

# GENERAL PURCHASING CONDITIONS

## ECKELT GLAS GmbH

The following general Purchasing Conditions apply between ECKELT GLAS GmbH [abbr: „ECKELT“] and its contracted partners, named „Contractor“ in the following.

### GENERAL

Unless otherwise agreed, the following Purchasing Conditions will apply exclusively as contractual conditions. In accepting an order or contract, it is assumed that the Contractor agrees exclusively to the Purchasing Conditions of ECKELT.

Exceptions or addendums to these Purchasing Conditions will only apply if they have been agreed to in writing by ECKELT. This also applies in the case, should contrary exist in the General Terms and Conditions of ECKELT and is not explicitly refuted.

Offers provided to ECKELT are not considered contractually binding. Only written authorized orders or contracts from ECKELT will be considered as binding agreements. The ECKELT Order Number must be indicated in all contractual documents. Failure to do so will render the document invalid.

ECKELT clearly informs that the amounts in the order call-offs are approximate and that ECKELT has no liability to accept any given amounts.

### SUPPLY

All or part of the contract may not be allowed to be sub-let to any party without the prior written consent of ECKELT. All contracts and/or orders are deemed as direct business unless otherwise in written agreement.

Should delivery dates be exceeded, ECKELT has the right without notice and without compensation to the Contractor, to cancel the contract, whereby complete costs of damage may be claimed by ECKELT. ECKELT also has the right [exclusive of damage costs] to insist on fulfillment, should the Contractor be instructed to do so within one week.

For orders accepted as direct or indirect business, it is explicitly agreed that the duties stated in § 918 of our General terms & Conditions with respect to extension of time are not applicable. Should the exception exist that business has not been accepted as direct business, and the Contractor cannot fulfill his obligations within the time frame, or at the expected location or not in the agreed manner, then ECKELT has the immediate right, and without compensation to the Contractor, to cancel the contract or at their choice request damages, whereby the duties in accordance with § 918 of our General terms & Conditions with respect to extension of time do not apply.

## DISPATCH

Should deliveries arrive without suitable dispatch documentation, the delivery will be deemed as incomplete and not accepted, rather will be stored at the Contractors risk and cost.

The Contractor declares knowledge of the ECKELT dispatch requirements and agrees to them. In particular, the Contractor obliges himself to ensure that packing and means of transport are suitable and in accordance with ECKELT requirements.

The Contractor declares that all of his one-way packaging can be disposed of, through his association with ARA, by and at no cost to ECKELT within the Austrian packaging guidelines [BGBl Nr. 648/1996 version of BGBl II Nr. 364/2006] or should no association with ARA exist, that these can be returned to the Contractor at no cost to ECKELT.

ECKELT reserves the right to charge for returning of packaging.

The Contractor is obliged to comply with the Guidelines relating to minimizing waste in packaging.

The Contractor is responsible for any costs in neglecting his obligations in this respect.

Goods will only be received on work days, Monday to Friday, in accordance with the times given on the front page of the order.

Should the exception exist that the Contractor cannot fulfill his obligations within the time frame, then ECKELT has the immediate right, and without compensation to the Contractor, to cancel the contract and request damages, whereby the duties in accordance with § 918 of our General terms & Conditions with respect to extension of time do not apply.

## EXPORT CONTROL

(1) The seller shall comply with the applicable requirements of national and international export, customs and foreign trade law for all goods to be supplied and services to be rendered. The seller shall obtain any necessary transfer or export licences, unless under the applicable export, customs and foreign trade law it is not the seller but the buyer or a third party who is obliged to apply for such licence.

