

General Terms and Conditions of Ascendor GmbH

1. Area of application:

As long as these Terms and Conditions between Ascendor and the client are an integral part of the contract, and to the extent that nothing to the contrary has been agreed upon, the deliveries, services and offers from Ascendor will be performed exclusively on the basis of these Terms and Conditions. Any contrary or diverging conditions from the client shall not be acknowledged unless Ascendor has expressly agreed to their validity. In this respect, contractual fulfilment acts by Ascendor shall not be considered as approval of diverging contractual conditions. These Terms and Conditions are also valid as a framework agreement for all other legal transactions between the contractual parties, insofar as no diverging agreements have been entered into for these legal transactions.

2. Offers:

- 2.1. Offers by Ascendor will only be submitted in written form, via email or fax.
- 2.2. Acceptance of Ascendor's offer by the client is only possible by accepting the total services offered.
- 2.3. Ascendor shall be bound to its offers for 8 weeks as of the date of issuance.
- 2.4. Plans, diagrams, technical documentation and quotations, as well as any other documentation such as catalogues, samples, presentations, lists of spare parts and similar shall remain the intellectual property of Ascendor. Any usage, in particular their forwarding, reproduction and publication shall require the express authorisation of Ascendor.
- 2.5. The client has the obligation not to reveal to any third parties the knowledge that it has attained from its business relationship with Ascendor.

3. Orders and order confirmations:

Jobs or orders from the client shall require an order confirmation from Ascendor in order for the contract to materialise, insofar as such jobs or orders are not already based on a binding offer from Ascendor.

4. Prices:

- 4.1. If the order should not be based on any valid offer by Ascendor, the appropriate price list in effect shall apply.
- 4.2. Unless otherwise agreed, the Ascendor prices correspond to goods that are duty unpaid from the domestic warehouse, and do not include packaging, loading, insurance, transportation costs and assembly. If desired, these services may be performed by Ascendor for an additional charge. To this end, the actual costs incurred for transportation and/or delivery plus a reasonable surcharge for administrative expenses, but at a minimum the carriage or freight that was customary or applied on the day of delivery for the type of transportation selected, shall be invoiced. Assembly work shall be invoiced on the basis of time expenditure - unless agreed otherwise - whereby man-hours, which are customary within the industry, shall be deemed as agreed upon.
- 4.3. The prices shall be understood as not including VAT. At the time of account settlement, the statutory sales tax shall be added to the price.
- 4.4. Cash discount deductions require a separate agreement. In the case of payment delays, possible discount agreements shall cease to be valid. Client payments shall be first considered as effected at the time of entry into the Ascendor business account.
- 4.5. All products and services shall be invoiced exclusively in Euros.
- 4.6. As long as the client is not a consumer, he shall not be entitled to set off claims against Ascendor.
- 4.7. The client is not entitled to withhold payment for any reason whatsoever; this also applies in the case that goods or services should present deficiencies.

5. Changes to the services and additional services:

There shall be entitlement to adequate compensation for any additional services or changes to services that are mandated by the client or its representative, which should not be included in the order that was issued.

6. Performance of services:

Ascendor is obligated to perform its services after signing of the contract at the earliest, and as soon as all technical details have been clarified and the client has fulfilled all of its obligations, and met all of the structural, technical and legal prerequisites for execution.

7. Periods of time for performance and deadlines:

- 7.1. The intended delivery and completion deadlines shall be binding for Ascendor when adherence to them is agreed to in writing. Ascendor is allowed to exceed the agreed-upon deadlines and delivery terms by up to two weeks. Only when this term expires, the client may cancel the contract after setting a reasonable extension of time.
- 7.2. Should the start of the performance of services or the execution itself be delayed, and should such delay have been caused by circumstances for which Ascendor is not responsible, the binding deadlines and terms that were agreed upon, including the terms accepted as "guaranteed" or "fixed", shall be postponed accordingly. The additional costs accrued due to delays are to be borne by the client if the client is responsible for the circumstances that caused the delay.
- 7.3. Should the client not resolve the circumstances that caused the delay pursuant to 7.2. within a reasonable period of time set by Ascendor, Ascendor shall have the right to charge for the materials and work expenses that it has already accrued for performance of services, or to employ the materials and equipment that were supplied by him for performance of services elsewhere. In the case that the performance of services should continue, all deadlines and terms shall then be extended by the same period of time that was required to re-procure the equipment and material that was employed elsewhere.
- 7.4. The non-fulfilment or belated fulfilment of the contract do not entitle the client to assert claims for damages, penalties, or claims for compensation for earnings lost.

8. Payment:

As long as not agreed upon otherwise, the client commits to full payment of the purchase price prior to delivery of the goods (cash in advance).

