

# NEUMAN ALUMINIUM'S TERMS AND CONDITIONS OF PURCHASE

## 1. Scope of application

1.1. These terms and conditions of purchase are constituent to all business transactions that Neuman Aluminium (hereinafter "Neuman") carries out with its suppliers (purchasing contracts and contracts for work and services) as the customer and they therefore to this extent constitute the content of such contracts if not otherwise agreed in writing in individual cases.

1.2. Any other terms of business by the contractor or any applicable commercial practices are expressly excluded even if they appear in the confirmation of order and no objections to them are made. All agreements must be made in writing. The contractor recognizes these terms with the acceptance of the order; this applies to all future orders – also if these terms are not enclosed with them.

These terms and conditions of purchase are generally available at [www.neuman.at](http://www.neuman.at).

**The following terms and conditions of purchase apply for the following companies:**

- **Fried. v. Neuman Ges.m.b.H.**
- **Neuman Aluminium Austria GmbH**
- **Neuman Aluminium Fließpresswerk GmbH**
- **Neuman Aluminium Strangpresswerk GmbH**

## 2. Order

2.1. Irrespective of the prepared quotes, only the content of orders insofar as these were placed in writing by Neuman's purchasing department will be binding.

2.2. Oral or telephone orders as well as supplements and amendments to orders already placed will only be binding for Neuman when confirmed in writing.

2.3. The date of order is the date the order was sent; in the event of oral orders, the date of order is the date the written confirmation was sent.

## 3. Order confirmation

3.1. Orders must be immediately confirmed or rejected in writing. If the supplier does not provide confirmation of the order arriving at Neuman within ten days from the date of order, the contract will come into effect on the basis of the content of the order. For as long as the order has not come into effect as a result of its being confirmed as a result of which the order and its contents are fully accepted, Neuman will be entitled to withdraw the order and will not be required to give any reasons for doing so. Withdrawal will be deemed to have been made in time if it was sent before confirmation of the order was received.

Differences to the order must be clearly highlighted and require Neuman's express written approval for them to become effective. The acceptance of goods without reservation does not constitute such approval.

3.2. Insofar as prices, delivery times, etc. are not specified in the order, such must be supplemented by the supplier in the confirmation of order; otherwise the contract will not come into effect. If the order is supplemented by the supplier, Neuman will be entitled to withdraw the order within ten days of receipt of the confirmation of the order and will also not be required to give any reasons for doing so. With the submission of its quote or the acceptance of the order, the supplier declares that on its own initiative it has checked all the data and information provided by Neuman or a third party attributable to it and guarantees its correctness and completeness.

## 4. Delayed delivery and performance, contractual penalty, withdrawal

4.1. Agreed deadlines must be strictly adhered to by the supplier. In this regard, the supplier must implement all precautions and measures at its own cost. In the event of delayed performance, Neuman will be entitled to the following alternative rights:

- Withdrawal from the contract after a suitable extension of the time limit and compensation for non-performance
- Compensation for delayed performance or the claim for a contractual penalty amounting to 1% of the total value of the order for each full week by which the delivery time has been exceeded, a maximum of 10% of this value, however

4.2. In the event of withdrawal for which the supplier is responsible, Neuman will in addition to the other legal consequences be entitled to claim 10% of the total order value as a penalty.

4.3. Neuman reserves the right to make claims for compensation exceeding the penalty and other claims in addition to or instead of the penalty.

4.4. The supplier is also obliged to immediately inform Neuman in writing and in detail if a risk of delay in the schedule has become apparent.

4.5. If within the supplier's delivery period it already becomes apparent that the supplier will not be able to properly provide the deliveries/performance by the contractually agreed date, Neuman will be entitled to initiate all measures to prevent an impending delay at the supplier's cost and risk.

4.6. In the event of the supplier apparently experiencing delivery difficulties, Neuman will be entitled to withdraw even without the requirement of extending the time limit. The legal consequences will in this event be the same as in the event of delayed performance for which the supplier is responsible. In this event, all resulting additional costs incurred by Neuman will be deducted from or invoiced to the supplier.

4.7. In the event of insolvency proceedings being initiated for the supplier or in the event of the supplier's owner structure being modified, Neuman will – irrespective of the procedural consequences – be entitled to withdraw from the contract either partially or entirely. The supplier is obliged to immediately inform Neuman about such circumstances.

