

1. Scope of application

- 1.1. These Terms and Conditions are solely applicable to orders/mandates of the Client (hereinafter referred to as the CL), unless stipulated to the contrary in the written order.
- 1.2. Upon acceptance of the order, the Contractor or Supplier (hereinafter referred to as the CN) acknowledges these Terms and Conditions; the same shall apply to future orders, even without the use of this form. Partial or full objection to these Terms and Conditions by the Contractor, making reference to any deviating Terms and Conditions, shall be deemed rejection of the Client's order, i.e. no valid (or partially) valid contract is entered into between the Contractor and the Client. In such cases if fulfilment actions are still performed by the Contractor, upon acceptance of such actions by the Client a new contract is implied to have been concluded in exclusive application of these Terms and Conditions. Unless explicitly specified to the contrary herein, any agreement between the Contractor and Client requires the written form.

2. Ordering

- 2.1. Regardless of offers that have been compiled, the content of orders shall only be binding if issued in writing by the Client's Purchasing Department.
- 2.2. Orders placed verbally, by phone or email, as well as any supplements and amendments to orders that have already been placed, shall only be binding on the Client upon written confirmation.
- 2.3. The order date is the date of dispatching the order, in the event of verbal orders the date of dispatching written confirmation.

3. Order confirmation

- 3.1. The order shall be confirmed or rejected immediately in writing (preferably by email). If the Contractor fails to confirm the order within ten calendar days of the Client's order date, the contract shall be concluded with the contents of the order. Until such time as the mandate has been entered into by means of order confirmation, fully accepting the contents of the order, the Client is entitled to cancel the order without giving reasons. Cancellation shall be deemed timely if it has been dispatched before receipt of the order confirmation. Deviations from the order shall be clearly highlighted and require the Client's explicit written consent to be effective. Unconditional acceptance of goods shall not be regarded as such consent.
- 3.2. If prices, delivery times, etc. are not specified in the order, they shall be supplemented by the Contractor in the order confirmation, otherwise the contract is not concluded. If the order is supplemented by the Contractor, the Client is entitled to cancel the order within ten days of receiving the order confirmation, including without giving reasons. Upon making an offer or accepting the order, the Contractor declares, at its own responsibility, that it has reviewed all data and details provided by the Client, or third parties attributable to the Client, and guarantees the accuracy and completeness thereof.

4. Place of performance, prices and packaging

- 4.1. The place of performance is the Client's business address, unless stipulated otherwise in the order or explicitly agreed to the contrary in writing. Until handover at the place of performance, the Contractor shall be liable for all risks and costs, in particular premiums for appropriate transport insurance taken out by the supplier, unless agreed otherwise in writing. Unless agreed to the contrary, prices shall be understood as DDP delivery address, as defined in Incoterms (as amended), packed, duty paid and delivered free to the location, unloaded and are fixed prices. Deliveries shall be packed appropriately. The Client's dispatch and packaging instructions shall be strictly observed. The Contractor shall be liable for any damage and/or costs resulting from failure to comply with such instructions.
- 4.2. Joint delivery of several items from various different orders and a joint delivery note shall only be permitted if clear references are made to the different orders and order items in supplier documentation. In case of deliveries to various different recipients specified by the Client, the Contractor shall also deliver any shipping documents provided by the Client. In case of individually agreed deliveries, e.g. free carrier, the Client's transport instructions shall be observed. In the absence thereof, the Contractor shall recommend them to or request them from the Client and obtain relevant approval from the Client.
- 4.3. Partial/ surplus and short deliveries are only permitted based on the explicit written approval of the Client.
- 4.4. Delivery of goods to incoming goods for the relevant delivery address shall be made at the goods transfer times specified in the order.
- 4.5. The Contractor shall pack the order item commercially and appropriately, pursuant to section 4.1. Domestic contractors shall observe the Packaging Regulation (VVO), as amended. The Contractor shall mention the "ARA licence number", "packing fractions" and weights on the delivery note. If the Contractor does not make use of a third party, it shall refer to this fact in the order confirmation, collect the packaging materials from the site designated by the Client and dispose of them at its own expense, in accordance with VVO. If the Contractor is in default, the Client is entitled to store, dispose of and arrange for disposal of packaging materials at the Contractor's risk and expense. The Contractor shall take back and dispose of residues or residual materials from delivery items to be assessed as "waste" or "hazardous waste", in accordance with proper use, at its own risk and expense.

