

AGRANA Beteiligungs-AG General Conditions of Purchase

Version: January 2021

Unless otherwise agreed in writing between the Contracting Parties, the following General Conditions of Purchase will apply exclusively:

1. Scope of validity

1.1 The client (hereinafter referred to as the "Client") hereby agrees – in relation to all inquiries, orders and purchases as well as other legal transactions and services for the procurement of deliveries and services – with the contractor (hereinafter referred to as the "Contractor") the following General Conditions of Purchase (hereinafter referred to as the GCP).

1.2 The Contractor acknowledges that the Client will contradict all deviating terms and conditions laid down by the Contractor, such as in order confirmations or in other business documentation. In particular, the acceptance of deliveries/services or their payment does not imply approval of any terms and conditions that deviate from the GCP.

1.3 The agreement of terms and conditions which deviate from the GCP requires written confirmation from the Client in order to be valid.

1.4 In the event of conflict between individual components of the Contract between the Client and the Contractor, precedence will be given as follows: (i) the order; (ii) the documentation forming part of the order, such as a protocol; (iii) the GCP.

1.5 Neither the order nor the GCP will restrict the statutory rights of the Client.

2. Contractual conclusion and withdrawal

2.1 The Contract will generally only be concluded by the Client if the Client places an order in writing – or, in the case of a framework agreement, only after both Contracting Parties have signed.

2.2 Commissions and orders made by the Client will be considered accepted if they are not immediately rejected in writing upon receipt.

2.3 If there are justified indications that difficulties regarding deadlines or deliveries, or insufficient coverage of the liability and warranty claims on the part of the Contractor are to be expected, the Client is entitled to withdraw from orders placed at any time. This is especially the case if the Contractor's economic situation deteriorates significantly, insolvency proceedings are initiated, or insolvency proceedings regarding the Contractor's assets are rejected due to a lack of cost recovery.

3. Price

The prices quoted in the order are unchangeable fixed prices for the period between the conclusion of the Contract and the complete fulfilment of the delivery or service. They are not subject to price escalation or changes of any kind.

4. Declaration of completeness

Keeping within their scope of delivery and service, the Contractor must provide all deliveries and services required for the agreed result, even if these are not mentioned in the request, order or other documents provided by the Client.

5. Pricing and transfer of risk

For pricing, transfer of risk and customs clearance obligations, the Client and Contractor hereby agree on the provisions within the meaning of Incoterms 2020 for deliveries and services at the agreed destination – DAP (Delivery At Place) within the European Union, or DDP (Delivery Duty Paid) outside the European Union.

6. Instalments/partial deliveries

6.1 The Client will pay an instalment, as agreed in the order, against proof of the contractually compliant delivery or service provided by the Contractor in return for this instalment (PAYMENT MILESTONE) and its acceptance or approval, as well as on presentation of a verifiable partial invoice.

6.2 The Client reserves the right to refuse partial deliveries which have not been agreed, or to cancel open partial deliveries.

7. Invoicing and term of payment

7.1 The Contractor must submit partial and final invoices no later than thirty days after the delivery or service has been provided pursuant to the Contract and its acceptance or approval.

7.2 Invoices must be created in a format that enables the Client to check them with reasonable effort and sent electronically to 3001.invoicing@agrana.com in PDF format (1 invoice + attachments per e-mail). (In exceptional cases, they can be sent by post to the following address: Agrana Beteiligungs AG, Friedrich-Wilhelm Raiffeisen Platz 1, 1020 Vienna, AUSTRIA.) Invoices for deliveries and services must state the Client's order number. The documentation required for checking the deliveries and services must be enclosed in a clear format. If multiple invoices are sent in one envelope, any attachments must be stapled to the respective invoice. The invoices must comply with the regulations applicable in Austria, especially those relating to value added tax. The Contractor declares their consent to the issuing of a credit note pursuant to Section 11 (8) of the Austrian Value Added Tax Act (UStG). The Client will be entitled to postpone the payment of the invoice if just one of the documents required for the review is missing.

7.3 If an invoice is inadequate in the sense of Section 11 UStG or Paragraph 7 of these General Conditions of Purchase, it must be returned to the Contractor for improvement within 30 days and submitted again by the latter within 30 days. The term of payment will begin again on the date of receipt of the corrected invoice.

