

## **General Terms and Conditions (GTC) – as of February 2025**

of: AGS-Engineering GmbH,  
Danner 60, 4971 Auroldmünster  
(hereinafter referred to as “AGS”)

### **1. Applicability**

1.1. For all business relationships, contracts, deliveries, services, and contract conclusions by AGS, exclusively the following conditions shall apply.

These terms and conditions apply between AGS and natural as well as legal persons (hereinafter referred to as “Business Partner”) for the present legal transaction as well as for all future transactions—even if in individual cases, particularly with future supplementary or follow-up orders, no explicit reference is made to them.

1.2. We contract exclusively on the basis of our then-current GTC available on our homepage at the time of contract conclusion.

1.3. The Business Partner’s terms and conditions or any modifications or additions to our GTC shall only become effective with our explicit written consent.

### **2. Offers, Contract Conclusion**

2.1. Our offers, regardless of their form, are without obligation and non-binding.

This also applies if we have provided the client with catalogues, technical documentation (e.g. drawings, plans, calculations, references to DIN standards), other product descriptions, or documents—even in electronic form—reserving our property and copyright rights.

2.2. Commitments, assurances, and guarantees on the part of AGS or agreements that deviate from these GTC in connection with the contract conclusion shall only become binding through our written confirmation.

2.3. In catalogues, price lists, prospectuses, trade fair displays, circulars, advertising mailings, or other media, any information about our products and services not attributable to us—if the Business Partner bases his/her decision to order on such information—must be presented to us. In that case, we may comment on their accuracy. If the Business Partner fails to meet this obligation, such information shall be non-binding unless it has been expressly declared in writing to be part of the contract.

2.4. Estimates and indicative price quotations are non-binding.

2.5. Insofar as no other arrangement exists, estimates are subject to a fee and provided without guarantee as to their completeness and accuracy.

### **3. Prices**

3.1. Price indications are generally not to be understood as a lump-sum price unless otherwise agreed.

3.2. For services ordered by the Business Partner that are not covered in the original order, there is, due to the absence of a wage agreement, a claim for appropriate remuneration.

3.3. Price indications are expressed in EUR plus the applicable statutory VAT and are ex-warehouse.

Packaging, transport, loading, and shipping costs, as well as customs duties, any fees, other public charges, and insurance, shall be borne by the Business Partner. We are only obliged to take back packaging by explicit agreement.

3.4. The professional and environmentally sound disposal of old material shall be arranged by the Business Partner. If we are separately commissioned for this, the Business Partner shall additionally compensate us in the agreed amount, in the absence of any fee agreement.

3.5. We are entitled—and, upon the Business Partner’s request, obliged—to adjust the contractually agreed fees if changes of at least 1% occur in

a) labor costs due to collective agreements, company agreements, regulations, or law,

or

b) other cost factors necessary for service provision, such as procurement costs of the materials used (based on recommendations of the parity committees) or changes in the national or world market prices for raw materials, exchange rates, etc., which have occurred since the contract was concluded. The adjustment shall be made to the extent that the actual production costs at the time of contract conclusion differ from those at the time of actual performance, provided that we are not in default.

3.6. The remuneration for ongoing obligations is agreed to be indexed according to the VPI 2005, thereby resulting in an adjustment of the fees. The month in which the contract is concluded shall serve as the baseline.

3.7. Costs for travel, per diems, and overnight allowances shall, unless otherwise contractually agreed, be billed separately. Travel times shall be considered working hours.

### **4. Payment**

4.1. Down Payment: 30% upon receipt of the written order.

Partial Payment: 30% after approval of the design, E-plan, or visualization.

Partial Payment: 30% after delivery—no later than 14 days after notification of delivery readiness, in cases where the delivery is delayed for reasons attributable to the Business Partner.

Final Payment: 10% after commissioning.

If, through no fault of AGS, immediate acceptance does not occur, the final partial payment shall become due upon the operational handover by AGS or upon the Business Partner’s use of the delivered item. A retention of the final partial payment due to outstanding defects is not permissible.