5. Invoicing, delivery notes

- 5.1. The invoice shall be submitted in two copies, indicating the order number and all other order and delivery dates, as well as the ARA licence number, and in case of deliveries from the EU the VAT ID number, to the address stipulated by the Client in each case. Invoices shall be organised and drafted separately per order and delivery in such a way that comparison with the order and classification of the invoice can be clearly carried out with regard to the relevant order. The amount of the invoice and individual prices thereof shall conform to the order, and unit numbers, measurements and quantities shall match the actual scope of delivered goods and services. Invoices compiled under these criteria trigger the start of the payment and discount periods. In case of work and installation services, the original time cards and material slips, as confirmed by the responsible manager at the Client, shall be attached. Invoices that conflict with these Terms and Conditions shall not be deemed issued and do not therefore trigger a due date.

6. Due dates for deliveries and delayed delivery

- 6.1. Confirmed delivery and completion dates or those specified by the Client shall be strictly observed and mean that the delivery must be available at the specified delivery address at the specified time. Partial deliveries require the explicit consent of the Client. If delivery is delayed, the Client, regardless of any additional legal claims and without having to prove specific damage, is entitled to withdraw from the order whether or not it sets an additional deadline and to procure a replacement elsewhere. The Contractor shall reimburse the Client for any additional costs of such hedging transactions and other costs and damages due to incomplete, non-compliant, premature or late delivery, regardless of whether or not the Contractor is at fault. Furthermore, the Client reserves the right to charge or deduct 1% of the order value as a contractual penalty for each commenced week of delay in delivery.
- 6.2. In the event of withdrawal for reasons attributable to the Contractor, the Client is also entitled to demand other legal consequences as a penalty in an amount of 15% of the total value of the order.
- 6.3. Moreover, the Contractor is obliged to inform the Client immediately in writing and in detail if the risk of a delay has been identified.
- 6.4. In the event of insolvency proceedings for the Contractor or in case of any change to the Contractor's ownership structure, the Client is entitled, regardless of procedural consequences, to fully or partly withdraw from the contract without the Contractor being entitled to demand compensation as a result. The Contractor is obliged to inform the Client of any such circumstances immediately.

7. Payment terms

- 7.1. Payment shall be completed, at the Client's discretion, either within 30 days at a 2% discount or net after 60 days, in the absence of any other written agreement. The payment periods shall only begin once a legally compliant invoice has been issued and the corresponding delivery has been fully completed and accepted. In the event of early delivery or invoicing, the agreed delivery date shall be deemed the start of the payment period.

Assignment of invoice amounts is only permitted pursuant to our prior written consent, indicating the name and address of the assignee. In justified cases we are authorized to reject assignment, in particular in the event of assignments to assignees that have their head office or residence outside the EU.

8. Quality assurance and acceptance of deliveries

- 8.1. With the goal of ensuring that products and services are completely free of defects, the Contractor operates a certified quality assurance system, which as a minimum conforms to the requirements of the ISO 9001 standard. The Client is entitled to audit this system accordingly, as required. Until a contractor is approved for delivery, a visual and identity check shall be carried out on a random sample within a reasonable timeframe after receipt of goods. Once a supplier has been approved, the Client generally conducts no further incoming goods inspections of deliveries, without excluding or otherwise impairing the assertion of the Client's warranty or other rights (omission of the obligation for inspection and notification of defects). Following acceptance of the delivery or service, any defects and claims identified shall always be deemed to have been asserted in a timely manner if they have been reported or asserted before expiry of the relevant warranty or limitation periods. Upon delivery, the Contractor declares that the goods/services have passed the outgoing goods inspection and that the quality and quantity of the delivered goods conform to the order and other applicable requirements. Factory certificates, inspection reports, outgoing goods certificates, etc. shall be handed over to the Client free of charge with the delivery as required.

9. Requirements for shipments, warranty and liability

- 9.1. The warranty period for deliveries/ services provided to the Client is 24 (twenty-four) months and commences at the earliest on the day on which all goods/ services have finally been accepted by the

Client. The Contractor hereby warrants and represents that all deliveries conform in every respect as a minimum to the agreed requirements and to any other usual requirements. Deliveries shall in particular be free of all defects in materials, manufacturing, functionality and design, and free of third-party rights (e.g. retentions of title or security interests), may not infringe third-party intellectual property rights (e.g. patents, trademarks, copyrights, or registered designs) and shall comply with the applicable technical, safety, labour and environmental standards (e.g. RoHS, REACH) at the time of delivery. All deliveries must comply with and appropriately correspond to applicable statutory, regulatory, judicial and technical standards and specifications on transportation, import, storage, processing, provision of services by the Contractor, marketing and other use in a country or countries of the European Union. If and when orders do not contain any specific quality regulations, deliveries shall at least be of commercial quality and comply with the latest technology. Goods shall be manufactured with appropriate, unused materials or components, in each case of the highest quality, and shall be produced professionally in accordance with the order details and other requirements.