(2) The Seller shall provide the Buyer as early as possible, but no later than 10 days before the delivery date, with all information and data in text form which the Buyer requires in order to comply with the applicable foreign trade and payments law in the case of export, transfer and import and, in the case of resale, in the case of re-export of the goods and services, in particular for each good and service:

- the Export Control Classification Number [ECCN] according to the U.S. Commerce Control List [CCL] or the indication "EAR99", if the goods are subject to the U.S. Export Administration Regulations. If the goods are subject to the United

States Munitions List or otherwise subject to the International Traffic in Arms Regulations [ITAR], the buyer shall also request the corresponding indication of the list item,

- all applicable export list items [if the goods are not subject to any export list item, this is to be indicated with "AL:N"],
- the statistical commodity code according to the current commodity classification of foreign trade statistics and the HS [Harmonised System] code,
- the country of origin [non-preferential origin] and,
- if requested by the buyer: Supplier declarations of preferential origin [for European suppliers] or certificates of preference [for non-European countries] "Export Control and Foreign Trade Data".

(3) In the event of changes in the origin, the characteristics of the goods or services or the applicable export, customs and foreign trade law, the Seller shall update the export control and foreign trade data as early as possible, but no later than 10 days before the delivery date, and notify the Buyer in text form. The Seller shall bear all expenses and damages incurred by the Buyer due to the absence or incorrectness of export control and foreign trade data.

## **PRICES**

Prices are as per in our order and are deemed as fixed prices which cannot be increased for any reason. Prices are inclusive of all packing which is the suppliers' responsibility and inclusive of delivery to a specified location.

Should we be obliged to pay in foreign currency which fluctuates against the Euro after contract whereby an increase of greater than 3% occurs, we have the right to cancel the complete order without any costs payable to the Contractor regardless of what they might be.

## **INVOICING**

Invoices are to be sent, following completion of supply [service] in accordance with the prevalent tax regulations, in duplicate to the ECKELT factory in Steyr.

## **PAYMENT**

Payment will be made by cheque or Bank transfer to an account which is to be advised in writing, within the time frame given on the order. Payment does not constitute acknowledgement of a satisfactory supply [service] nor does it relieve the Contractor of obligations to ECKELT with regards to fulfillment of contract, warranty and compensation against damage.

On-account payments remain of value in proportion to the complete contract amount.

For invoices of a value greater than Euro 2,100,- ECKELT reserves the right to make payment in the form of a bank draft whereby the costs of the draft will be paid by ECKELT.

Claims against ECKELT may not be ceded without strict agreement from ECKELT. Claims change the date of invoice to the date on which ECKELT considers the defect as remedied. Payment terms are those which have been given by ECKELT on their orders unless otherwise agreed in writing.

### **WARRANTY AND GUARANTEE**

The Contractor is responsible for providing the ordered materials [services] in accordance with all relevant statutory standards [ÖNORM and DIN], and will provide a complete Warranty and Guarantee [24 Months] unless otherwise agreed. The Contractor is also liable for materials and services in his contract even when not self-manufactured or provided.

Acceptance by ECKELT will be done through checking/testing at the location of use and/or by use of the goods [latest 6 Months following receipt thereof]; only after this date does the warranty and Guarantee period begin.

Defects will be determined within 14 days. ECKELT does not have to comply with examination and complaint clauses in terms of § 377 UGB and Art. 39 CISG. ECKELT has the right in liability situations to remain free of penalties, even when the defect is insignificant or repairable, and may choose to have a free replacement; alteration; free repair of the defect or a suitable discount in price, or to have the defect repaired at the cost of the Contractor. – Related costs, as for example for transports, travel expenses, working hours, etc. are to suppliers account.

Once the defect has been completely made good will the Warranty and Guarantee period begin. Should statute dictate that a defect repair period is necessary, then that period shall be set at 3 weeks. Should any defect, also when it occurs during delivery, ECKELT has the right to request recall at no cost and for a free-of-charge replacement from the Contractor. Subsequent deliveries from the Contractor may be unacceptable until such times that the defect has been corrected.

ECKELT may, without prejudice, make claims also for damages. The Contractor is also liable for materials and services in his contract even when not self-manufactured or provided even when he has dealt in a correct and business-like manner.

The Contractor must, without request, provide ECKELT with all documentation for storage and processing in German language, otherwise it will be deemed that costs associated thereto will be borne by the Contractor.