4.8. Acceptance of the delayed delivery does not mean that compensation will not be claimed. Neuman's entitlement to compensation, including the contractual penalty, will not obtain if the supplier is able to demonstrate that the delivery delay was exclusively caused by force majeure.

4.9. Neuman is entitled to withdraw at no cost from a concluded contract without legal consequences if the delivery item was destined for further delivery to a Neuman customer and may only be used for this purpose and the order was not carried out.

## 5. Supplier's scope of performance

5.1. Beyond the delivery item specified in the written contract, the supplier will be obliged to provide the following secondary performances to Neuman:

- Execution of dispatch to the destination, including unloading
- Provision of plans (e.g. assembly plans, operating manuals, ...)
- Provision of material test certificates
- Delivery of material samples

5.2. Quality of the delivery: the supplier is responsible for procuring knowledge about the intended purpose of the delivery item. The delivery item must be manufactured in such a way that it is suitable in a first-class way for the intended purpose. Existing Austrian standards or DIN standards relevant to the execution or quality of the delivery must always be adhered to.

5.3. The supplier will be obliged to ensure the quality and defect-free nature of the delivery item through suitable tests and inspections before and during production. The supplier must keep records of these tests. Neuman will always be entitled to inform itself of the type of execution of these tests and inspections at site and, if necessary, to also do so at sub-contractors.

## 6. Prices, terms of payment and assignment ban

6.1. Agreed prices also include the secondary performances listed in Point 5 of these terms of purchase. The prices will be calculated on the basis of the delivery conditions set out in Point 5.1, including documentation, packaging and all secondary expenses, but without value added tax; they will be deemed fixed prices.

6.2. The agreed price will usually be paid within 14 days from invoice and goods acceptance with 3% cash discount or 30 days net (unless otherwise agreed).

6.3. Neuman will be entitled to pay either by bank transfer or tele-banking. The term of payment will be deemed to have been fulfilled if the transfer order was posted or handed in at the bank within the time limit or the tele-banking order was placed within the time limit.

6.4. Neuman will be entitled to withhold payments if the supplier delays performance or a complaint about defects was made whereby the availability of the cash discount will remain in its entirety. The right to deduct a cash discount for payments made within the cash discount period will not be cancelled by the fact that other payments (particularly part payments) are made outside the cash discount period.

6.5. The supplier will not be permitted to assign claims derived from deliveries to Neuman to third parties.

6.6. For the duration of the guarantee period, Neuman may exercise a financial retention for liability of up to 10% of the order value.

6.7. Invoices without valid order numbers will not be paid.

## 7. Terms of delivery, dispatch, packaging

7.1. If not otherwise specified in the order, the delivery/performance will be effected free of expenses at the supplier's risk and cost to the delivery address specified by Neuman (DDP in accordance with INCOTERMS in the most recent valid version). In the event of deliveries to construction sites, unloading will be effected at the supplier's risk and cost. Cash-on-delivery shipments will not be accepted. A delivery note with all order data, such as order number, article number, precise goods designation, order item(s) and, in the event of deliveries from other countries, the customs and commodity number, must be included with the delivery. The delivery of several items from different orders together on a joint delivery note will only be permitted if information is contained in the shipment documentation that clearly assigns the item numbers to the different orders. In the event of deliveries to different recipients specified by Neuman, the supplier will include any shipping papers provided by Neuman. In the event of individually agreed deliveries, e.g. free to forwarder, Neuman's transport regulations must be observed. If such are not provided, the supplier must request them from Neuman or suggest such and procure Neuman's approval for the suggestions.

7.2. Part deliveries or deliveries below or above the specified quantities will only be permitted with Neuman's express written permission.

7.3. Goods must be delivered to the goods receipt department at the respective delivery address during the goods-acceptance times specified in the order.

7.4. Products that are subject to special product regulations, e.g. the Austrian Chemicals Law, must be classified, packed and marked in accordance with the regulations; the safety data sheets required by law must be enclosed and all other related requirements must be met at the supplier's cost.

7.5. To the required extent, Neuman will be entitled to forward technical documents issued by the supplier or its sub-contractors and suppliers to its customers/end customers.

7.6. The supplier must pack the ordered item in the usual fit-for-purpose manner at its own cost. National suppliers must adhere to the respectively valid packaging regulations (Verpackungsordnung – VVO). The supplier must specify the "ARA Licence Number", "Packaging Fractions" and weights on the delivery note. Insofar as the supplier does not use third parties, it must point out this fact in the order confirmation and must immediately collect the packaging material from the location specified by Neuman and dispose of it at its own cost in accordance with the VVO. If the supplier delays its performance in this regard, Neuman will be entitled to store the packaging material or dispose of it or have it disposed of at the supplier's risk and cost. The supplier must at its own risk take back and dispose of residues or remains of delivered items that after their intended use must be regarded as "wastes" or "hazardous wastes".

