

# General Terms of Purchase

Anton Paar ShapeTec GmbH, Gewerbepark 7, 8142 Wundschuh, Austria

## 1 Scope of application

1.1 Unless expressly agreed otherwise in writing, the following terms and conditions ("Terms") shall exclusively govern all deliveries, services and offers of our suppliers. The supplier shall be deemed to have accepted these Terms as amended from time to time and accessible at [www.anton-paar.com](http://www.anton-paar.com), upon performance of our order (first delivery), and agrees that all subsequent orders shall be exclusively governed by these Terms. Any general terms and conditions of our suppliers or third parties shall not apply, even if we do not expressly object to their applicability in a specific case. A reference to correspondence or a document that contains or references general terms and conditions of the supplier or a third party, shall not constitute the consent to the applicability of such terms and conditions. Deviating or additional terms and conditions of the supplier shall only be binding, if they are expressly accepted in writing. If, in exceptional cases, deviating agreements are duly executed in writing, they shall only apply to the respective transaction. Oral agreements are only binding if confirmed in writing.

## 2 Purchase Orders

- 2.1 Purchase orders, as well as changes and additions thereto, shall only be valid if issued or confirmed by us in writing. The acceptance of our order shall be confirmed to us without delay in writing. We reserve the right to cancel an order placed by us, should we not receive a proper order acknowledgement within 5 days, after the purchase order was issued. Such cancellation shall be sufficient, if sent prior to our receipt of the order acknowledgement.
- 2.2 Where the order acknowledgement deviates from the purchase order, the supplier shall explicitly indicate the respective deviations. Such a deviation shall only be binding, if expressly agreed by us in writing. The unconditional acceptance of the delivered goods shall not be considered as consent.
- 2.3 The supplier may not subcontract or assign our purchase orders without our written consent.

## 3 Delivery and passage of risk

- 3.1 Specified delivery times are binding. In the event of a delay by the supplier, we expressly reserve the right to charge a penalty of 3 % per commenced week of delay (starting on the Monday following the week of delivery), up to a maximum of 15 % of the total order volume, and to demand compensation for all losses and damages resulting from the delay.
- 3.2 In the event of delays, the supplier shall take all economically justifiable measures as part of its duty to minimize damages.
- 3.3 In the case of a contract for work or services, the supplier shall perform the work by the agreed date. The contract shall be deemed fulfilled when the work has been accepted in full by Anton Paar in writing. The supplier shall perform its contractual obligations free from instructions, with the diligence of a prudent businessman, at its own economic and legal risk and using its own resources and is personally responsible for achieving the agreed objectives. In this sense, the supplier is authorized and obliged to carry out the accepted order independently and at its own discretion. If he is unable to do so, he shall appoint a suitable replacement person, for whose work he shall be liable in accordance with the statutory provisions.
- 3.4 In the event of a delay in delivery for which we are not responsible, we shall be entitled to withdraw from the contract with immediate effect after the expiry of 14 days without setting a grace period. If a fixed date has not been met, we may demand fulfillment of the contract within 14 days.
- 3.5 Partial deliveries or services and advance deliveries are subject to our written approval. Until the agreed delivery date, we only assume the liability of a depository.
- 3.6 Unless expressly agreed otherwise in writing, deliveries shall be made DPU (Incoterms 2020) to the named place of destination. Delivery documents and packaging shall be made according to the relevant standards and in order to ensure delivery free of damage and efficient internal handling. The place of performance for the delivery shall be the destination specified by us.
- 3.7 The supplier shall be liable for any late delivery and any transport damage.

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3.8 Approval of submitted samples or specimens or acceptance of (delayed) deliveries or services, their use or payments made shall neither constitute acceptance nor a waiver of any rights we may have. Confirmations of receipt of goods issued by us shall not be deemed to be statements on final acceptance of the delivered goods.

3.9 The goods shall be accepted following the inspection for completeness and any patent defects within a reasonable period of time after receipt of the goods. If during spot-checks parts of the delivery are found to be not in compliance with our requirements or the quality customary in trade, we reserve the right to reject the whole shipment. However, the duty to inspection and objection according to Section 377 of the Austrian Commercial Code does not apply.