Should ECKELT be required to provide a Warranty to a Third Party, the Contractor is liable in accordance with § 933b ABGB.

## RESPONSIBLE DEVELOPMENT

The Contractor is aware that the SAINT-GOBAIN Group is committed to the United Nations Global Compact and, in particular, has adopted a Responsible Purchasing Policy as an essential part of the Group's Responsible Purchasing Policy.

In particular, the SAINT-GOBAIN Group expects from its contractors:

- that they participate to the greatest extent possible in the development of the country in which they operate;
- that they comply with the laws and regulations in force in the countries in which they operate, as well as with the standards established by the International Labour Organisation with regards to workers' rights, particularly in the area of social security, working hours, conditions and remuneration;
- that they refrain from any form of forced or bonded labour or any form of child labour;
- That they take the necessary steps to ensure health and safety in the workplace; That they have implemented a policy for their own activities aimed at identifying and preventing health and safety risks; That they inform the SAINT-GOBAIN Group of any risks associated with their products or activities at SAINT-GOBAIN sites; That they implement policies to design and improve their manufacturing processes in such a way as to limit their environmental footprint over the lifetime of the products they supply.
- That they conduct their activities in manner that complies with applicable national and international legal standards.

The attitude and expectations of the SAINT-GOBAIN Group with regard to its suppliers are contained in the "Supplier Charta" annexed to the Agreement.

The contractor declares that he has read this charter and complies with its guidelines. It follows that the contractor agrees that SAINT-GOBAIN may verify compliance with the charter by means of audits.

## SUSTAINABILITY

The Contractor has been informed that, within the SAINT-GOBAIN Group, there is, in particular, a Construction Timber Policy which establishes the responsible use of the Companies in the purchase and/or sale of construction timber products. This policy is part of the SAINT-GOBAIN sustainable development programme. The contractor is invited to participate in the programme within their own sphere or influence. The Contractor shall take this into account and support SAINT-GOBAIN in the implementation of the Timber Policy ["Timber Policy"].

The Contractor has also been informed that within the SAINT-GOBAIN Group, there is in particular a Water Policy which sets out the responsible and resource-conserving use of water by the Companies. This policy is part of the SAINT-GOBAIN sustainable development programme. The contractor is invited to participate in the programme within their own sphere or influence. The Contractor shall take this into account and support SAINT-GOBAIN in the implementation of the Water Policy ["Water Policy"].

## **COMPLIANCE WITH APPLICABLE HUMAN HEALTH AND ENVIRONMENTAL LAW AND REGULATIONS**

Protection of the environment and the adherence to Health and Safety in the work environment are part of the „Principles of Conduct and Action“ of ECKELT.

Should the goods to be delivered, the packaging or other components contain or deemed to have been produced with dangerous elements – regardless of their characteristics – these must be identified as such and ECKELT must be informed in written form and be provided with a Safety Data Sheet in accordance with DIN 52.900.

The Contractor is obliged to comply with all statutory requirements which directly or indirectly affect the environment and will indemnify ECKELT against any damages or costs from any Third Party - particular the authorities – should non-compliance with these requirements occur.

The Contractor is obliged to comply with all applicable regulations concerning chemical substances sold to ECKELT, no matter if those substances are delivered for own or production usage.

As manufacturer, importer or distributor of the chemical substances sold to the Customer, whether these substances are supplied to be used unaltered, contained in mixtures or articles, the Supplier undertakes to comply with all applicable laws and regulations in force and more particularly with both European Regulations n° 1907/2006 and 1272/2008 respectively regarding the registration, evaluation, authorisation and restriction of chemical substances [REACH Regulation] on the one hand and the classification, labelling and packaging of substances and mixtures [CLP Regulation] on the other hand.

As part of this commitment, the Supplier undertakes to permanently comply with any regulatory change and, consequently, to adapt its own obligations towards the Customer for the whole duration of the present agreement.

