

These General Terms and Conditions of Purchase
apply for all commercial operations of
NCA Container- und Anlagenbau GmbH (hereinafter „Principal“).

These General Terms and Conditions of Purchase are generally composed for legal transactions between companies. If they are exceptionally also used as a basis for legal transactions with consumers in terms of § 1 para. 1 section 2 of the Consumer Protection Act, Federal Law Gazette (BGBl) 140/1979, they shall apply only to the extent that they do not conflict with the provisions of the first main section of this Act. The United Nations Convention on Contracts for the International Sale of Goods, done in Vienna on April 11, 1980, BGBl. 96/1988, shall not apply.

1. Preamble
 - 1.1. These General Terms and Conditions of Purchase of NCA Container- und Anlagenbau GmbH will apply to any and all commercial operations between Principal and Supplier. Any terms and conditions on behalf of the Supplier conflicting with or deviating from these Terms and Conditions of Purchase shall be excluded and shall not deemed to be as accepted unless the applicability of individual provisions is approved by the Principal in written form. The present Terms and Conditions of Purchase shall also apply in case the contractual relationship between the Supplier and the Principal is conflicting or deviating from the Principal's purchasing conditions and the Supplier's conditions are implemented without contradiction and without reservation.
 - 1.2. Contracts between Principal and Supplier shall be supplemented by these Terms and Conditions of Purchase. The Supplier agrees that the present Terms and Conditions of Purchase supersede any GTC, even if the Supplier's terms and conditions resp. provisions have not been objected to explicitly. In this respect, any acts of contract completion negotiations by the Principal shall not imply a consent to contractual terms and conditions that differ from the present General Terms and Conditions of Purchase.
 - 1.3. All agreements between the Principal and the Supplier regarding the execution of this Contract shall be concluded in writing.
 - 1.4. The present Terms and Conditions of Purchase shall also apply to future transactions between the parties, even if no explicit applicability has been agreed for future transactions.
 - 1.5. Correspondence with the Principal shall be conducted solely with the Principal's purchasing department by quoting the order number. Agreements with other departments of the Principal require the explicit written confirmation of the Principal's purchasing department, which needs to be in the form of an addendum to the agreement, in order to be legally effective.
 - 1.6. The Supplier undertakes to maintain confidentiality with regards to the conclusion of the contract. Only upon the Principal's written consent, the Supplier may name the Principal as a reference to third parties.
 - 1.7. These General Terms and Conditions of Purchase form the Principal's contractual basis and establishing a contractual relationship is exclusively subject to these Terms and Conditions of Purchase; the conclusion of a transaction without applying these terms and conditions of purchase or individual provisions stated therein is excluded by the Principal, unless he expressly declares otherwise in writing.
2. Order
 - 2.1. The content of an order shall be the order placed by the Principal in writing. Verbal orders as well as supplements, amendments or deviations of any kind shall only be binding if they are confirmed in writing.
 - 2.2. Orders shall be confirmed by the Supplier in writing by stating the order number, within a maximum of 5 days from the date of the order. Changes or deviations shall only be valid if those are explicitly reconfirmed by the Principal in writing.
 - 2.3. Silence on behalf of the Supplier after an order has been placed by the Principal, shall be deemed to be full acceptance of the order.
3. Prices
 - 3.1. The agreed prices are fixed prices excluding VAT, free carrier including packaging and freight costs.
 - 3.2. All costs incurred until handover to the carrier shall be borne by the Supplier.
 - 3.3. The preparation of offers, projects, cost estimates or similar as well as any expenses for the preparation of offers such as conferences, visits, on-site inspections shall be arranged by the Supplier free of charge and shall not be remunerated by the Principal.
 - 3.4. Supplier's invoices are only valid if they contain the respective order number, cost center as well as the name of the Principal. If the Supplier provides invoices that are contrary to this provision, they shall be considered invalid. The Supplier shall be responsible for any consequences arising from non-compliance with this obligation.