3.10 If we are prevented from accepting the deliveries through no fault of our own, we shall be entitled to agree a suitable alternative date and the supplier shall be obliged to store the goods at his own risk and free of charge for us.

## 4 Prices and payment

4.1 The prices stated in the purchase order shall be fixed.

4.2 The price shall include packaging, delivery and transport to the shipping address indicated in the purchase order.

4.3 Payment shall be made after receipt of the goods and invoice in accordance with the contract within 30 days with a 3% cash discount or within 90 days without deduction.

4.4 Payment shall neither constitute an acceptance of the delivery or service nor a waiver of any rights we might have. Any bank charges of the receiving bank shall be borne by the supplier.

4.5 In the case of a defect, we may withhold payment until the proper remedy of such defect. We may in any case offset payment with any counterclaims.

## 5 Invoice

5.1 The invoice, stating all purchase order data, shall be sent to [info.shapetec@anton-paar.com](mailto:info.shapetec@anton-paar.com) immediately upon delivery of the goods or

full provision of the service. The invoice shall be worded in such a way that it can be easily verified and compared to the respective purchase order. Invoices on labor shall include time sheets that have been confirmed by us.

5.2 We reserve the right to return invoices which are not in compliance with our requirements, in particular with respect to purchase order data or statutory VAT regulations, without having processed them. In that case, the invoice shall be deemed not submitted. The supplier may not offset its own claims against our claims, or assign or cede its claims to a third party.

## 6 Cancellation

6.1 We may rescind the contract in whole or in part even without fault on the part of the supplier. In such a case, the supplier shall only be entitled to invoice all services provably rendered until the date of termination of the contract, but in no event any lost profit. After rescission the supplier shall be obliged to use all efforts to minimize the costs.

6.2 If the supplier discontinues its payments or if bankruptcy proceedings or court or out-of court composition proceedings are opened over the supplier's assets, we may rescind the contract notwithstanding any other rights we may have.

## 7 Quality and documentation

7.1 The supplier shall constantly keep the quality of its products to be delivered to us according to state-of-the-art standards and keep us informed about possibilities of improvement and technical modification.

7.2 The supplier shall maintain a suitable quality assurance system in accordance with the latest state of the art and the applicable statutory provisions. The supplier shall make records of the quality assurance system available to us upon request. The supplier hereby agrees to audits to assess the effectiveness of its quality assurance system by us and, if necessary, with the participation of our customer.

7.3 The delivery shall include appropriate and complete documentation such as installation, maintenance, use and service instructions as well as conditions of storage and operating and the

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CE certification. We are entitled to use this documentation without restriction and, in particular, to integrate it into training and sales documents. The supplier shall be fully liable for any damages arising out of missing or faulty documentation.

## 8 Warranty

- 8.1 For the period of 24 months from the final acceptance of the delivery or performance, the supplier warrants that the goods or services
- (i) comply with the agreed and commonly assumed specifications;
  - (ii) are free from any defects in material, quality, workmanship or title;
  - (iii) comply with all applicable laws, regulations, standards and codes of legal or administrative authorities; and
  - (iv) are fit for the designated and intended purpose.
- 8.2 During this period, the supplier shall, at his own expense and at our discretion, either remedy any defects immediately or make a new delivery or performance free of defects within the set period. We reserve the right to immediately assert the right to rescission or price reduction instead of improvement and replacement. We shall be reimbursed for inspection costs if the inspection has revealed defects.
- 8.3 In urgent cases or if the supplier is in delay with the remedy of defects, we reserve the right to stock up elsewhere at the supplier's cost or to remedy or have remedied the defects without prior notice and notwithstanding our additional rights and remedies. The supplier shall fully reimburse the costs of such substitute performance.
- 8.4 The warranty period shall be suspended for the duration of the work until successful remedy of the defect. For replaced or repaired parts, the warranty period shall again be 24 months from the replacement or repair. We shall be free to choose the place of performance for the remedy of defects.
- 8.5 For hidden defects, the warranty period shall only commence from the time of discovery.
- 8.6 The supplier agrees to pass down any additional warranties from manufacturers or sub suppliers.