In this respect, the Supplier shall in particular ensure that the substances provided to the Customer are duly registered for the uses that have been indicated to him by the Customer. The Supplier undertakes to provide the Customer with the registration numbers of the substances.

Moreover, should these substances be subject to an application for inclusion in the European Chemical Agency's [ECHA] candidate list of substances of very high concern, the Supplier shall inform the Customer as soon as he is aware of such application. This obligation shall also apply in the case of sale to the Customer of mixtures or articles containing such substances.

In addition, in the event that the substances supplied to the Customer are subject to authorisation or restriction, the Supplier undertakes to inform in writing the Customer of any restrictions and prohibitions of use that affect these substances and of any possibility to substitute such substances.

The Supplier undertakes to inform the Customer with a minimum of six (6) months' written notice if, in the course of the present agreement, it intends either to modify the ingredients and/or technical characteristics of the substances, mixtures or articles supplied or to stop selling them.

The substances [and/or mixtures] shall be accompanied by any information that are necessary in order to enable the Customer to use them totally safely. Such information shall be mentioned in the safety data sheets (SDSs) written in the language of the country of delivery when a SDS is required by the European and/or national regulations in force or, if such SDS is not mandatory, consist in all information referred to in Article 32 of the REACH Regulation.

The Supplier guarantees the Customer against any financial consequences arising from the Supplier's non-compliance with its obligations resulting both from the REACH and CLP Regulations and the present clause. Any limitation of liability provided elsewhere in this agreement does not apply to liability incurred by the Supplier in this respect.

### **SAFETY AND WORKER PROTECTION**

The Contractor shall ensure and be solely responsible that his employees and his subcontractors are aware of the applicable laws and regulations concerning health and safety, the regulations of ECKELT [e.g. "Guidelines for contractors when working on company premises", "Safety regulations ECKELT GLAS GmbH"] and the SAINT-GOBAIN EHS Charter, and that their work is carried out in accordance with these laws, rules and regulations.

ECKELT reserves the right to inspect the health and safety arrangements of the Contractor and its subcontractors. For this purpose, representatives of ECKELT are to be granted unrestricted access at all times and to all those locations which enable this inspection activity to be carried out.

If the health and safety arrangements comply with the above mentioned laws, rules and regulations, ECKELT will bear the costs and expenses of the inspection, but if there is a breach, the costs and expenses of the inspection will be borne by the Contractor.

Should[n] the Contractor and/or his subcontractors fail to comply with any of the above terms and conditions and fail to remedy this non-compliance immediately, ECKELT has the right to stop all payments due and/or terminate the contract as a whole or concerning individual parts and declare the non-compliance as a breach of contract. In this case ECKELT is furthermore not obligated to accept deliveries and services not yet provided. ECKELT expressly reserves all rights and legal remedies regarding a non-fulfillment of the mentioned terms and conditions; neither an action nor an omission of an action by ECKELT represents a waiver of these rights or legal remedies.

The Contractor further agrees to be liable for all damages resulting from non-compliance with the above terms and conditions as well as employee protection regulations.

ECKELT is only liable for other damages, which occur to the Contractor or the employees employed by him during work on the ECKELT company premises, in the case of intent and gross negligence.

This limitation of liability also applies if the damage is caused by an employee of ECKELT. The Contractor undertakes to only employ such workers on the company premises of ECKELT who have effectively agreed to such a limitation of liability, otherwise he must indemnify and hold ECKELT harmless.

### **PRODUCT LIABILITY**

The Contractor declares knowledge of the finished product in which his component or material is being used for.

The Contractor is liable for the full requirements of his supply in the finished product. Should ECKELT be liable as a result of defective supply by the Contractor, the Contractor not only assumes liability for the component but also for all costs associated with the claim against ECKELT.

The Contractor is responsible that he will inform ECKELT and immediately provide ECKELT with any information about any possible or newly discovered defects in the supplied product.

Should the delivered material or component, through discovery of a new defect, no longer be suitable for further use by ECKELT then the Contractor accepts that all stored material will be accepted back at the same price as invoiced.