- 9.2. In the event of any kind of concealed defect, warranty and limitation periods shall commence at the earliest once the defect has been detected. Confirmations of the acceptance of goods/ services on receipts, shipping or other documents are always subject to the proviso that delivery is only deemed accepted if no shortages or deficiencies are revealed in the subsequent review. The warranty and guarantee periods shall start again upon complete rectification of the defects. In the event of defects, irrespective of other claims and even if defects are insignificant or recoverable, the Client is entitled, at its own discretion and at the expense of the Contractor, to demand conversion, replacement delivery, elimination of defects or a reasonable price reduction, or to arrange for remedy of any detected deficiencies. If it is absolutely necessary to set an additional deadline based on statutory requirements, a period of not more than 2 weeks shall be deemed appropriate. In urgent cases, the Client is entitled to carry out necessary repairs or replacement deliveries itself without setting an additional deadline in a manner that appears suitable and without prior notice at the Contractor's expense, or to delegate such tasks to third parties. The rectification of defects by the Client or a third party shall not exempt the Contractor from its warranty and other obligations. With regard to defective deliveries, the Client, in addition to warranty claims, is also entitled to reimbursement of all other direct and indirect damages, consequential damages and costs caused by the defective deliveries. The Contractor shall fully indemnify and hold the Client harmless for all warranty and compensation claims brought by third parties in relation to goods/ services delivered and provided by the Contractor.

10. Documentation and support obligations

- 10.1. The Contractor shall also deliver the specifications, manuals, drawings, warnings and other information required for proper use (installation, application, etc.) of the delivered goods/ provided services - including those provided by third parties and end users - without being requested to do so and shall continually update them. Furthermore, the Contractor hereby undertakes to retain all documents and samples required for the assessment of quality issues or legal disputes in relation to deliveries until the expiry of the relevant deadlines. Once circumstances have subsequently been disclosed, which may result in the development of product liability, warranty or other liability claims related to delivered goods or services, the Contractor, in addition to its other obligations, shall immediately inform the Client in full and reimburse any costs and damages arising in relation thereto – for example due to necessary product recalls. In case of any complaints or product liability, the Contractor shall in general, at its own expense, provide the Client with all necessary statements and appropriate evidence in a timely manner to support the Client with its best efforts and to reimburse the Client for reasonable internal costs.

11. Miscellaneous items necessary for delivery and confidentiality

- 11.1. Property and all other rights to any drawings, technical calculations, documentation, tools, moulds, samples, prototypes, etc. ("miscellaneous items") created for or due to deliveries (or queries) to the Client or requested or made available by the Client, shall exclusively be due to the Client from the time of their creation. This applies even if miscellaneous items are fully or partly produced at the expense of the Client and have not yet been paid in full. Miscellaneous items shall not be used for any purposes other than to fulfil the obligations of the Contractor in respect of the Client, they shall be stored carefully and repaired or replaced at the Contractor's expense. All miscellaneous items shall be handed over to the Client at the latest upon delivery or cancellation of the order. However, the Client is entitled to demand the immediate handover of all miscellaneous items at any time. The Contractor shall document the Client's exclusive rights to miscellaneous items in its books with a note and, wherever possible, marked with a sign. The Client is not obliged to review miscellaneous items created by the Contractor for completeness, accuracy or usefulness, nor does the Client accept any kind of liability for miscellaneous items originating from the supplier or goods/ services created on the basis thereof.
- 11.2. Notwithstanding legal provisions that extend beyond the scope hereof, all information received by the Contractor from the Client or its affiliate about and in relation to the supplier relationship, all delivered goods/ services and business operations constitute trade and operating secrets, which shall be kept confidential and the exploitation of which for purposes other than the supplier relationship with the Client is prohibited. The Contractor shall subject its employees and other third parties to a confidentiality obligation for protected information before they are given access thereto. The Contractor is responsible for compliance with the relevant data protection regulations.

12. Third-party intellectual property and product liability

- 12.1. The Contractor shall fully indemnify and hold the Client harmless for all claims and rights of third parties due to the infringement of intellectual property (e.g. patents, trademarks, designs, copyrights, registered designs, etc.) based on deliveries or otherwise related to the supplier relationship, and shall ensure unrestricted use of the deliveries or replacement by substitute deliveries not affected by the claims or rights of third parties. Moreover, the Contractor shall fully indemnify and hold the Client harmless in respect of all claims made by third parties on the basis of statutory or other mandatory product liability regulations and which relate to the goods delivered or services provided by the Contractor (including partial products or services), as well as the costs of product recalls.

