

General Purchasing Conditions (GPC)

1. Scope

We place orders based exclusively on our GPC. Other conditions will not become a component of the contract, even if we do not expressly object to them. If we accept the delivery or performance without express objection, this shall not be deemed to be acceptance or consent to the other terms and conditions in any case.

2. Conclusion of the contract

Only orders issued in writing are binding for us. Verbal agreements are only binding after written confirmation by us. The same applies for modifications and amendments of orders.

3. Prices

The stipulated prices are fixed prices and exclude additional claims of all types. If no prices are specified in the order, the current list prices shall apply with the commercially available deductions.

The stipulated prices are quoted free receiving address and include packaging, transportation and insurance costs, to the extent nothing else is stipulated.

4. Delivery time

The stipulated delivery times are binding. The receipt of goods at the receiving or application site or timeliness of successful acceptance is determinative for compliance with the delivery time or the delivery period. The vendor/service provider is obligated to replace all damages caused by delay. The acceptance of a delayed performance of service or delivery can not be construed as a waiver of claims for indemnification. If the stipulated times cannot be kept due to a circumstance that is the responsibility of the vendor, we shall be entitled, at our discretion, to demand compensation for damages due to non-fulfillment, after expiration of a reasonable extension of time, irrespective of additional legal claims, or to obtain an alternative from a third party or to withdraw from the contract.

Should delivery be made before the mutually agreed upon date, we are entitled to either return the goods to and at the cost of the supplier, or store the goods until the agreed upon delivery date. Costs incurred during storage will be invoiced to the supplier. If and when the goods are delivered in advance, payments due by the purchaser (ATM Qness GmbH) for said goods will remain at the originally agreed upon target from the purchase order and not from the delivery date in advance.

5. Terms of payment

Maturities and payment periods do not begin before complete delivery to the specified receiving address and proper rendering of accounts at the invoicing address provided on the back of the page. Upon notification of defects, we are entitled to a corresponding refusal of payment.

We reserve the right to select the payment type. The timeliness of the payment depends solely on whether the check or the transfer order is received within the payment period by the recipient or the bank.

We reserve to ourselves the unrestricted right to setoff and retention.

6. Warranty

The warranty shall define itself according to the legal provisions, to the extent nothing different is subsequently arranged. The vendor guarantees us that all items delivered by him and all services rendered by him conform to the newest state of the art, the relevant legal provisions and the regulations and guidelines of authorities, professional associations and trade associations and impending modifications are not known to him. This applies in particular in respect to the applicable environmental provisions in the EU, in the Federal Republic of Austria, in the Federal Republic of Germany and in the registered seat of the vendor. He will immediately inform us regarding impending modifications known to him. The supplier ensures all products meet the requirements of the EU directives RoHS 2011/65/EC and WEEE 2012/19/EU, the European regulation REACH (no. 1907/2006) and the U.S. Dodd-Frank-Act (conflict resources Section 1502). To the extent that deviations from these regulations are necessary in individual cases, the vendor must first obtain our written consent.

The remaining guarantee or warranty obligations of the vendor are not affected by this consent. If the vendor has objections against the type of execution desired by us, then he must immediately notify us thereof. We will immediately notify the vendor of defects in delivery or performance, as soon as these are determined under the circumstances of orderly business development. The warranty period equals 24 months, calculated from transfer of the risk. During the guarantee and warranty period of reprimanded defects in delivery or service, to which belong the non-attainment of guaranteed data and the absence of promised features, the vendor must immediately and free of charge, including all incidental costs, correct the defective parts through repair or through exchange, at our discretion. The correction of defects must be undertaken immediately. Additional claims, in particular to conversion, reduction or compensation for damages remain unaffected hereby. If the vendor does not comply with his warranty obligation within a reasonable period set by us, we can take the necessary measures ourselves at his costs and risk, irrespective of his warranty obligations, or can cause them to be met by third parties. In urgent cases, we can undertake the rectification of defects by ourselves or case such to be executed by third parties, after coordination with the vendor and at his costs and risk. We also have this right if prior coordination with the vendor is not possible due to a special need for haste or for risk of delay, in particular for imminent unusually high damages. In the interest of undisturbed production, minor defects will be remedied by ourselves without prior coordination and the expenditures will be invoiced to the vendor, without affecting the warranty obligation of the vendor.

7. Product liability

To the extent that we are held liable by third parties due to product liability or according to other legal provisions, the vendor is obligated to indemnify us upon the first request from all of these claims, to the extent and as far as the vendor has responsibility for errors triggering liability. If a tortious joint and several relationship exists, the vendor is obligated to indemnify us within the scope of the claim to compensatory adjustment we are entitled to, at the first request. The preceding indemnification obligations also apply for all accruing expenditures and costs due to production recall actions that become necessary, in particular for recall actions within the scope of the product safety laws. During the term of the contract, the vendor is obligated to maintain product liability insurance with a minimum coverage of € 1 million/damage event. We are authorized to require a corresponding coverage certificate of his insurer.

The expanded or extended retention of title of the vendor is excluded.

8. Non-disclosure

All information, drawings, drafts, samples or other documents or objects that we have relinquished to the vendor for offer filing or for execution of an order remain our property and may not be used for other purposes, duplicated or made accessible to third parties, unless information, drawings etc. are involved that are generally familiar, without a breach of contract by the vendor being the cause thereof.

9. Generally

The contract is subject to Austrian (facility Golling) resp. German (facility Mammelzen) law. The provisions of the Vienna UNCITRAL convention on international purchase contracts do not apply.

The place of performance is Golling (facility Golling) resp. Mammelzen (facility Mammelzen).

The place of venue for all disputes by transactions with traders is the court responsible for Salzburg (facility Golling) resp. Altenkirchen (facility Mammelzen). This also applies for actions of bills of exchange and checks.

If individual provisions of this GPC should be ineffective, in whole or in part, this shall not affect the validity of the remaining regulations. The parties agree to replace the invalid provision with one that most closely approximates the economic purpose of the ineffective regulation. This does not apply for ineffectiveness due to a breach of the Austrian General Terms and Conditions Law. In this event, the legal regulations shall apply.