9. Dunning and collections:

Should Ascendor carry out collections itself, the client shall be responsible for paying the amount of EUR 12 for every dunning letter sent, as well as EUR 5 every six months for recordkeeping of every contractual obligation as part of Dunning activities. Furthermore, every additional damage, especially those damages that should occur as a consequence of non-payment of higher interest rates assessed on possible credit accounts by Ascendor, is to be compensated.

10. Transportation, risk, notifications of defect:

- 10.1. Lacking express agreement to the contrary, the costs and risks of transportation are borne by the client. The risk passes over to the client once the object of purchase has been handed over to the carrier. The transportation risk is also borne by the client for the duration of the unloading and handling, unless otherwise agreed upon.
- 10.2. As long as the client is not a consumer, the goods are to be immediately inspected by each client following delivery, and thus also by clients who resell the goods as middlemen, or who purchase them for third parties. Visible damages and defects are to be reported in detail and in writing immediately upon acceptance, specifying the type and scope of the defect, and noted in the acceptance documents. Otherwise, the goods will be considered approved, and all claims arising from any possible non- or defective performance shall be excluded.

Hidden defects are to be reported immediately, but in any case within two days of their discovery, in detail and in writing, specifying the type and the scope of the defect. Should the notification of defect not be elevated, or not be elevated in a timely manner, the goods will be considered approved, and all claims arising from a possible non- or defective performance shall be excluded.

11. Cancellation, default of acceptance:

- 11.1. In the case of default of acceptance, or other significant reasons that make adherence to the contract unacceptable, especially bankruptcy by the client or bankruptcy rejection due to lack of assets, as well as payment delays by the client, Ascendor shall be entitled to cancel the contract as long as it has not been fulfilled in its entirety by either party. In the case of payment delays by the client, Ascendor shall be absolved from any further service or delivery obligations, and it shall be entitled to withhold still-outstanding deliveries and services and to request guarantees, or to cancel the contract after setting a reasonable extension of time.
- 11.2. In the event of cancellation, or in case the order is not executed for reasons attributable to the client, Ascendor shall have the option, if the client is in default, to request a flat-rate compensation of 15% of the gross invoice amount or compensation for the actual sum of resulting damages; in the event of non-saleable goods or custom designs, Ascendor shall be entitled to compensation for the total cost.
- 11.3. In the case of termination of the contract, the object of purchase and accessories are to be returned by the client to Ascendor, at the client's expense.
- 11.4. If the client did not accept the goods as agreed (default of acceptance), Ascendor shall be entitled, following the setting of an extension of time that is unsuccessful, to either store the goods at Ascendor, for which a storage fee of 0.1% of the gross invoice amount shall be invoiced for every commenced calendar day, or to store it with an authorised third party at the client's cost and risk. At the same time, Ascendor is entitled to either demand fulfilment of the contract, or to cancel the contract after setting a reasonable extension of time and to utilise the goods elsewhere.

12. Retention of title:

- 12.1. All goods shall be delivered by Ascendor under retention of title, and shall remain the property of Ascendor until full payment has been effected. If the object of purchase that is supplied under retention of title is intended for resale by the client, the latter shall immediately transfer to Ascendor any possible claims that are owed to him on account of payment from the resale of the purchase to a third party. The client is to notify his purchaser, in a timely manner, of the assignment and is to provide the name of the purchaser if so requested by Ascendor. The assignment is to be entered in the business books, especially in the open items list, and it is to be made evident for the purchaser on delivery notes, invoices, etc. If the client's payments to Ascendor are in arrears, he is obligated to keep separate the sales revenue that he receives, and to hold such revenue exclusively for Ascendor. Possible claims against an insurer are already transferred to Ascendor.
- 12.2. In the event of a garnishment or other claim on the object of purchase, the client is obligated to bring to bear Ascendor's property rights and to notify Ascendor immediately.
- 12.3. When asserting the retention of title, rescission of the contract is only possible when it is expressly declared. In the event of redemption of goods, Ascendor is entitled to offset transportation and handling expenses.

13. Limitation of the scope of performance (specification of services):

- 13.1. Materials subject to use or to wear and tear only have the lifespan corresponding to the respective state-of-the-art.
- 13.2. For any non-consumer business, justified and reasonable changes in Ascendor's contractual performance shall apply, primarily changes promoting more technical advancement than what was accepted by the client. Ascendor specifications regarding dimensions and weight, found in catalogues, brochures, advertisements, price lists, etc., are approximate guidelines; we reserve the right to make changes in design.

