

SALES AND DELIVERY CONDITIONS

MKW Oberflächen+Draht GmbH // 4680 Haag/Hausruck, Niedernhaag 31, AUSTRIA



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

1. DEFINITIONS

Offer: Non-binding invitation by MKW Oberflächen + Draht GmbH, FN 240949 m, to place an order.

Order Confirmation: Acceptance of an order by MKW Oberflächen + Draht GmbH, FN 240949 m. This may deviate from the order.

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

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

MKW: Refers to MKW Oberflächen + Draht GmbH, FN 240949 m, Niedernhaag 31, 4680 Haag/Hausruck.

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

Contracting Parties: The contracting party and MKW.

Contracting Party: A natural or legal person intending to conclude or having concluded a contract with MKW.

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

Plant: Refers to the plants in 4675 Weibern and 4680 Haag/Hausruck.

2. GENERAL TERMS

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

3. DELIVERIES AND TRANSFER OF RISK

- a) Unless otherwise agreed, deliveries/services provided by MKW are made ex works, at the expense and risk of the contracting party.
- b) In the case of express shipments or postal dispatch, the advanced transport costs, as well as handling fees, storage fees, or similar expenses, will be charged to the contracting party. MKW does not cover transport insurance for inbound or outbound shipments of goods.
- c) MKW is entitled to make partial deliveries or provide partial services, as well as to deliver or perform services ahead of schedule. These will be invoiced separately upon dispatch. Where possible, MKW will inform the contracting party in advance.
- d) In the event that goods to be processed at MKW's facility are collected and delivered by an MKW truck or other means of transport provided by MKW, the contracting party is responsible for (i) loading the goods at its premises or on the construction site and (ii) unloading the goods at its premises or on the construction site after processing by MKW, using personnel provided by the contracting party. MKW assumes no liability for the proper loading of the goods, for transport within its facility, or for any potential damage to the goods processed by MKW during unloading. MKW drivers are not authorized to confirm the proper and defect-free acceptance of goods on delivery notes upon collection. They may only acknowledge the receipt of the goods (e.g., number of parts or similar). Shipment is always carried out at the expense and risk of the contracting party, unless freight-free delivery has been explicitly agreed in writing. Delivery is considered completed by MKW upon handover of the goods to the carrier, railway, postal service, freight forwarder, or collector. At this point, the risk is transferred to the contracting party. Claims against MKW for damages, mix-ups, loss, or similar incidents during transportation are only valid if there is proven fault on the part of MKW. The burden of proof lies with the contracting party. Unless a specific shipping method has been agreed upon with the contracting party, MKW is free to determine the shipping route, shipping method, and means of transport at its own discretion, but without guarantee. Delivery dates shall only be considered binding once all information required for execution has been fully clarified by the contracting party.

4. RETENTION OF TITLE

- a) The delivered goods remain the property of MKW until the contracting party has settled all outstanding claims, regardless of the legal basis (e.g., invoice amounts, interest, costs, dunning fees, etc.), related to the respective contract, or until all bills of exchange and checks issued by MKW for payment have been honored, even if the purchase price for specifically designated claims has already been paid. The goods subject to retention of title must be stored separately

and adequately secured against fire and theft, with all associated costs borne by the contracting party. Until all claims due to MKW under the respective contract have been fully satisfied, the contracting party is only entitled to resell, process, modify, or combine the goods with the prior written consent of MKW, except in cases where the goods are explicitly intended for resale, processing, modification, or combination.

- b) In the event that the contracting party processes, combines, or mixes the goods supplied by MKW with other goods not owned by MKW, MKW shall acquire co-ownership of the new item in proportion to the value of the retained goods relative to the other goods at the time of processing, combination, or mixing.
- c) The contracting party shall handle the retained goods with due care and maintain them properly. The ownership of MKW may not be rented, lent, or gifted, nor may the goods be sent to third parties for repair within the warranty period.
- d) Pledging or transferring ownership of the goods or machines delivered by MKW as security before the final payment of the purchase price is not permitted. In the event of seizure, confiscation, or any other disposition by a third party, the contracting party must inform MKW immediately.

5. PAYMENT

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

6. PRICES

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

7. PACKAGING

- a) The stated prices do not include packaging.
- b) If the goods are packaged in a commercially customary manner to prevent damage under normal transport conditions on the way to the designated destination, the costs shall be borne by the contracting party and will only be taken back upon agreement.
- c) Protective films should be removed no later than four months after application. No warranty can be provided for the durability of the coating against the adhesive of protective films.

8. RETURNABLE PACKAGING

Only packaging explicitly designated as returnable packaging will be accepted

SALES AND DELIVERY CONDITIONS

MKW Oberflächen+Draht GmbH // 4680 Haag/Hausruck, Niedernhaag 31, AUSTRIA



back by MKW. Such returnable packaging must be returned by the contracting party to MKW within three months, in a flawless condition that does not require repairs, and free of charge. If the return is made after the specified period, no credit will be issued.