If installation and commissioning are delayed without fault of AGS, the final partial payment shall become due no later than 30 days after AGS’s delivery. Payment terms are net 14 days.

4.2. Cash discount deductions are not permitted unless otherwise agreed in writing.

4.3. Payment instructions made by the Business Partner on the transfer documents are not binding on us.

4.4. If the Business Partner falls into default of payment under other existing contractual relationships with us, we are entitled to suspend the performance of our obligations under this contract until the Business Partner has fulfilled its obligations.

4.5. We are further entitled to call in all claims for services already rendered under the ongoing business relationship with the Business Partner immediately.

4.6. In the event of exceeding the payment term—even if only regarding a single partial service—any granted concessions (discounts, deductions, etc.) shall lapse and be added to the invoice.

4.7. The Business Partner undertakes, in the event of default of payment, to reimburse us for the necessary and appropriate costs incurred for debt collection (reminder fees, collection fees, attorney fees, etc.).

4.8. The Business Partner is only entitled to set off counterclaims to the extent that such claims have been judicially determined or recognized by us.

### **5. Credit Check**

5.1. The Business Partner expressly consents that his/her data may be transmitted solely for the purpose of creditor protection to the state-favored creditor protection associations AKV EUROPA Alpenländischer Kreditorenverband für Kreditschutz und Betriebswirtschaft, Creditreform Wirtschaftsankunft Kubicke KG, and Kreditschutzverband von 1870 (KS).

### **6. Cooperation Obligations of the Business Partner**

6.1. Our obligation to perform shall commence at the earliest once:

- a) all technical details have been clarified,
- b) the Business Partner has established the technical as well as legal prerequisites (which we are happy to provide upon request),
- c) we have received the agreed down payments or security deposits, and
- d) the Business Partner has fulfilled its pre-performance and cooperation obligations, in particular those mentioned in the following sub-points.

6.2. In installations carried out by us, the Business Partner is obliged to ensure that our installation personnel can commence work immediately upon their arrival.

6.3. The Business Partner must, at his/her own expense, obtain the necessary permits from third parties as well as the required notifications and approvals from authorities. Such information may be requested from us.

6.4. The material and energy quantities required for the performance of the service, including the trial operation, shall be provided by the Business Partner at his/her own expense.

6.5. The Business Partner shall provide us with lockable rooms that are not accessible to third parties for the duration of the service provision for the accommodation of workers as well as for the storage of tools and materials, free of charge.

6.6. The Business Partner is responsible for ensuring that the necessary structural, technical, and legal prerequisites for the work to be manufactured or the purchased item—as described in the contract or in the information provided to the Business Partner prior to contract conclusion, or which the Business Partner should have known due to his/her expertise or experience—are met.

6.7. The Business Partner must provide a remote maintenance access. Otherwise, the costs resulting from any consequent service calls shall be borne by the Business Partner.

6.8. Similarly, the Business Partner is responsible for ensuring that technical installations—such as supply lines, cabling, networks, etc.—are in a technically flawless and operational condition and are compatible with the works or purchased items we manufacture.

6.9. We are entitled, but not obliged, to inspect these installations for an additional fee.

6.10. In particular, before the commencement of installation work, the Business Partner must, unsolicited, provide all necessary information regarding the location of concealed electrical, gas, and water lines or similar installations, escape routes, other structural obstacles, potential hazards, and the required static data.

6.11. Order-related details of the necessary information may be requested from us.

6.12. The Business Partner shall be solely responsible for the design and functionality of any components provided by him/her. There is no obligation on our part to verify any documents provided, information transmitted, or instructions given by the Business Partner—except for the preparation of a technical dossier and the certification of compliance with the Machinery Directive as well as any other applicable directives—and our liability in this respect is excluded. The obligation to issue such certification may be contractually transferred to the Business Partner who introduces the delivered item into commerce.