14. Warranty:

- 14.1. The warranty term is three years. The warranty obligation by Ascendor ends, in any case, with expiration of the agreed-upon warranty term. Beyond this, special recourse for the client pursuant to section 933b of the Austrian Civil Code (ABGB) due to self-fulfilled warranty obligations is excluded.
- 14.2. The warranty term begins with handover to and acceptance by the client.
- 14.3. Ascendor shall decide in every case how to meet warranty claims by the client, and shall do so either through exchange, repair within a reasonable time period, price reduction or cancellation. At its own option, Ascendor shall also be entitled to make several improvements and attempts at improvements.
The client can only demand cancellation if the fault is basically not repairable through exchange or repair, and a price reduction is not reasonable for the client. Should the client maintain that there is a defect, thus-resulting claims, especially for warranty or damage compensation, can only be asserted if the client shows evidence that the defect was already present at the time of delivery of the goods; this also applies during the first six months following delivery of the goods.
- 14.4. Within the warranty period, Ascendor shall assume the costs of re-delivery of parts that were damaged or faulty at the time of delivery. If the client has re-sold the purchased goods to consumers, he shall undertake to carry out any possible repairs and exchange of damaged parts for its purchasers, at its own cost. Recovery claims for the costs of the repair and exchange work to be performed by the client for its purchasers, are expressly excluded.
- 14.5. For defects that should occur due to improper handling, the installation of extraneous parts, conditions outside of normal operating conditions, weather and temperature effects, non-compliance with operating instructions, or repair work or interferences of any kind by third parties (e.g. vandalism), Ascendor shall accept no liability, and claims for compensation shall also be excluded.
- 14.6. Should defects appear on Ascendor products on the outside area, in publicly accessible locations, it shall be assumed that these faults or defects have been caused by the actions of a third party. The client will have to show evidence that such defects are flaws that were already present at the time of delivery.
- 14.7. Should Ascendor accrue expenses within the scope of rectification of a fault or defect, and should it become clear that Ascendor is not or should not be liable for remedying such fault or defect, the costs for these expenses shall be borne by the client.
- 14.8. The client will familiarise himself with the employment of the products supplied and the thus-associated risks, prior to commissioning of the goods supplied and their employment, possibly using an operating manual and any other information provided to him by Ascendor. The client will strictly adhere to Ascendor's safety instructions. Further, in the event of re-sale of the products supplied, the client also has the obligation to completely pass on to its purchasers the directions for use and safety instructions obtained from Ascendor, and to impart the obligation of familiarising themselves with these. In the case of breach of duty, the client is to indemnify and hold Ascendor harmless with respect to money sums as well as to the reasons for such breach. Any claims for compensation by the client, for damages that have resulted from non-observance of Ascendor's instructions, are excluded.

15. Compensation for damages:

- 15.1. All damage compensation claims are excluded in cases of slight negligence. This does not apply to personal injuries.
- 15.2. The injured party is to present evidence of the existence of slight or gross negligence, as long as this does not involve a consumer business. Should a consumer business not be involved, the statute of limitations for damage compensation claims shall be one year.
- 15.3. The liability for all subsequent damages, especially for consequential damages caused by a defect and loss of profits, is excluded.

16. Product liability:

- 16.1. The services rendered as well as the goods, equipment and systems supplied, always offer only the security that can be expected based on homologation requirements, instruction and operation manuals, or other specifications on maintenance and handling, particularly with regard to mandatory inspections of equipment and systems, or based on any other indications provided.
- 16.2. Possible recourse claims stemming from the "Product liability" section, which should be directed against Ascendor by contractual partners or third parties pursuant to the Product Liability Act (PHG) are excluded, unless the party entitled to the recourse claim proves that errors attributable to Ascendor were induced and caused in at least a grossly negligent manner.

17. Place of fulfilment:

The place of fulfilment is 4174 Niederwaldkirchen, Austria (headquarters of Ascendor).

18. Formal requirements, data processing:

- 18.1. All agreements, retroactive changes, amendments, sub-agreements, etc., must be in writing in order to be valid, and thus also require an original signature or a secure electronic signature.
- 18.2. The client has the obligation to inform Ascendor of changes in its residential or business address, as long as the legal transaction that is the subject of this contract has not been fully satisfied by both parties. If such information is not provided, statements shall be deemed as having been delivered if they are sent to the last known address.
- 18.3. The client will agree that the personal data that is included in the purchase contract shall be saved and processed in an automated manner by Ascendor, in fulfilment of this contract. The client agrees that his personal data (name, company, address, email address) will be processed and used by Ascendor for the mailing of advertising brochures for Ascendor products. This authorisation can be revoked at any time by sending a letter to Ascendor.

19. Choice of law, language of the contract:

Austrian substantive law shall apply. The application of the UN Convention on Contracts for the International Sale of Goods is excluded. The language of the contract shall be English.

20. Place of jurisdiction:

In order to rule on any disputes that should arise from this contract, the competent and relevant court in Linz, Austria, where Ascendor is headquartered, shall be in charge. Ascendor shall be entitled, however, to take legal action in any other place of jurisdiction. This provision does not apply to consumer businesses.

By signing these General Terms and Conditions of Business, the undersigned/client declares to be fully in agreement with it.

Place, date

Duly signed

NAME and FUNCTION in block letters: _____