- 8.7 All claims shall not come under the statute of limitations before the lapse of three years from the notification of the defect. Additional statutory provisions remain unaffected.

## 9 Compliance

- 9.1 The supplier undertakes to comply with all applicable local, national and international regulations and official requirements, in particular, but not exclusively, with regard to REACH, RoHS, export control, as well as compliance with our Code of Conduct for suppliers. The supplier undertakes to obtain all necessary permits, licenses and certificates at its own expense and to keep them up to date. The supplier shall immediately inform us in writing, without separate request, of compliance with legal obligations and provide evidence thereof by means of suitable documentation.
- 9.2 The supplier shall label all delivered goods in accordance with the export regulations and provide us with all information and classifications relating to the delivered goods. The supplier undertakes to inform us without being asked of all changes affecting goods delivered to us (including in the past).
- 9.3 The supplier warrants that the delivered goods (or parts thereof)
- (i) do not contain conflict minerals; and
  - (ii) do not require conflict minerals for their proper function.
- 9.4 The supplier shall indemnify and hold us harmless in respect of all claims arising from a breach of this clause 9 "Compliance".

## 10 Product liability

- 10.1 The supplier shall indemnify, defend and hold us harmless from and against all product liability claims of third parties arising out of or in connection with the goods delivered and reimburse us for all costs and expenses incurred in connection with defending a liability claim or substitute performance. Should we have to carry out a recall campaign for third parties due to a defect of a good delivered by the supplier, the supplier shall bear any and all costs relating to that recall campaign. The supplier agrees to keep such risks sufficiently insured and to provide us with appropriate evidence thereof upon

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request. For a period of eleven years from the last delivery, the supplier will declare the respective manufacturer, importer or upstream supplier of the delivered goods immediately, in no event later than within two weeks, upon our request, and make available to us any evidence and information, including but not limited to documents regarding the manufacturing, production, batches and delivery dates, necessary to defend product liability claims of third parties.

## 11 Proprietary rights and work results

- 11.1 All results, inventions or parts of inventions developed by the supplier shall become our exclusive and unrestricted property immediately upon their creation - irrespective of the processing status. The supplier is obliged to inform us immediately of these results and to make them accessible to us. He transfers all rights to us without restriction. The agreed price shall include any claims to these inventions or parts of inventions.
- 11.2 The supplier grants us an exclusive, transferable, temporally and geographically unlimited right of use for all copyrights created within the scope of this order. This includes the right to use the copyrights in any form, to grant rights of use to third parties and to reproduce and distribute the works.
- 11.3 The supplier warrants the unrestricted use of the delivered goods and shall indemnify, defend and hold us harmless in all cases of disputes under patent law, copyright law, trademark law and registered design law arising out of the delivered goods and/or services. In the event any claim should be made against us at any time, that by virtue of its use or resale of the goods or services or otherwise, we are infringing or contributing to the infringement of any actual or alleged industrial property rights, supplier shall at its option and expense, (i) either procure within 30 days for us the right to continue using said goods, or (ii) modify same so the goods and services become non-infringing, or (iii) replace the goods with non-infringing goods. Such claim shall exist independently of the supplier's fault. The supplier shall be liable for the fact that in connection with its deliveries no proprietary rights of third parties are infringed.

## 12 Spare parts

- 12.1 The supplier shall prepare spare parts lists jointly with us, including prices and delivery times for such spare parts. The supplier guarantees the availability of the parts contained in those lists for a period of ten years from the last delivery and shall also impose this obligation on all its subcontractors. Should a part become unavailable during this period, the supplier shall provide a technical substitute solution, in compliance with the corresponding prices and delivery times stated in the spare parts list.

