional costs, as well as being ex works or PIPELIFE sales outlet. No back charging for this type of packaging such as boards, hobboscks, etc. will be done.
2. Where the use of transport and packaging aids is necessary for delivery, such as Euro pallets, lattice boxes, tubing etc. delivery will be made using these types of transport and packaging aids (TuVBs). Transport and packaging aids required will be indicated on the delivery note. They will be charged for using a deposit system, whereby Pipelife will invoice the customer the costs of the TuVBs on the goods invoice according to the current price list shown on the homepage. Once the customer has returned the packaging aids a credit note will be issued for the amount invoiced by Pipelife, if the TuVBs have been returned to Pipelife undamaged and free of freight costs. The conditions can be found in detail on the homepage.
3. Pipelife will invoice the customer freight costs for standard truck delivery up to a specified minimum order value as well as for all other types of delivery, in particular special transport. These freight costs and also the detailed freight terms and conditions can be found on the respective current price list on the homepage.
4. All prices are based on the price and cost levels at the time of bid submission. PIPELIFE is entitled to take into account price and cost changes which occur in the meantime, including changes to monetary parity, when producing the invoice or in the form of an additional invoice.

VII. PAYMENT, DEFAULT, BAN ON OFFSETTING:

1. In the absence of any written agreement to the contrary PIPELIFE's total claim is due at the time of fulfilment at the latest in accordance with Point IV.
2. If a discount agreement exists the invoice amount reduced by the discount is due immediately upon receipt of invoice. Pipelife is entitled to claim back the amount of the discount from the customer after this date. Even if PIPELIFE repeatedly fails to apply this request for return of the discount amount, this does not represent any waiving of this right, nor a tacit contract amendment.
3. Payment only discharges the debt if it is received by PIPELIFE or into their bank account in full. PIPELIFE is not obliged to accept part payments.
4. If PIPELIFE accepts bills of exchange or cheques this is done on account of payment without exception. The fees incurred for cashing bills of exchange and cash will be invoiced to the customer by PIPELIFE. With cheques and bills of exchange, payment only counts as being made once they have been cashed. The amount is credited beforehand, pending the encashment.

5. If the customer defaults on payment PIPELIFE is entitled to charge default interest of 5% above the respective bank rate or of at least 1% per month, due immediately. Furthermore, PIPELIFE is entitled to make all existing claims for main and additional expenses relating to the customer due immediately (default). Furthermore, PIPELIFE is also entitled in this case to hold back fulfillment of its own commitments until the customer has completely fulfilled his commitments. Upon payment default by the customer PIPELIFE is further entitled to charge the costs and expenses associated with reminders and debt recovery, in particular those for debt collection agencies and out of court legal prosecution.
6. Upon payment default by the customer PIPELIFE is further entitled, even without the customer's agreement, to collect goods already delivered together with their accessories, to take them into safekeeping and to make release conditional on prior fulfillment of customer obligations, including payment of collection costs and storage fees in accordance with Point V. 6, as well as to withdraw from the contract after setting a 3-day subsequent deadline.
7. Any offsetting by the customer against outstanding monies due from PIPELIFE is not permitted for any claims whatsoever.
8. PIPELIFE is entitled to allocate and charge each customer payment, irrespective of what the customer designates it to, against covering costs and fee claims, and then default interest and last of all against the main amount due, for settling the oldest debt respectively.