 - 3.5. Unless otherwise agreed in writing, the Principal shall pay the agreed purchase price within 21 days considering a deduction of 3% discount or within 45 days without deduction. Payment shall be made by bank transfer. The Supplier shall indicate the appropriate bank details in his invoice. In the case of partial deliveries, the payment period shall not commence until the last partial delivery has been made, but not earlier than upon receipt of the last partial invoice; unless it is a successive delivery contract.
 - 3.6. Insofar as the Supplier has to provide material samples, test certificates (in German language), documents regarding the quality or other records, the completeness of the delivery and service as well as the beginning of the term of payment requires the receipt of these documents by the Principal.
 - 3.7. In the event of defective or deficient deliveries, the Principal shall be entitled to withhold payment until proper performance has been made.
 - 3.8. In the event of an advance payment, the Supplier shall provide adequate security, e.g. a bank guarantee, upon request.
4. Delivery, Delivery time
 - 4.1. The delivery time as specified in the order is binding. If a delivery is made before the agreed delivery date without written approval by the Principal's Purchasing Department, the Principal reserves the right to return the goods at the expense and risk of the Supplier or to store the goods at the Principal's premises at the expense and risk of the Supplier.
 - 4.2. The Supplier is obliged to immediately inform the Principal in writing as soon as he gets aware of the fact that the agreed delivery time will not be met.
 - 4.3. In the event of a delay in delivery on behalf of the Supplier, the Principal shall be entitled to demand a penalty amounting to 1% of the total order value per completed week, however, not exceeding 10% in total. The possibility of claiming further damages shall remain unaffected.
5. Force Majeure
 - 5.1. Force majeure shall release Principal from any performance obligations for the duration of the disruption and to the extent of its effect. Within reasonable scope, the Principal shall be obliged to provide the necessary information to the Supplier without delay. In the event of force majeure, which also includes a pandemic or epidemic, the Principal may adjust its obligations to the changed circumstances in good faith.
 - 5.2. The Principal shall be released from the obligation to accept the ordered goods in whole or in part and shall be entitled to withdraw from the contract if the delivery, due to the delays caused by the force majeure and taking into account the economic aspects, is no longer usable.
6. Withdrawal from the Contract:
 - 6.1. The Principal may withdraw from the contract if insolvency proceedings have been opened against the Supplier's assets or if the Principal acquires information on execution or enforcement measures thereof.
 - 6.2. The Principal may also withdraw from the contract if the Supplier promises, offers or grants benefits - of any kind whatsoever - to an employee or agent of the Principal or to a third party in the Supplier's interest.
7. Risks/Transfer/Documents:
 - 7.1. Unless otherwise agreed upon in writing, the place of fulfillment shall be the Principal's business location. Deliveries by the Supplier shall be carried out free domicile including packaging and freight insurance, unless otherwise agreed in writing.
 - 7.2. The risk shall pass upon provision of the goods at the shipping address or consignee's address requested and notified by the Principal.

- 7.3. For each delivery or partial delivery, the Supplier shall enclose a delivery note which is precisely structured according to type, quantity and weight. Delivery notes, consignment notes and all correspondence shall contain the Principal's order number, the cost center or the name of the Purchaser. If the Supplier fails to provide this information, delays in processing are unavoidable. The Principal shall be liable for any such delays.
8. Export:
- 8.1. In case of deliveries FCA according to INCOTERMS in the version valid at the time of conclusion of the contract, the documents necessary for the preparation of the export documents, in particular delivery notes with the Principal's order number and the information listed in sub-item 7.3 - shall be made available to the Principal at least 3 working days before the delivery date.
9. Commercial Terms:
- 9.1. The INCOTERMS in the version valid at the time of conclusion of the contract shall apply.
10. Export restrictions/ sales tax evidence / proof of origin:
- 10.1. The Supplier shall inform the Principal without delay if a delivery is subject to full or partial export restrictions under Austrian or European law.
- 10.2. The Supplier shall provide all the necessary information for VAT purposes in the case of foreign and intra-Community deliveries.
- 10.3. In addition, proofs of origin shall be provided by the Supplier with all required information and duly signed and made available without delay.