7.4 In the case of agreed instalments, the original invoice must also be sent to the billing address listed in Point 7.2, along with the down-payment invoice. The total delivery or service cost will be settled in the final invoice. Any contractual penalties, premiums, etc. must also be taken into account here. However, the Contractor is not entitled to offset their claims against counterclaims made by the Client. With the final invoice, the Contractor declares that it has invoiced all deliveries, services and other claims associated with the fulfilment of the contract, and expressly waives any subsequent claims of any kind from the contractual relationship in question or any other legal relationship of any kind.

7.5 The final invoice must be marked as such, if it has been preceded by partial invoices. Instalments that have already been paid must be mentioned in the final invoice.

7.6 The payment terms for partial and final payments specified in the order will be determined after the Client has accepted the delivery or the service in accordance with the Contract and after receipt of a verifiable invoice. The invoice will only be paid under the conditions specified in the Client's order or in existing framework agreements. On the date of receipt of the invoice, a term begins in which the delivery or service must be provided in a condition that can be accepted or approved.

8. Liability of the Client towards the Contractor

8.1 The Client bears no liability towards the Contractor for damage caused to the Contractor by third parties.

8.2 The Client bears no liability or joint liability whatsoever for any involvement in the delivery or service, or for the handover of regulations and documentation to the Client and so on. In this context, the Contractor waives any contributory negligence objection.

9. Assertion of claims by the Contractor

9.1 The Contractor must keep records of deliveries and services that are not included in the agreed scope of service and delivery and, in the event of any other loss of entitlement, provide these records to the Client within seven days of the start of this delivery or service, for written confirmation and recognition of the type and scope of these deliveries and services.

9.2 Other claims made by the Contractor against the Client, regardless of the legal grounds, must be made by the Contractor to the Client in writing within 14 days of the occurrence of the event which, in the opinion of the Contractor, entitles it to make such claims, with detailed evidence and the exact amount of the claim, otherwise the claim will expire.

10. Third-party claims

The Contractor indemnifies and holds harmless the Client regarding all third-party claims relating to errors or the improper implementation of their deliveries and services.

11. Assignment/pledge

Any assignment, pledge or other propagation of rights and obligations of the Contractor is only permitted with the written consent of the Client.

12. Place of performance

The place of performance is the final destination specified in the order. For the Contractor, this applies in particular to delivery, performance and payment, regardless of any individual agreement regarding the place of delivery, service provision or payment or the possible assumption of transport costs by the Client.

13. Delivery conditions

13.1 The Contractor is liable for full compliance with the Client's shipping instructions included in the order.

13.2 The Contractor must continuously monitor the delivery and/or service and immediately inform the Client in detail of any defects and errors. The same applies to changes in the state of science and technology. If such changes to the delivery and/or service turn out to be defective or faulty, the Contractor must inform the Client of this immediately and retrieve such defective or faulty products at their own expense.

14. Transfer of ownership

The transfer of ownership to the Client occurs either upon payment or upon acceptance of the (partial) delivery or the (partial) service from the Contractor, depending on which event occurs first. Retention of title by the Contractor is excluded.

15. Warranty/guarantee/notice of defects/compensation

15.1 The Contractor warrants that the delivery and service will be provided in full and free of defects, in accordance with the order. This applies in particular to the usually assumed and possibly assured properties specified in public statements as well as to compliance with all properties relevant to the final destination, or to the legal and official regulations for services and deliveries which are valid in the markets specified by the Client. The Contractor is responsible for ensuring that no defect occurs within the warranty or guarantee period, regardless of whether the defect was already present at the time of delivery.

15.2 The Contractor must demonstrably draw the Client's attention to the risks that can usually be expected during delivery and service provision.

15.3 Only the weights or numbers of items or other units of measurement specified in the order are decisive, regardless of any previous weighing or counting that was carried out when the service or delivery was accepted. Deviations (tailings) in terms of weight, number of pieces or units of measurement are considered defects.

15.4 The Client is not obliged to inspect the delivery or service, or to complain about any defects. The validity of Section 377 (notice of defects) and 378 (obligation to notify in the event of incorrect delivery or quantity errors) of the UGB (Austrian Commercial Code) is hereby expressly excluded.

15.5 The Client has the right to make claims regarding obvious defects that are apparent without testing or examination of the delivery or service within 14 calendar days after acceptance of the delivery or the service.

15.6 For defects that are only discovered when the delivery or service is used or consumed as intended, the Client has the right to make claims regarding these defects within 30 calendar days of their discovery.

