

## **Procurement conditions for the member companies of Constantia Industries AG FunderMax GmbH, Klagenfurterstraße 87–89, A–9300 St. Veit/Glan**

The member companies of Constantia Industries AG believe in a cooperative relationship with suppliers, and place high value on the fulfillment of obligations in keeping with the relevant agreements. In accordance with these principles, the following procurement conditions have been established to form the basis for business transactions between suppliers and the member companies of Constantia Industries AG.

Only the following conditions – in addition to our latest supplier policies – will apply to business transactions, unless other conditions are expressly agreed in writing. Any deviation from an order, in particular through the communication of other sales conditions, requires our express approval in writing to become effective; the failure to expressly confirm any different conditions is considered to be a refusal. In particular, conditions are considered to be invalid if they restrict the obligations arising from guarantees and the right to claim compensation for damages from a supplier or obligations arising from product liability law, or limit the right to contest errors, the contractual exclusion of setoffs or the extended reservation of title.

**Orders:** All orders must be placed in writing, by fax or by e-mail. An order in hard copy as well as all subsequent orders must be signed by an authorized representative of the company and confirmed or rejected by mail – or confirmed or rejected by fax for orders placed by fax or e-mail; in all other cases, the order will be considered as accepted in full. Any changes from our original order will only take effect after we have confirmed the new terms in writing.

**Fulfillment:** The supplier guarantees the fulfillment of the assumed obligations in accordance with the contract and, in particular, is responsible for fulfilling this contract if delivery does not take place or does not meet the terms of the contract for any reasons whatsoever. If delivery does not take place on the agreed date, we have the right to cancel the contract without extending the agreed delivery date. Nevertheless, the supplier must inform us at once when he/she realizes that timely delivery will not be possible in full or in part, and must immediately provide us with the reasons for and probable duration of this delay in writing. The supplier guarantees that the products to be delivered meet all applicable legal regulations as well as the relevant technical standards and recognized technical regulations in Austria.

**Prices and terms of payment:** The prices stated in the order are considered to be fixed prices. Delivery and payment conditions will be provided in the order. The date on which the invoice is received will determine the start of the payment period; if delivery is received at a later date, then this date will apply. Payment does not mean that a delivery is considered to be correct, and does not represent a waiver to any claims we may have from insufficient or incorrect fulfillment or guarantees or compensation for damages. The costs associated with the transfer of payments to a foreign country will be carried by the recipient. If installment payments have been agreed, the right to deduct a cash discount will apply separately to every installment. The invoice must be sent in duplicate after delivery. Invoices that do not meet our requirements or the requirements of VAT law, or do not carry the relevant order date and order number will not be processed but returned to the supplier. In this case, the invoice is considered as not received until it is received in the proper form. The invoice must include our complete order number and our VAT identification number as well as a clear description of the agreed delivery conditions.

**International transactions with customs clearance by a Constantia company:**

Deliveries from third countries must include all documents required for customs clearance, in particular three copies of the invoice as well as customs papers, merchandise certification or certificate of origin and freight papers. All such documents must be sent to us in sufficient time before delivery so they are available, above all, for prompt customs clearance.

**Guarantee – Damages:** The supplier is liable without limitation for ensuring that deliveries are free of tangible and legal defects, regardless of who manufactured the product. Unless stated otherwise in the order, the guarantee period will equal at least 24 months starting at delivery and, for concealed defects, will only begin when the defect is first noticed. The acceptance of goods and related commercial testing will take place during use at the earliest. We are not required to file a notice of defects. If we decide to request a substitute delivery, we are entitled to use the defective products for their intended purpose free of charge until the substitute delivery is received. As part of guarantee obligations (and without proof of fault), the supplier must carry all costs that arise in connection with the defect, including costs for transportation to and from the Constantia company as well as for the removal and installation of materials. If defective goods are delivered – even if these defects are minor – we are entitled to cancel the contract and cover our requirements in another manner at the expense of the seller, or demand substitute delivery of a product that meets the terms of the contract, or keep the defective goods at a lower price to be determined by an expert. The acceptance of the goods does not represent the acceptance of any defect. We reserve the right to claim compensation for damages in all cases. The supplier is liable for any possible consequential damages that arise from the provision of defective goods or services. Any limitation of supplier obligations by product liability law will not be accepted; in contrast to § 2 of the Austrian Product Liability Law, it is also agreed that full compensation must also be provided for property damages. The supplier assumes the obligation to indemnify us and provide compensation for claims if third parties assert claims on the delivered goods.

**Transfer of our order:** The transfer of our order to third parties is only permissible with our express approval. In all other cases, we are entitled to cancel the contract immediately. Our approval does not release the supplier from his/her responsibilities.

**Place of performance:** Unless stated otherwise in the order, the place of performance for all services and considerations is the location of the plant that placed the order.

**Legal venue:** The sole legal venue for all disputes arising in connection with the delivery contract is the responsible court in Klagenfurt for both parties. However, we also reserve the right to take legal action against the supplier at his/her regular legal venue. The delivery contract and all related claims are subject exclusively to Austrian law. The application of the UN procurement regulations (United Nations Convention on Contracts for the International Sale of Goods) or comparable international declarations is excluded.

**Cancellation:** In addition to the other circumstances stated in the contract and applicable law, the buyer is entitled to cancel the contract without extending the original term if there is reason to doubt the reliability of the supplier in a technical or financial respect.

In particular, this cancellation right exists when

- The services provided by the supplier, whether for the customer or for third parties, do not meet the terms of the contract or do not function properly
- The supplier does not meet his/her obligations – above all payment obligations – whether to the customer or to third parties on time
- Execution or bankruptcy proceedings have been opened against the supplier, or an application for the opening of insolvency proceeding has been rejected for lack of assets. – The contracting party is acquired by a third party.

**Provision of documents by supplier:** The supplier must provide processing, safety, assembly and operating instructions for all delivered objects whose handling is not generally known, without being asked. In addition, all documents required for the maintenance and repair of the delivered object must be provided to us on request. Unless specified otherwise in the order, all documents must be made available in German or English.

**Provision of documents by buyer:** All sketches, plans, drawings, specifications etc. made available to the supplier will remain our property and may only be used to fulfill our order. The supplier must return all such documents as well as any samples we have provided without being asked, at the latest when the business relationship has ended. Process changes remain the property of the company that placed the order.

**Delivery instructions:** Plant or company delivery instructions as well as delivery times must be strictly observed. Goods will only be accepted when the delivery ticket contains the order number, article number, product description, designation of partial or full delivery, position number and amount (see purchase order text) and the packing label is included. All goods must be delivered directly to our mailing address, in particular to our unloading area and receiving department. The goods must be packaged in accordance with our specifications, and domestic suppliers must be licensed in accordance with Austrian packaging regulations. The supplier carries all costs for the disposal of packaging.

**Force majeure:** The contracting parties will be freed from any responsibility for the partial or complete fulfillment of contractual obligations if force majeure has prevented this fulfillment. Force majeure is understood to include events that arise after the conclusion of the contract and cannot be anticipated or avoided by the contracting parties, e.g. war, natural disasters, general strikes and the like. However, force majeure does not include delayed deliveries by the supplier, lockouts, strikes only in the supplier's plant, or faultiness. In the case of force majeure, the supplier is obliged to immediately inform the buyer of the incident by telephone and confirm this information in writing within ten days. If the supplier fails to comply with this provision, he/she waives the right to claim force majeure.