11. Warranty:
- 11.1. The Supplier warrants and represents that all deliveries and services show the agreed or otherwise warranted characteristics, unless higher requirements have been agreed in individual contracts. The Supplier further guarantees that all deliveries/services comply with the latest state of the art, the relevant European and Austrian standards (Ö-Norm), legal provisions and regulations as well as guidelines issued by authorities, professional associations and trade associations. Furthermore, the Supplier undertakes to comply with the statutory environmental and safety requirements in the country of manufacture and distribution.
- 11.2. If deviations from these regulations are necessary on the part of the Supplier in individual cases, he has to obtain the written consent of the Principal.
- 11.3. The warranty period shall be 5 years and shall commence with the proper handover of the delivery item to the Principal. If the Principal notifies defects in the delivery/service during the open warranty period, whereby such defects also include the non-achievement of guarantee data and the absence of assured properties and quality certificates as well as documents regarding quality assurance which have not been submitted, the Supplier shall, following a request, immediately and free of charge arrange for an improvement including all ancillary works or carry out the replacement of the defective goods at its own expense.
- 11.4. This provision shall not affect all statutory warranty claims, in particular claims for price reduction or rescission.
- 11.5. The Supplier shall be obliged to compensate the Principal for all direct and indirect damages or consequential damages caused by a defective delivery/service, including loss of profit.
- 11.6. If the Supplier fails to meet its warranty obligation within a reasonable period of time to be set by the Principal, the Principal may arrange for the necessary measures to remedy the defect itself or through third parties and charge the costs incurred to the Supplier, or offset them against its own payment obligations.
12. Retention of title, cessions and compensation
- 12.1. Deliveries to the Principal have to be made free of retention of title.
- 12.2. The Supplier is not entitled to assign claims against the Principal to third parties. In the event of an assignment in breach of contract, the Principal shall nevertheless be entitled to make payment to the Supplier with debt-discharging effect.
- 12.3. The Principal shall be entitled to set off claims to which it or an affiliated company is entitled to against the Supplier or affiliated companies, at any time.
13. Product liability:
- 13.1. In the event of product damages, the Supplier shall indemnify and hold the Principal harmless from and against claims for damages by third parties; this shall apply in particular if the cause of the damage lies within the Supplier's sphere of control or organization and the Supplier itself is liable in relation to third parties.
14. Property right:
- 14.1. The Supplier expressly warrants and represents that all deliveries are free from third party property rights. In particular, he warrants that no patents, licenses or other industrial property rights of third parties are infringed by the delivery and use of the delivery items.
15. Confidentiality:
- 15.1. The contracting parties undertake to treat all commercial and technical details which are not in the public domain and which they become acquainted with as a result of the business relationship, as business secrets.
- 15.2. The Supplier shall treat the signing of the contract as confidential. The Supplier may only refer to business connections with the Principal in advertising materials upon written consent by the Principal, otherwise the Supplier shall maintain complete silence about the business relationship.
- 15.3. Drawings, models, templates, samples or similar objects may not be handed over or otherwise made accessible to unauthorized third parties. The reproduction of such items is only permitted within the scope of operational requirements and copyright provisions.
- 15.4. Sub-suppliers and business partners of the Supplier shall be obligated accordingly by clause no. 15.
- 15.5. The Supplier acknowledges the Principal's data protection declarations and undertakes the obligations contained in the data protection declarations.
16. Place of Performance/Court of Jurisdiction:
- 16.1. The place of jurisdiction for all disputes arising directly or indirectly from the contract between the Principal and the Supplier shall be the court in Austria with local and subject-matter jurisdiction for the Principal's registered office, unless otherwise agreed in writing between the Parties.
- 16.2. These Terms and Conditions of Purchase and the entire legal relationship between the Principal and the Supplier shall be governed exclusively by Austrian law. The application of the United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.
- 16.3. Should any individual provisions of these Terms and Conditions of Purchase be invalid, only the respective provision shall be invalid and this shall not affect the validity of the remaining provisions. In case of invalidity of a provision, a provision corresponding to the law and coming closest to the invalid provision shall be deemed as agreed.