9. WITHDRAWAL FROM THE CONTRACT

- a) The cancellation of a contract by the contracting party is only possible with the written consent of MKW. In the event of contract termination, MKW is entitled—without prejudice to further claims—to invoice the contracting party for already manufactured but not yet dispatched goods in the case of orders for custom or special productions.
- b) MKW is entitled to withdraw from the contract if circumstances become known that jeopardize its claims.

10. CLEANING

Coated or painted goods are delivered by MKW in a clean condition. After delivery, cleaning of the coated or painted goods by MKW is not part of the contractual obligations. The cleaning of installed (processed) goods may only be carried out using cleaning agents and methods approved by the powder manufacturer.

11. CONTRACT COATING; SANDBLASTING AND PICKLING WORK

- a) The goods provided by the contracting party for processing are accepted by MKW subject to an inspection of the goods and materials to be carried out by MKW. Hollow chamber profiles and constructions made from such profiles must be equipped by the contracting party with drill holes or openings to ensure the proper inflow and outflow of pretreatment agents. Any additional drilling required for flow-through or for hanging the parts will be carried out in consultation with the contracting party and at their expense. During the coating of anodized, hot-dip or electro-galvanized, as well as cast parts, and also of stripped or sandblasted parts with joints (e.g., rims, radiators), blistering may occur due to outgassing or residual old paint and stripping agents in crevices. MKW emphasizes that deformations or damage may occur during sandblasting, coating, and pickling, and that sandblasted surfaces may begin to rust again within a short period, for example, due to humidity.
- b) Sandblasted items must be collected by the contracting party immediately after completion.
- c) Uncollected goods will be stored at MKW's facility for a maximum of 3 months after the order is placed, at the expense of the contracting party.

12. WARRANTY / EXCLUSION / LIMITATION OF LIABILITY

- a) Unless specific agreements are made in writing, the statutory warranty period according to the Austrian Civil Code (Allgemeines Bürgerliches Gesetzbuch - ABGB) applies.
- b) The contracting party is obligated to immediately inspect the goods delivered by MKW for defects upon receipt, on a random basis. If detectable defects are found, the entire delivery must be inspected.
- c) Complaints about defects must be made in writing (including by fax/email) without delay and must be received by MKW no later than 8 days after delivery of the goods, and in any case before the start of assembly, to allow MKW the opportunity for reinspection. In the case of a defect complaint, no alterations of any kind may be made to the disputed goods or items by the contracting party or by third parties. In the event of a violation of this provision, any liability is fully excluded. If such a defect complaint or objection is not made, or not made in a timely manner, the delivered contractual products are deemed approved, and the contracting party can no longer assert any legal claims based on defects. Any hidden defects must be reported in writing no later than 7 days after their discovery. The contracting party must prove the time of discovery. After the completion of an agreed acceptance, any complaints about defects that could have been detected during the acceptance are excluded.
- d) Defects that can be proven to be due to improper execution of the work by MKW will be rectified by MKW through free rework. A reasonable period must be granted for this rework. At MKW's discretion, this may involve either repairing the defective goods/services on-site, having the goods returned to MKW for rework, or replacing the defective goods or parts thereof. An extension of the warranty period due to a defect correction does not occur. In the case of returning the goods to MKW, the contracting party assumes the costs and risks of transportation. The return of the repaired or replaced goods or parts thereof to the contracting party is at MKW's expense, unless otherwise agreed in writing. In the case of on-site rework, the contracting party is solely responsible for the costs of travel to and from the location.
- d) The contracting party has no further claims regarding defects, especially no right to contract cancellation, price reduction, or damages. Replacement by third parties is not permitted. The contracting party's expenses related to the warranty will not be reimbursed.
- e) In the case of delivery of poor-quality or pre-corroded material, MKW assumes no liability for quality processing. The contracting party will be promptly informed in writing by MKW—after delivery and certainly before processing—about the poor or pre-corroded condition of the goods. If the contracting party does not inform MKW within 3 days after receiving the notice about the poor or pre-corroded condition that the goods should not be processed, they must compensate MKW for any additional costs incurred beyond the agreed prices in this regard. MKW assumes no liability for any scrap, deformation, cracks, or similar issues arising during processing, nor for any potential impairment of the dimensional or fitting accuracy of moving parts up to a maximum of 3%. If goods are manufac-

tured by MKW based on the contracting party's construction details, drawings, or models, MKW's liability does not extend to the accuracy of the constructions but only to ensuring that the execution is carried out according to the contracting party's specifications. The contracting party shall indemnify and hold MKW harmless in the event of any infringement of intellectual property rights in these cases.