6.13. The Business Partner is not entitled to assign any claims or rights arising from the contractual relationship without our written consent.

## **7. Execution of Services**

7.1. Minor, objectively justifiable modifications to our performance that are reasonable for the Business Partner shall be deemed pre-approved.

7.2. If, after the order is placed, an amendment or supplement to the order occurs for any reason, the delivery/performance deadline shall be extended by an appropriate period. Subsequent modifications, extensions, or periods of downtime shall be billed on an hourly basis at the prevailing hourly rates.

7.3. Should the Business Partner request performance within a shorter period after contract conclusion, this shall constitute a contract amendment.

In such a case, overtime and/or additional costs resulting from accelerated material procurement may be necessary, and the remuneration shall be increased appropriately in proportion to the additional required effort.

7.4. If the execution of the service or delivery is delayed or interrupted due to circumstances attributable to the Business Partner, AGS is entitled to charge a flat fee of 1% of the total order value per week for the period of delay.

7.5. If the execution of the service or delivery is aborted due to circumstances attributable to the Business Partner, AGS is entitled to immediately invoice for any services, deliveries, and components already provided. Furthermore, in the event of the Business Partner's withdrawal from the contract, AGS is entitled to charge a compensation amount of 30% of the gross order value without proof of actual damage.

7.6. Objectively justifiable partial deliveries and services (e.g., based on system size, construction progress, etc.) are permissible and may be invoiced separately.

7.7. If delivery on call is agreed, the service or purchased item shall be deemed to have been called off at the latest six months after the order is placed.

## **8. Delivery and Performance**

### **Deadlines**

8.1. Delivery/performance deadlines and dates shall be binding for us only if confirmed in writing.

Any deviation from this form requirement also requires written confirmation.

8.2. Deadlines and dates shall be extended in cases of force majeure, strikes, lockouts, official orders, unforeseeable delays for which we are not responsible (e.g. due to our suppliers) or other comparable events beyond our control, for the duration that the respective event persists.

This shall not affect the Business Partner's right to withdraw from the contract if delays make adherence to the contract unreasonable.

8.3. If the commencement of the service or the execution is delayed or interrupted due to circumstances attributable to the Business Partner, particularly due to a breach of the cooperation obligations under point 6, the performance deadlines shall be correspondingly extended and the completion dates postponed.

8.4. We are entitled to charge 0.1% of the invoice amount per commenced month of delay for the necessary storage of materials and equipment and the like in our facility, without affecting the Business Partner's payment and acceptance obligations.

8.5. In the event of a withdrawal from the contract due to delay, the Business Partner must set a deadline by means of a registered letter with a simultaneous threat of withdrawal.

### **9. Risk Transfer and Shipping**

9.1. The risk shall pass to the Business Partner as soon as we have made the purchased item or work available for collection at our facility or warehouse, or have handed it (as well as any materials and equipment) over to a freight forwarder or carrier. Shipping, loading/unloading, and transport are always carried out at the risk of the Business Partner.

9.2. The Business Partner approves any appropriate method of shipment. Upon the Business Partner's written request, we undertake to arrange transport insurance at his/her expense.

9.3. We are entitled, in the event of shipment, to charge the packaging and shipping costs as well as a fee for cash on delivery from the Business Partner if the Business Partner is in default of payment under the existing business relationship with us or if an agreed credit limit is exceeded.

9.4. The Business Partner is responsible for the safety of the materials and equipment delivered by us and stored or installed at the performance location. Any loss or damage shall be borne by the Business Partner, who must immediately raise a claim with the transport company.

### **10. Delay in Acceptance**

10.1. Should the Business Partner be in default of acceptance for longer than 2 weeks (whether by refusal of acceptance, delay in pre-performance, or otherwise, including no call-off within a reasonable time in the case of an order on call) and, despite a reasonable deadline being set, fail to remedy the circumstances attributable to him/her that cause the delay or prevent the execution of the service, we may, while the contract

remains in force, dispose of the specified devices and materials for the execution of the service in another manner—provided that, if the service is to continue, we can re-procure them within a period appropriate to the respective circumstances.