The contracting parties assume that the contracted goods or materials are a product of the Contractor for which liability as producer is accepted. Should it be determined that the Contractor is not the manufacturer or the products supplied then the Contractor will still be responsible to ECKELT for the goods and/or services supplied.

It is agreed that the Contractor is responsible for any damages suffered by ECKELT. All other conditions or notices are not acceptable.

Should ECKELT be seen as importer, then the Contractor is responsible, should ECKELT make a claim within the law of product liability to provide ECKELT with complete recourse i.e. ECKELT will be reimbursed for all costs associated with the importation of a defective product, even when Austrian or other law does not allow recourse. The Contractor has knowledge of the extensions of Austrian product liability law which deals with the importer as a manufacturer. The Contractor also acknowledges that it is not only personal damage but also asset damages which must be paid, regardless of who suffers.



## **INSURANCES**

The Contractor undertakes to conclude or maintain sufficient liability insurance. The client may require proof of this. The Contractor shall only be liable for damages not covered by the liability insurance, including damages resulting from defects, only if his or her organs are determined.

## **SUPPLY OF GLASS IN CRATES**

The supplier must ensure that the trestles used for transports of glass crates have a minimum inclination angle of 4 degrees and that the crates are duly stored on the trestle.

Before unloading at our site the inclination angle is checked. If it is not at least 4 degrees, unloading will be refused.

## **EQUIPEMENT AND MACHINES**

The supplied goods must be suitable in accordance with all prevalent safety conditions [law, regulations, standard etc.], in particular the „General Guidelines for Employee protection“, the „Guideline for protection of machine-equipment“ and the regulations applicable in Austria for electrical work. These conditions as well as a detailed German description of the equipment and installation/operating instructions are basis for every delivery.

## **SERVICES, INSTALLATION AND PERSONNEL**

Should the contracted services include personnel services [direct or leasing personnel]; the Contractor is responsible for all legally required remuneration [wages/salary/hourly costs, overtime etc.] as well as all expenses and welfare contributions. Should the Contractor be responsible for the supply of temporary personnel, he is also responsible for all payments for the temporary worker, employer and employee contributions to social security. ECKELT cannot be held liable should the Contractor not uphold his duties and is protected against claims in accordance with Austrian § 14 AÜG.

In addition, the Contractor is liable within the contract to comply with all legal conditions with regards to employees, in particular the employment of foreign nationals per the Austrian AuslBG.

Should the Contractor fail to uphold these duties then he will be responsible for all resulting damages, costs etc. in particular also any penalties or fines.

For installation contracts as sub-contractor, the Contractor assumes responsibility for disposing of all packing materials in accordance with legal requirements. This service is included in the agreed prices.

## WORKING ON SITE

According to § 8 of the Austrian Workers' Protection Act [ASchG], contractors and clients must cooperate in the implementation of the safety and health provisions. In particular, they must coordinate their activities in the field of hazard prevention and inform each other as well as their employees and the competent staff bodies about the hazards.

However, these provisions do not limit the responsibility of the individual employers for the compliance with the worker protection regulations for their workers.

With regard to work equipment used at the Client's workplace, the Contractor shall in particular observe the provisions of the Work Equipment Ordinance.

In particular, the Contractor shall further prove that the legal requirements for occupational health and safety have been fulfilled [e.g. driving licence, medical examination, instruction, specialist qualifications, etc.].

When working on the client's premises, care must also be taken to ensure that personal protective equipment [PPE] is worn. On request, this can be provided by the client on site.

The contractor must in particular follow the "Guidelines for external companies when working on company railings" as well as the "Safety regulations ECKELT GLAS GmbH".

Any waste caused by the contractor [e.g. packaging of delivered material etc.] is to be disposed of by the contractor himself. The use of our internal waste disposal system [containers etc.] is strictly prohibited for external companies - with regard to waste caused by them.

We expressly point out that the use of subcontractors and the formation of joint ventures is only permissible with the consent of the client. If this is given, the conditions applicable between the contractor and the client must be imposed on the subcontractor.