- f) For those parts of the goods that MKW has sourced from subcontractors, MKW's liability is limited to the warranty claims against the subcontractor.
- g) The liability for replacement under the Product Liability Act (Produkthaftungsgesetz) is excluded.
- h) The warranty is governed by the framework set forth by the relevant Austrian Standards (ÖNORM). Claims by the contracting party that fall outside these standards are not covered by the warranty.
- i) No warranty is provided for the characteristics of the powder coating, insofar as they are considered manufacturer-related, such as the resistance of the color tone to sunlight. Production-related variations in color tone and gloss are not covered by the warranty. The color tone is solely determined by the color tone of the sample coating agreed upon between the contracting parties. No warranty can be provided for the color tone matching coatings produced by other companies, even when using powder-identical batches. If the contracting party does not provide written information that the color tone selected for a batch must match that of another (e.g., the same object), no warranty can be assumed for the exact matching of the color tones. With regard to color tone accuracy, reference is made to the delivery conditions of the respective powder coating manufacturer. Production-related variations in color tone may occur, for example, when different batches need to be processed or when coating must be done on different equipment.
- j) Warranty is excluded for defects arising from faulty maintenance, improper use (e.g., cleaning), or normal wear and tear.
- k) The holes (drillings) required for the outflow of pretreatment agents must be provided and made by the contracting party. Drillings can also be made by MKW in agreement with the contracting party and at their expense. If the outflow is still not possible due to design reasons, any warranty claims in this regard will be excluded.
- l) If the contracting party specifies the powder coating manufacturer, all claims regarding the suitability of the powder coating for the intended purpose are excluded.
- m) The obligation to remedy defects only arises after the outstanding invoices have been paid.
- n) No warranty is provided for the coating of hot-dip galvanized parts.
- o) MKW's liability is generally limited to cases of intentional misconduct and gross negligence, as far as permitted by applicable law. MKW, its employees, agents, representatives, or contractors shall not be liable to the contracting party or third parties under contract, tort, or otherwise in cases of slight or slight gross negligence, nor for actual or anticipated loss of profits, business, revenue, reputation, goodwill, time, lost usage, lost production, lost interest, capital costs, third-party claims, financial losses, unachieved savings, or for compensation for special damages, incidental costs, indirect damages, or consequential damages related to the delivery/service. MKW's liability is also limited to typical, foreseeable damages, without prejudice to any other limitations. The burden of proof lies—with respect to the extent permitted by law—on the contracting party in all cases. The foregoing provisions do not limit MKW's liability for personal injury and death, product liability, or other liabilities where such liability cannot be limited or excluded under applicable law.
- p) Claims for damages and reimbursement of expenses against MKW are subject to a limitation period of 12 months from the delivery of the goods. In the case of tortious liability, the limitation period begins from the knowledge or grossly negligent ignorance of the circumstances giving rise to the claim or the identity of the liable party.

13. EXCLUSION OF OFFSETTING

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

14. SIDE AGREEMENTS, CONTRACT AMENDMENTS, AND SUPPLEMENTS

Side agreements, contract amendments, or supplements require written form to be valid and must be signed by all contracting parties. This written form requirement is also satisfied if the contracting parties send the identical original documents, signed by them, to the other contracting party by mail (registered), by fax, or digitally via email. Oral assurances of any kind become effective only upon written confirmation by MKW. Technical advice provided by MKW, whether verbal or written, is given to the best of its knowledge. However, it cannot replace the contracting party's own inspection of the goods, particularly regarding their suitability for a specific intended use, such as for certain optical properties.

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

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

15. INVALIDITY OF INDIVIDUAL PROVISIONS OF THESE TERMS AND CONDITIONS

In the event that individual provisions of these terms and conditions are deemed

SALES AND DELIVERY CONDITIONS

MKW Oberflächen+Draht GmbH // 4680 Haag/Hausruck, Niedernhaag 31, AUSTRIA



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

16. FORCE MAJEURE / DELIVERY DELAY / MATERIAL SHORTAGES

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

17. INTELLECTUAL PROPERTY RIGHTS

If deliveries, drawings, or other information are provided by the contracting party and third-party intellectual property rights are infringed as a result, the contracting party is obligated to indemnify and hold MKW harmless from any third-party claims in this regard.

18. MISCELLANEOUS

- a) For construction and assembly work, a separate written agreement is required.
- b) Orders transmitted by phone are considered accepted only when a written order confirmation from MKW is available. MKW does not verify the measurements provided by the contracting party.
- c) Warping of aluminum parts in the curing oven, e.g., due to stresses introduced during manufacturing or due to the bonding of different materials and welded profiles, is at the expense of the contracting party.
- d) MKW explicitly points out that thermal bridges caused by the installation of plastic spacers may lead to surface defects.

19. JURISDICTION, PLACE OF PERFORMANCE, AND APPLICABLE LAW

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

20. DATA PROTECTION

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

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