13. Subcontractors and suppliers

- 13.1. Except for standard parts, subcontractors and upstream suppliers that are associated with contractual performance shall be disclosed to the Client shortly after the order is placed. However, no legal relationship is produced as a result between the Client and the subcontractors and upstream suppliers of the Contractor.
- 13.2. The Contractor is liable for subcontractors and upstream suppliers in the same way as for its own actions and as if it had manufactured the entire delivered item itself.
- 13.3. The Contractor is responsible for transferring all due requirements in the procurement documents to its subcontractors and suppliers, if necessary for the correct performance of commissioned works.

14. Property rights

- 14.1. The acquisition of comprehensive rights of use to patents, registered designs, trademarks and design protection or copyrights for the free use and (repeated) resale of the ordered item shall be compensated by the Client with the purchase price/remuneration. The Contractor shall indemnify and hold the Client harmless in the event of infringement of third-party property rights in relation to the ordered delivery/service.

15. Operations in the Client's business premises/ building sites

- 15.1. If the Contractor carries out works on behalf of the Client (e.g. in one of the business premises of the Client, on building sites of the Client/ end customer, etc.), it shall strictly comply with the applicable fire safety, labour, environmental and other regulations at the Client or end customer. The Contractor shall keep itself informed thereof or request corresponding instructions from the Client. The Contractor is liable to the Client for all damages incurred by infringing these regulations.

13. General matters

- 13.1. The Contractor hereby undertakes to take out corresponding business and product liability insurance policies with appropriate insured sums to cover its relevant risks, and to prove this to the Client in writing upon request. The Contractor is only entitled to demand temporary suspension of the performance of some or all contractual obligations with reference to force majeure if it provides written proof, beyond doubt, of the underlying circumstances. The Contractor hereby undertakes, in the event of force majeure, not to treat the Client any worse than the most-favoured of its other customers. Payments or failure to collect receivables represent neither acknowledgement of the correctness of deliveries nor a waiver of warranty claims, compensation or other legal titles to which the Client is entitled, or the recognition of specific legal positions.

14. Applicable law and arbitration clause

- 14.1. Austrian substantive law is applicable to these Purchasing Terms and Conditions, to all orders and the entire supplier relationship between the Parties, in exclusion of conflict of law rules. Application of the United Nations Convention on the International Sale of Goods (CISG) is excluded. Any disputes arising from individual orders or otherwise from the supplier relationship between the Parties or in relation to the violation, termination or nullity thereof shall be settled according to the rules of the Arbitration and Conciliation Code of the International Arbitration Centre of the Austrian Federal Economic Chamber in Vienna (Vienna Rules) by one arbitrator (in the event of disputes with a value of up to 100,000.00 euros) or several arbitrators (in the event of disputes with a value of more than 100,000.00 euros) appointed in accordance with these rules. The place of arbitration and the location of the court of arbitration shall be Vienna (Austria). The language to be used in arbitration proceedings shall be German. The occurrence of disputes in connection with the supplier relationship shall not authorise the supplier to withhold or discontinue confirmed deliveries/services or to reject orders.

15. Data protection regulations

- 15.1 We will process your personal data and data of your employees in the necessary extent for the creation and acceptance of orders. We refer here to the attached Information on Data Protection.
- 15.2 The Contractor hereby explicitly authorizes and entitles us to obtain information about the Contractor and its financial circumstances from third parties (e.g. banking institutions, creditor protection associations). The Contractor hereby authorizes us to use all the above-mentioned data and information and transfer such to affiliates (for use in risk assessments), to insurance companies, creditor protection associations and our banks (for assessment of receivables or other risk assessments). Where personal data are involved, they are subject, in terms of processing or transfer by us, to the restrictions of sections 4, 5 and 6 of our Information on Data Protection. Such data are processed based on consent in each case (Art 6(1) a) GDPR). Moreover, processing for advertising purposes is carried out based on a predominant legitimate interest (Art 6(1) f) GDPR) in advertising to existing customers. In addition to consent, data are processed for the purposes of the risk assessment based on a predominant legitimate interest (Art 6(1) f) GDPR) in assessing the credit rating of the customer and as preparation for entering into a contractual relationship (Art 6(1) b) case 2 GDPR).