## DATA PROTECTION

The contractor shall process all personal data with which it comes into contact during the performance of its tasks in compliance with the provisions of data protection and, in particular, shall not pass them on to third parties or use them for purposes other than the performance of the contract without our consent.

The contractor assures that the processing and use of the data takes place exclusively in member states of the European Union. Any relocation of a processing step to a third country requires the prior consent of the Client.

The Contractor assures the implementation of and compliance with the agreed general and technical and organisational measures in its area of responsibility in accordance with Art. 32 EU-DSGVO. In particular, the contractor shall organise its internal

organisation in such a way that it meets the special requirements of data protection. It shall take technical and organisational measures to adequately secure the Client's data against misuse and loss.

In all cases, the contractor shall immediately notify the client in writing if violations of regulations for the protection of the client's personal data or of the stipulations made in the contract have occurred through him or the persons employed by him.

After termination of the contractual relationship or earlier upon request by the Client, the Contractor shall hand over to the Client or, after prior consent, destroy in accordance with data protection law all documents, processing and utilisation results produced and data files which have come into its possession and which are connected with the contractual relationship. The protocol of the deletion shall be submitted without request.

### **CONFIDENTIAL AGREEMENT**

The Contractor shall treat all business or business of SAINT-GOBAIN, on which he gets knowledge during execution of the contract, strictly confidential. He will point out his commitment to this agreement. The obligation to maintain secrecy also exists when the contractual relationship has ended, as long as the business secrets have not been publicly disclosed.

Reference to the business relations with the client in publications [for example, advertising, reference lists, etc.] is only permitted to the Contractor after the consent given in writing by the customer.

### **MANUFACTURING INFORMATION**

Any samples, models, drawings, descriptions etc. provided by ECKELT remain the intellectual property of ECKELT and which is to be marked as such. This supporting material may only be used for the completion of the contracted works and may not be made available in any form to any third parties. They must be returned to ECKELT at no cost [unless otherwise agreed] once the contracted works have been completed.

### **PATENTS, COPYRIGHT, INTELLECTUAL PROPERTY RIGHTS**

The Contractor must protect ECKELT from any claims which might result from patent infringement, copyright or intellectual property rights with regards to all materials and services provided as part of the contract. The Contractor must guarantee ECKELT unlimited use of the supplied materials and or services. In addition, the Contractor assures ECKELT that all such rights and protection are included in the agreed price.

### **ADVERTISING**

Should the Contractor wish to use the end product or building where the end product is installed for advertising or marketing purposes, it will be necessary to obtain written authority to do so from ECKELT as it may be our intention to include the project in our reference list which has a particular marketing value.

Should ECKELT give permission to use the end product for marketing purposes [publication of any kind e.g. literature, Internet, Photos, exhibition materials etc.], then ECKELT GLAS GMBH must be noted as the client.

Should the Contractor not comply with this condition, a penalty of 10 % of the contract value will be levied against the Contractor. This will be notified in written form from ECKELT to the Contractor and is in accordance with the judicial right of reduction [§ 1336 Austrian ABGB]. ECKELT may choose to use outstanding payments to the Contractor for this purpose.

### **PLACE OF FULFILLMENT**

The legal place of fulfillment is in all cases ECKELT GLAS GMBH, Resthofstraße 18, A-4403 Steyr, unless otherwise agreed in writing. Provision of goods and services is always at the suppliers' risk and expense. This also applies should ECKELT determine that the goods be supplied to an alternate location other than the place of fulfillment.

### **PARTIAL INEFFECTIVENESS**

Should parts of these purchasing conditions become, for whatever reason, legally ineffective, the remainder will continue to be legally effective. At the point where the ineffectiveness occurs, ECKELT will determine a suitable business-like solution.

### **JURISDICTION, LAW**

The place of jurisdiction for both parties is the applicable Court in Steyr. Austrian Law will apply.

Should any claims arise, the Contractor is not permitted to withhold or stop any due deliveries or services.