VIII. RETENTION OF TITLE:

1. The goods supplied remain the property of PIPELIFE up until full payment of the purchase price and all other present or future outstanding monies which are due to PIPELIFE under the business relationship with the customer.
2. The customer is obliged to treat the goods carefully and to insure them at his own cost against going missing, damage and destruction, for example against fire, water and theft damage, for a level sufficient to cover as new value. The customer hereby cedes his claims from the insurance contracts to PIPELIFE. PIPELIFE accepts this cession.
3. The customer may neither pledge nor assign as security the goods belonging to PIPELIFE. However, in line with the following provisions he is entitled to sell on the goods supplied in the normal course of business. The above-mentioned entitlement does not exist where the customer has effectively ceded the claim arising from the onward sale of the goods in respect of his contract partner beforehand to a third party or pledged it or agreed a ban on cession.
4. As security of fulfillment of all existing claims due, of any nature, the customer hereby cedes to PIPELIFE all outstanding monies from onward sale of the goods supplied, even those arising in the future and provisory ones, with all associated rights, for the amount of the value of the goods supplied with priority given to the remaining part of his outstanding payment due. PIPELIFE accepts this cession.
5. So long as and insofar as the customer fulfils his payment obligations towards PIPELIFE he is able to collect the outstanding monies ceded to PIPELIFE in respect of his customers in the context of normal business practice. However, in respect of these outstanding monies he is not entitled to agree a current account relationship or ban on cession with his customers or to cede them to third parties or to pledge them. If a current account relationship exists between the customer and the acquirer of the goods subject to title of retention in conflict with this obligation, the previously ceded outstanding money relates also to the acknowledged balance. The customer is obliged to hold on to the income he receives from the onward sale in the name of PIPELIFE and to keep it separately from his own assets.
6. On request from PIPELIFE the customer must individually substantiate the outstanding monies ceded and inform his debtors of the cessations made, with the request to pay the amount of the claims in respect of the customer by PIPELIFE to PIPELIFE. PIPELIFE is also entitled at any time to inform the customer's debtors of the cession and to collect the outstanding monies. However, PIPELIFE will not make use of this authorisation so long as the customer properly fulfils his payment obligations and does not default and if there is no justified reason to think that he will do so in the future. PIPELIFE can request at any time that the customer immediately provides information on the outstanding monies ceded and their debtors, provides all the details necessary for receipt of outstanding monies and hands over the associated documents.
7. Where necessary the retention of title also covers jointly owned parts involving products which have been produced through processing, mixing or in conjunction with the PIPELIFE products subject to retention of title.
8. If rights to the items of PIPELIFE property or joint property subject to retention of title are targeted, justified or claimed against by third parties on account of pledging, the customer must immediately notify PIPELIFE by registered letter, giving all the details. All costs and fees incurred by PIPELIFE in protecting its rights, and also for out of court and legal measures must be immediately reimbursed by the customer.

IX. GUARANTEE, COMPENSATION, PRODUCT LIABILITY:

1. PIPELIFE provides a guarantee for goods supplied and provides services in the context of statutory provisions with the following restrictions. Exchange of goods will be done exclusively against return of faulty goods free to the receiving station.
2. The prerequisite for any guarantee whatsoever by PIPELIFE is that the products have been transferred by a franchised business establishment and in doing so the PIPELIFE assembly and operating conditions, which can also be accessed on the homepage, as well as the relevant Austrian technical and European norms have been complied with. A further condition is the proper and designated use of the goods in compliance with permitted load values as well as compliance with care and maintenance instructions. Liability for assembly or transfer errors is excluded in all cases. Independently of that PIPELIFE will only provide a guarantee for defects which occur if these are notified immediately by registered letter.
3. PIPELIFE undertakes a guarantee obligation for parts not produced by PIPELIFE only insofar as PIPELIFE has similar rights against the suppliers.
4. PIPELIFE is liable in all cases only for damages caused by intentional or blatant gross negligence. PIPELIFE is not liable for consequential damage, indirect damage or damage caused by third parties.
5. The customer expressly waives the right of recourse in accordance with § 933b of the ABGB (General Civil Code) and §12 of the Product Liability Law in respect of PIPELIFE.

X. TRADE MARK RIGHTS, CONSUMER PROTECTION, DATA PROTECTION:

1. In cases where PIPELIFE manufactures products from documentation provided by the customer PIPELIFE is not obliged to check whether third party trademark rights are breached in doing so. The customer must exempt PIPELIFE from compensation and complaints relating to any claims made in this respect.
2. In respect of a customer who obtains goods or services from PIPELIFE as a consumer in the sense of the consumer protection law, the provisions of these general contract and delivery conditions apply only insofar as they do not oppose the compulsory provisions of the consumer protection law.
3. The customer declares that he expressly agrees that data produced from the business relationship, provided that neither the private nor family life of the customer is concerned, may be stored by PIPELIFE and communicated to third parties in the context of what has been agreed or is legally permitted.

XI. USE OF THE ONLINE WEBSHOP:

1. Customers are obliged to keep the customer numbers and passwords allocated to them for identification and authorisation confidential and to keep them safe from access by unauthorised third parties. Passwords must be changed regularly, in particular when employees who know them leave. The customer bears the risk of any unauthorised knowledge being acquired by third parties which happens in the customer area. The customer must exempt PIPELIFE from any resulting compensation and complaints.

XII. PLACE OF FULFILMENT, PLACE OF JURISDICTION:

1. The place of contract and fulfilment is Wiener Neudorf, and this is the case even if PIPELIFE fulfils or has to fulfil its contract obligations at another location.
2. These general contract and delivery conditions, and contracts concluded under them, are subject exclusively to Austrian substantive law under the exclusion of the UN Convention on Contracts for the International Sale of Goods.
3. The relevant court in Vienna for disputes concerning business-related affairs will decide on all disputes from legal relationships with PIPELIFE, in particular on their occurrence and consequences. PIPELIFE has the right however to independently make a claim against a customer in the customer's own legal place of jurisdiction.