10.2. In the event of the Business Partner's delay in acceptance, we are also entitled, if insisting on contract fulfillment, to store the goods in our premises for which we shall be entitled to a storage fee.

10.3. In the event of a justified withdrawal from the contract, we may claim a flat-rate compensation of 30% of the gross order value from the Business Partner without the need to prove actual damage.

10.4. The assertion of a higher damage claim shall remain permissible.

## **11. Retention of Title**

11.1. The goods delivered, installed, or otherwise handed over by us shall remain our property until full payment of all our present and future claims arising from the purchase contract and any ongoing business relationship has been received.

11.2. A resale is only permissible if the Business Partner has informed us in good time of the name and full address of the buyer and we have consented to the resale. In the event of our consent, the purchase price claim shall be assigned to us as of now.

11.3. The client must note this assignment in his/her records and on his/her invoices until full payment of the fee or purchase price, and must inform his/her debtors accordingly. Upon request, the client shall provide us with all documents and information necessary to enforce the assigned claims and rights.

11.4. The Business Partner expressly consents that we may enter the location of the reserved goods in order to enforce our retention of title.

11.5. Necessary and appropriate costs for the enforcement of our legal rights shall be borne by the Business Partner.

11.6. In the context of enforcing the retention of title, a withdrawal from the contract shall only exist if expressly declared.

11.7. The recalled reserved goods may be disposed of by us without further formalities and in the most advantageous manner possible.

11.8. Until full payment of all our claims, the service or purchased item may neither be pledged, transferred as collateral, nor otherwise encumbered with third-party rights. In the event of seizure or other claims, the Business Partner is obliged to point out our proprietary right and to notify us immediately.

## **12. Third-Party Intellectual Property Rights**

12.1. For delivery items that we manufacture according to customer documents (design specifications, drawings, models, or other specifications, etc.), the Business Partner shall exclusively warrant that the production of these delivery items does not infringe any intellectual property rights of third parties.

12.2. Should third parties assert intellectual property rights despite this, we are entitled to suspend the production of the delivery items—at the client's risk—until the rights of the third parties have been clarified, unless the unreasonableness of the claims is obvious.

12.3. Likewise, we may claim reimbursement from the Business Partner for any necessary, useful, and incurred costs.

12.4. We are entitled to demand appropriate cost advances for any legal proceedings.

### **13. Our Intellectual Property**

13.1. Delivery items and any related execution documents, plans, sketches, estimates, and other documents, as well as software provided by us or created through our contribution, shall remain our intellectual property.

13.2. Their use, particularly their disclosure, reproduction, publication, and provision (including even partial copying), as well as their imitation, modification, or exploitation, requires our explicit consent.

13.3. The Business Partner further undertakes to keep confidential any knowledge acquired from the business relationship and not to disclose it to third parties.

### **14. Warranty**

14.1. The warranty period for our services is one year from handover.

14.2. In the absence of any deviating agreement (e.g. formal acceptance), the time of handover shall be deemed the time of completion, at the latest when the Business Partner has taken the service into his/her possession or has refused acceptance without giving reasons. With the day on which the Business Partner is notified of the completion, the service shall be deemed accepted in the absence of a justified refusal.

14.3. Remedial actions for a defect claimed by the Business Partner shall not constitute an acknowledgment of the defect.

14.4. The Business Partner shall always bear the burden of proof that the defect existed at the time of handover.

14.5. Complaints and objections of any kind must be reported in writing to our registered office immediately (at the latest within 5 working days) with as detailed a description of the error and possible causes as possible; failure to do so shall result in the forfeiture of warranty claims. The defective goods or works shall be handed over by the Business Partner, where practicable.

14.6. Should the Business Partner's claims of defects be unjustified, he/she shall be obliged to reimburse us for any expenses incurred in establishing the absence of defects or in remedying errors.