## 13 Special provisions for hardware and software

- 13.1 Hardware and software shall always constitute a unity, unless otherwise agreed in the purchase order. If the supplier supplies software that has not been developed specifically for us, the supplier grants us a transferable and non-exclusive right to use the software. Such right shall be unlimited in time, in case of a one-off payment. For software specifically developed for us, the supplier grants us a transferable and indefinite license for all kinds of use. Unless expressly agreed otherwise, the latest version of the source code of the software shall also be delivered. The supplier shall install the software. Following the installation, the supplier will hand over the source code and machine code and the respective documentation (contents and structure of the data carrier, program and dataflow plans, test methods, test programs, error treatment, user documentation etc.).
- 13.2 Software that is made specifically for us shall be deemed accepted, if the software has run in accordance with the agreed specifications during a free-of-charge test run for a period of at least four (4) weeks in a satisfactory manner and without error reports. In case of doubt, the said period shall start only upon productive use by us or our end customer.
- 13.3 The supplier undertakes to provide us with all subsequent program versions that include an error correction and upgrades free of charge within the warranty period. In addition, the supplier undertakes to offer us technical service and software maintenance on market terms for a

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minimum period of five (5) years from the acceptance.

## 14 Confidentiality and data protection

- 14.1 The supplier is obliged to treat all information, documents and other materials received or resulting from the purchase order as business secrets and to keep them strictly confidential ("confidential information"). The supplier may not refer to the business relationship without our prior written consent. In addition, the supplier is obliged to enter into similar confidentiality agreements with its subcontractors when awarding approved subcontracts and to oblige its employees to maintain confidentiality.
- 14.2 In particular, all information provided for the preparation of the offer or execution of the order, including drawings, calculations, business, technical and personal data, as well as all know-how and results, shall be deemed confidential.
- 14.3 The supplier undertakes to protect confidential information from unauthorized access by technically feasible means. If unauthorized access is suspected, the supplier must inform us immediately.
- 14.4 After completion of the order, the supplier undertakes to return all confidential information and to delete all corresponding data from its systems. The supplier must either return all copies and data carriers to us or destroy them securely and confirm this in writing on request.
- 14.5 The supplier undertakes to support us in our data protection obligations.
- 14.6 In the event of a breach of the above provisions, the supplier shall indemnify and hold us harmless against all adverse consequences. In such a case, we shall be entitled to immediately withdraw from the affected purchase order and all further purchase orders placed.
- 14.7 The supplier can access our privacy policy at <https://www.anton-paar.com/uk-en/privacy-policy/>. Our data protection office can be contacted by e-mail at [privacy@anton-paar.com](mailto:privacy@anton-paar.com).

## 15 Legal protection of ownership

- 15.1 Any retention of title by the supplier is expressly excluded. We reserve the title to and any copyright in our purchase orders and orders and any samples, prototypes, drawings, illustrations, calculations, specifications, other documents and transferred means of production and primary materials made available to the supplier. Tools, devices, models etc., which we make available to the supplier or which are manufactured for the purposes of the contract and charged to us separately by the supplier, shall remain or become our property. The supplier shall clearly mark them as our property, keep them in custody with care, protect them from any damage and use them only for the purposes of the contract. The supplier shall immediately notify us of any damage to such items. Where they are no longer required by the supplier for performance of the contract, the supplier shall immediately return those items to us in a proper condition.

## 16 Insurance

- 16.1 The supplier is obliged to maintain a business liability insurance with adequate insurance cover at its own cost. Evidence of such insurance cover shall be provided at request.

## 17 Miscellaneous

- 17.1 Quotations, offers, plans, cost estimates and the like are provided to us free of charge and we will not compensate any costs.
- 17.2 Should individual provisions of these Terms be or become ineffective, unenforceable or invalid or should an unplanned gap become apparent, the effectiveness of the remaining provisions shall not be affected thereby. In that case, the invalid provision shall be replaced by an appropriate provision that comes closest to the economic purpose intended by the contracting parties.
- 17.3 This contractual relationship shall be governed by Austrian law (with the exception of the reference norms of international private law and the UN Convention on Contracts for the International Sale of Goods). The exclusive place of jurisdiction is Graz, Austria.