

General Terms and Conditions

(hereinafter referred to as “GTC”)

of

DEWETRON GmbH

(hereinafter referred to as “DEWETRON”)

1. General

This GTC shall be applicable for any business relation with DEWETRON. Any contrary and/or amending general terms and conditions shall only be an integrated part of the business relation if explicitly agreed by DEWETRON in the written form.

2. Confidentiality

The client is obliged to hold confidential the business relationship with DEWETRON including all related information (i.e. drafts, documents), and shall not make available this information to third parties except with the prior written consent of DEWETRON.

3. Offers, prices and terms of payment

1. Offers and price calculation shall be without obligation and non-binding.
2. Prices shall be ex stock/work and shall not include package, freight and any other related costs plus value added tax (VAT). The prices shall only be binding if the amount of the goods as confirmed is ordered.
3. Payments shall be immediately due and shall be made without any deduction.
4. If the client does not pay according to this GTC and/or might be reasonably deemed as insolvent DEWETRON shall be entitled to execute any delivery to such client for advanced payment and/or securities and/or suspend it until the client had paid all due payments to DEWETRON. In case of the agreement regarding part payments of the client all due payments to DEWETRON shall be paid by the clients if the client is in delay with any of its parts payments.
5. The set-off against any claim of DEWETRON with any claim of DEWETRON against the client shall be excluded.

4. Date of delivery/default

1. Dates of delivery shall only be binding if DEWETRON explicitly declared it as fixed date in the written form and all documents to be provided by the client in order to execute the client's order are available. All delivery dates shall be reserved under the right of self-supply in the agreed delivery time.
2. Any delivery and/or service delay which essentially complicates and/or permanently prohibits its execution shall entitle DEWETRON to postpone the delivery and/or service for the time period corresponding to the delay period including a reasonable preparation period if such delay is caused by force majeure or any other unforeseeable occasion which DEWETRON is not liable for. DEWETRON shall not be responsible for the above described circumstances if they arise during and existing and on-going delay. DEWETRON shall inform the client about the circumstances regarding the restraint including the expected time period of the delay in written form.
3. If such restrained lasts longer than three months both DEWETRON and the client shall only be entitled to terminate the agreement regarding the delivery and/or services which have not yet fulfilled until such termination.
4. DEWETRON shall be deemed to be in delay only if the client has set a deadline in the written form which lasts at least one month and DEWETRON has not fulfilled its responsibilities during that time period except agreed fixed dates.
5. If DEWETRON is in such a delay, its responsibility regarding damages is limited with an amount of 0.5% for each completed week of a delay. The aggregate amount of DEWETRON's responsibility regarding damages shall be limited with an amount of 0.5% of the respective invoice amount.
6. Part-deliveries and/or partial services shall be agreed if reasonable for the client

5. Transfer of risk and take-over of goods

1. The incoterms 2010 EXW as amended from time to time shall be applicable if not explicitly agreed otherwise. Each delivery including deliveries free of charge shall be executed at this risk of the client. The risk shall transfer from DEWETRON to the client with the handing over of the goods to the carrier or with the forward of the goods to the clients starting from DEWETRON's stock.
2. A transporting insurance regarding transport damages and transport losses shall only be taken at the client's request and at the client's cost.
3. Any objections regarding transport damages and lack of goods shall be noticed on the transport papers. Any evidence shall be perpetuated, if any.

6. Warranty/damage claim

1. All objections shall be made in the written form including the description of the defects. The client shall notify DEWETRON regarding visible defects within one week after the receipt of the delivery at the latest; Hidden defects within one week at the latest after its dedication. The above described time periods shall constitute limitation periods.

2. The presence of defects shall be proved by the client. Art. 924 Austrian civil code (ABGB) shall not be applicable. If DEWETRON has to warrant any defect, DEWETRON shall be entitled to decide upon the mean of the warranty service (reparation, exchange, price reduction or termination) at its sole discretion.
3. The warranty period shall amount to 6 month starting from delivery/EXW. Any liability regarding claim damages shall be barred within 6 month starting from the knowledge regarding the damage and the author of damage; within 3 years starting from the damaging event at the latest.
4. The client shall not be entitled to any rights regarding warranty and/or claims and/or damages if (i) the goods only deviate in a minor way compared to the agreed procurement which do not prevent the use of the goods, (ii) regular deterioration, (iii) wrong or negligent handling, (iv) improper and/or unduly use, (v) chemical, electrochemical and/or electrical influences, (vi) unduly installation, handling and/or maintenance, and/or (vii) non-reproducible software defects); unduly amendments, reparations, the opening of seals and/or the use of consumables materials (including chemicals and operating supplies) which do not comply with the specification provided by DEWETRON to the client.
5. The client shall not be entitled to claim any other place of delivery as agreed. If DEWETRON agrees to such change request any additional costs shall be paid by the client.
6. DEWETRON shall not be liable consequential damages, indirect damages, loss of profit, loss of interest, damages resulting from claims of third parties as well as for the loss of data and programmes including its recovery.
7. DEWETRON shall only be liable for damages if such damage results from DEWETRON's gross negligence or intent.
8. If client and DEWETRON agree upon a contract penalty of DEWETRON such penalty shall be subject judicial mitigation and any other claim for damages exceeding such contract penalty shall be excluded.

7. Retention of the title of property

1. The delivered goods shall remain the property of DEWETRON until the client has paid all due payments regarding the business relationship between the parties (hereinafter referred to as the "**Retention Goods**").
2. The client is obliged to inform any third parties about DEWETRON's property and notify DEWETRON in the written form if a garnishment or any other execution of third parties is executed against the clients. The client shall bear all costs in connection with the intervention proceedings and any other defence measures including legal costs also for DEWETRON.
3. In case of any non-compliance of the client with this GTC and any agreements with DEWETRON including delay in payments, insolvency, DEWETRON shall be entitled to pick up the Retention Goods at the costs of the client even without the termination of the respective agreement. Therefore, DEWETRON shall be entitled to enter the business rooms including the storage rooms of the client. The retention the taking back of the Retention Goods shall not constitute a termination of the agreement. A termination of the agreement may only be executed in the written form without any termination time period if the client does not comply with the GTC and/or agreement. DEWETRON shall be entitled to sell the Retention goods and to count against any due payments of the client.

8. Exclusive distribution arrangements / intellectual property / source code

1. The client is only entitled to re- and/or sale DEWETRON's goods (hard- and software) after its prior written consent.
2. The client shall not acquire the exclusive right to use DEWETRON's goods for its business purpose and/or associated companies. The term "associated" shall be defined according to art. 228 of the Austrian commercial code (UGB).
3. All intellectual property rights including the rights regarding the source code shall solely belong and remain, respectively, to DEWETRON.
4. The client shall not be entitled to any back-translation of the object code into the source code and the reverse engineering and the de-compilation.

9. Miscellaneous

1. Place of performance shall be the corporate seat of DEWETRON in Grambach, Austria.
2. The exclusive place of jurisdiction for disputes coming out and/or in relation with the agreement shall be Graz, Austria. DEWETRON shall be entitled to go in front of court at the corporate seat of the supplier. The governing law shall be the law of the Republic of Austria excluding the conflicts of law rules and the UN-Convention about the international purchase of goods (CISG).
3. In case of any correspondence or documents in any other language than English, the English version shall prevail. This also shall apply to this GTCP.
4. If any or all terms and/or clauses of this GTCP are invalid or become invalid, the validity of all other terms and/or agreements shall not be affected. Invalid or absent clauses shall be replaced by valid clauses which constitute the economic intend of the parties.

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