Information on Data Protection

The protection of personal data is a major concern for *Benedict GmbH* (hereinafter: “**Benedict**” or “**we**”). We therefore hereby wish to provide you with information about how we process personal data. We will process your personal data either if you work as a sole trader and/or submit an order or offer to us, or confirm an order as an employee of a supplier or customer.

In any case: personal data are processed exclusively in accordance with the applicable data protection laws, in particular the General Data Protection Regulation (GDPR)¹ and the Data Protection Act (DSG)².

General information:

The data controller responsible for processing your personal data is:

Benedict GmbH
Lieblgasse 7, 1220 Vienna
Phone: +43/1 251 51 0
Fax : +43/1 251 51 89
Email: beschaffung@benedict.at

You can access the General Data Protection Regulation (GDPR) online at:

<http://eur-lex.europa.eu/legal-content/DE/TXT/HTML/?uri=CELEX:32016R0679&from=DE> ²

You can access the Data Protection Act (DSG) as amended online at:

<https://www.ris.bka.gv.at/GeltendeFassung.wxe?Abfrage=Bundesnormen&Gesetzesnummer=10001597>

Data processing:

1. Purpose of data processing:

We will exclusively process your personal data for the following purposes:

- a) Processing your offers and orders, including delivery
- b) Settlement of accounts for your delivery or order
- c) Correspondence on your delivery or order
- d) Compliance with recording, disclosure and reporting obligations, where necessary based on statutory obligations;
- e) Enforcement of or defence against legal claims

2. Source of personal data:

We personally collect these data by means of your provision of data in the framework of the order process.

3. Legal basis for data processing:

Such data processing is based on the following legal grounds:

- *Data processing for the purposes set out in sections 1a) - 1c) regarding data for contractors:*
Data processing for this purpose relates to the fact that the processing of such data is necessary in order to fulfil our contract with you (Art 6(1) b) GDPR).
- *Data processing for the purposes set out in sections 1a) - 1c) regarding data for customer employees:*
Data processing for this purpose relates to our legitimate interest in fulfilling the contract with the employer of the data subject, as our customer (Art 6(1) f) GDPR).
- *Data processing for the purpose set out in section 1d):*
Data processing for this purpose relates to the fact that the processing of such data is necessary in order to fulfil our legal obligations, i.e. statutory, contractual and collective agreement recording, disclosure and reporting obligations (Art 6(1) c), 9(2) b) GDPR).
- *Data processing for the purpose set out in section 1d):*
Data processing for this purpose relates to our legitimate interest in enforcing legal claims and defending ourselves against any legal claims (Art 6(1) f) GDPR).

4. Transfer of personal data to third parties:

If necessary to achieve the above purposes, we may transfer your personal data to our legal representatives and to courts. If necessary and legally required to achieve the above purposes, we shall transfer your personal data to legitimate authorities or third parties.

If necessary and in the extent required to achieve the above purposes, we may transfer your personal data to suppliers commissioned by our company.

We shall not transfer any personal data to third countries outside the European Economic Area, without obtaining your prior consent (which you can revoke at any time).

5. Retention of personal data:

We shall only retain your personal data for as long as reasonably considered necessary in order to achieve the above purposes and in the manner permitted under applicable law. We store your personal data in any case for as long as statutory retention obligations (in particular the seven-year retention period under Section 212 UGB, Austrian Commercial Code) arise, or statutes of limitations for potential legal claims have not yet expired. We shall retain your data for longer than the deletion period if and when we need such data to assert or defend specific legal claims.

6. Voluntary nature of the provision of personal data:

The provision of your personal data is voluntary, but necessary for the provision of our services. If you do not provide the data, we might no longer provide our services, which, where possible, may entitle us to extraordinary termination of the Contract.

Your rights:

Which rights do you have under applicable data protection law?

You have the right: (i) to learn from us whether and which personal data we have stored about you and to receive copies of such data (Art 15 GDPR); (ii) to demand that we correct, supplement or delete your personal data if they are incorrect or not processed in a legally-compliant way (Art 16, 17 GDPR); (iii) to restrict the processing of your personal data (Art 18 GDPR); (iv) in specific circumstances to receive your data in a structured, common and machine-readable format or to transfer them to a third party (right to data portability, Art 20 GDPR); and (v) in specific circumstances to object to the processing of your personal data (Art 21 GDPR). If you intend to exercise one or more of these rights, feel free to contact us.

In addition you have the right to submit complaints to the data protection authority (for contact details see www.dsb.gv.at) if you believe that your data privacy rights have been infringed.