14.7. We are entitled to conduct any investigation deemed necessary by us, even if such investigation renders the goods or workpieces unusable. Should the investigation reveal that we are not responsible for any errors, the Business Partner shall bear the cost of such investigation at an appropriate fee.

14.8. In connection with the remedy of defects, transport and travel costs shall be borne by the Business Partner. Upon our request, the Business Partner shall provide the necessary workforce, energy, and premises free of charge and shall cooperate in accordance with point 6.

14.9. The Business Partner shall allow at least two attempts by us to remedy the defect.

14.10. We may avert a request for rescission by improvement or an appropriate reduction in price, provided that the defect is neither significant nor irremediable.

14.11. If the service items are manufactured based on information, drawings, plans, models, or other specifications provided by the Business Partner, we shall only warrant the proper execution provided that the conditions are met.

14.12. No defect shall be constituted by the fact that the work is not entirely suitable for the agreed use if this is solely due to actual deviations from the information provided to us at the time of performance because the Business Partner did not fulfill his/her cooperation obligations in accordance with point 6.

14.13. Similarly, this shall not constitute a defect if the Business Partner's technical installations—such as supply lines, cabling, networks, etc.—are not in a technically flawless and operational condition or are not compatible with the delivered items.

14.14. In the case of resale of the hardware items delivered by us, the supplier's warranty period shall apply. Warranty or guarantee claims for hardware trade shall apply only to the hardware items sold. No liability shall be assumed for any consequential costs arising therefrom.

### **15. Liability**

15.1. For breaches of contractual or pre-contractual obligations, particularly in cases of impossibility or delay, we shall only be liable for financial losses in cases of intent or gross negligence.

15.2. Liability shall be limited to the maximum amount covered by any liability insurance policy we may have concluded.

15.3. This limitation shall also apply with respect to damages to any item that we have undertaken to process.

15.4. Claims for damages must be asserted in court within six months, after which they shall be forfeited.

15.5. The limitations or exclusions of liability shall also apply to claims against our employees, representatives, and vicarious agents for damages they cause the Business Partner without a contractual relationship with the Business Partner.

15.6. Our liability is excluded for damages caused by improper handling or storage, overuse, failure to follow operating and installation instructions, defective assembly, commissioning, maintenance, repair by the Business Partner or unauthorized third parties, or natural wear and tear, provided that such an event was causally related to the damage. The exclusion of liability shall likewise apply to the omission of necessary maintenance.

15.7. If, and insofar as, the Business Partner is able to claim insurance benefits for damages for which we are liable through an insurance policy concluded by or for the Business Partner (e.g. liability insurance, comprehensive, transport, fire, business interruption, etc.), the Business Partner undertakes to claim such benefits, and our liability toward the Business Partner shall thereby be limited to any disadvantages incurred by the Business Partner (e.g. higher insurance premiums).

15.8. The warranted product features shall be those that may be expected in view of applicable approval regulations, operating instructions, and other product-related instructions and guidelines (in particular also regarding control and maintenance) provided by us, third-party manufacturers, or importers, taking into account the Business Partner's knowledge and experience.

The Business Partner, as a reseller, shall conclude adequate insurance for product liability claims and shall hold us harmless with respect to any recourse claims.

### **16. Severability Clause**

16.1. Should any individual part of these GTC be found to be invalid, the validity of the remaining parts shall not be affected.

16.2. The parties undertake to agree on a replacement provision—based on the understanding of honest contracting parties—that comes as close as possible to the economic result that would have been achieved had the invalid provision been valid, taking into account customary industry practices.

### **17. General**

17.1. Austrian law shall apply.

17.2. The UN Sales Convention is hereby excluded.

17.3. The place of performance shall be the registered office of AGS-Engineering GmbH.

17.4. The jurisdiction for all disputes arising from the contractual relationship or any future contracts between the contractor and the client shall be the court responsible for the location of the contractor.

17.5. The Business Partner shall immediately notify us in writing of any changes to his/her name, company, address, legal form, or any other relevant information.