15.7 If the agreed or assumed qualities of the delivery and/or service are not achieved, the Client is entitled, at their discretion, to withdraw from the Contract without setting a grace period, or to request a reduction in the purchase price or a defect-free delivery by a new deadline. The Contractor is also obliged to have any defective deliveries rejected by the Client collected at their own expense within 7 calendar days from the date of notification of rejection, otherwise the Client must have the defective deliveries returned at the expense of the Contractor.

15.8 The contractual warranty or guarantee period is at least 24 months after acceptance of the delivery or the service. Deadlines for compensation claims will not be restricted by this.

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16. Time of performance

The delivery and service must take place at the time specified in the order. Delivery times will begin on the date of the order. The receipt of the delivery at the delivery point or in the place of service provision specified by the Client, is decisive for compliance with the delivery date and the delivery period. Late deliveries and services are accepted with regard for all claims.

17. Termination (breach of contract)

17.1 In the event the Contractor (including their subcontractors) is in default with their deliveries or services – even those which are through no fault of their own – the Client will have the unrestricted right, after setting an appropriate one-off grace period (at the discretion of the Client), to terminate the Contract in part or in full. The Contractor will be liable for non-compliant contract fulfilment, regardless of the reason (e.g. delay in delivery, missing documentation, non-achievement of guaranteed features or services, etc.) and resulting damage or direct additional costs of any kind.

17.2 The Contractor will not be able to make claims of any kind against the Client in the event of such a withdrawal.

18. Written form

18.1 Changes or additions to the Contract must, without exception, be made in writing.

18.2 The written form requirement also applies to the mutual waiving of the written form.

19. Severability clause

Should individual provisions of these GPC be ineffective – either wholly or in part – this will not affect the effectiveness of the remaining provisions. In such cases, the Client and the Contractor will be obliged to replace the ineffective provision with one that comes closest to its economic purpose.

20. Applicable law and place of jurisdiction

20.1 Austrian substantive law is applicable, excluding the UN Sales Convention (CISG) and the conflict-of-law rules of international private law.

20.2 If the Contractor has their registered office within the European Community or in a country with which there is an enforcement agreement for civil judgements, the sole place of jurisdiction for all legal disputes arising from this Contract or in relation to it will be the competent court in the Client's area, as agreed.

20.3 If the Contractor is based outside the European Community or in a country with which there is no enforcement agreement for civil judgements, all disputes arising from this Contract or relating to its violation, dissolution or invalidity, will be resolved pursuant to the after the arbitration and mediation rules of the International Arbitral Centre of the Austrian Federal Economic Chamber, Vienna (Vienna Rules), whereby three arbitrators will be appointed in each instance, according to the corresponding regulations. The arbitral centre is based in Vienna; arbitration proceedings will be conducted in German.

20.4 The Client may choose between ordinary court proceedings or arbitration proceedings, regardless of where the Contractor is based.

21. Personnel

The Contractor must ensure that all legal requirements in terms of staffing are met, in particular registration with social security, compliance with the applicable occupational health and safety provisions, and the law on the employment of foreign nationals. This also applies in particular to the personnel of subcontractors and any external personnel appointed.

22. Code of conduct

Inter alia, the Client complies with internationally recognised environmental, labour and social standards. The Client describes and regulates these in the following code of conduct:

<https://www.agrana.com/en/about-us/compliance-at-agrana>

The Client expects the Contractor to recognise and observe this code of conduct.

23. Force majeure

Strikes, vehicle shortages, transport stoppages, entry/exit and transit bans, official measures, natural disasters such as low water or flooding, icy conditions, storms, etc., war, unrest, interventions by high authorities, and all measures and occurrences relating to plagues, epidemics and pandemics (such as the COVID-19 crisis) and/or the effects thereof, as well as any unpredictable, inevitable and serious events, will entitle the Client to withdraw from the Contract at any time without any obligation to pay compensation, or to unilaterally extend the delivery date by the duration of the delay.

24. Data protection

AGRANA attaches particular importance to compliance with the GDPR and all applicable data protection laws. This is also expected of its contractual partners. The AGRANA data protection and privacy policy can be found online at: <https://www.agrana.com/gdpr/en>. A printed copy can be provided on request.

25. Bank account confirmation process

In 2019, AGRANA introduced a two-stage confirmation procedure in 2019 (including a 4-eyes principle and media discontinuity). Because of this, the Contractor will be contacted by two different AGRANA employees to confirm its new/amended bank account details. These two confirmations are a prerequisite for payments to be made to the new/changed bank account