7.7. When hazardous materials are supplied, the identification rules set out in the ADR in its respectively valid version (e.g. identification, packaging, ...) must be precisely adhered to.

In the event of punishment for provisions not being fulfilled, Neuman will be entitled to hold itself harmless against the supplier.

## 8. Delivery term, storage

8.1. The supplier must adhere precisely to Neuman's shipment regulations as set out in the order. Notification of dispatch must be effected at the latest when the merchandise is shipped. The supplier will be liable for all damage and costs arising out of poor adherence to or non-observance of the dispatch regulations.

8.2. Consignments for which Neuman must bear part or all of the freight costs must be transported at the most favourable freight rates or in accordance with Neuman's dispatch regulations.

8.3. If no other regulations apply, consignments must be addressed as follows:

- Postal consignments: to Neuman's address
- Small rail shipments and rail express shipments: to the station Lilienfeld Bahnhof

8.4. Freight charges, including unloading costs, will be borne by the supplier.

8.5. The delivery or performance time limit commences on the day the order was placed. The delivery date is the day on which the ordered item arrives at the delivery address stated in the order. If no time limit has been agreed, immediate delivery or performance is required. The supplier must make immediate written notification of any impending delivery or performance delays while stating the reasons and probable duration of the delay. In this event, the delivery or performance time limit will only be extended if this is expressly recognized by Neuman in writing. Any agreed delay penalties will not become void in the event of a mutually agreed extension of the delivery or performance time limit and will be calculated from the day on which the performance then has to be effected. If even only a partial delay has occurred, which has not been eliminated by the supplier within the suitable subsequent time limit set by Neuman, Neuman will be entitled to withdraw either partially or completely from the contract.

8.6. The complete fulfilment of the contract is relevant to whether a delivery and/or performance was punctual. Depending on the agreed scope of delivery and performance, this in particular also includes the execution of the correct assembly, provision of documentation to the specified or sufficient extent, training/instruction, etc.

8.7. Deliveries or performances before the agreed date will only be permitted with Neuman's approval. All legal consequences will always depend on the agreed date (term of payment, guarantee, transfer of risk, etc.); Neuman will only bear the responsibility for the liability of a custodian up to the agreed date.

8.8. The supplier promises Neuman that the ordered item will be stored at its risk and cost for at least three months in the event that Neuman postpones the dispatch date.

## 9. Acceptance, risk transition, guarantee

9.1. The delivery item will be accepted by Neuman in such a way that Neuman will accept the item at the Markt factory or its agents accept it at an alternative destination (construction site). If the supplier must still carry out work on the delivery item or assemble it at the destination, Neuman will only accept it after this work has been concluded.

9.2. The risk of accidental damage, loss or destruction of the delivery item or parts thereof will only pass to Neuman with the acceptance of the item. This will also apply in the event that dispatch is executed at Neuman's cost or is carried out with means of transport belonging to Neuman.

Supplemental to the above: if a test run is required for the delivery item, the item will only be accepted after this test run has been carried out.

9.3. Neuman is not obliged to examine the supplied ordered item or to make complaints about defects immediately on delivery. The supplier waives its right to object to complaints about defects that have not been made on time. The duty of complaint as set out in § 377 Austrian Commercial Code (Unternehmensgesetzbuch – UGB) is thus waived.

9.4. The supplier's deliveries and performances must comply with generally applicable as well as special laws and regulations, e.g. for protecting workers, the environment and, in the area of safety engineering, in particular the electro-technical safety regulations, ÖVE or VDE regulations, Austrian and DIN standards as well as European standards (EN). The most recently applicable technical version must in particular be supplied. The supplier undertakes to also observe the regulations governing the transport of hazardous materials and hazardous wastes as well as special storage and operating regulations and to inform Neuman about such in a timely manner.

9.5. For all deliveries and/or performances, the supplier will for the period of three years – in the event of longer statutory or contractual warranty or guarantee time limits for these periods – assume the full and unlimited guarantee for execution in accordance with the order and for the fact that the item is free of defects. It will guarantee the adherence to both customarily assumed and assured properties as well as all applicable statutory standards and provisions of this contract. The supplier will also guarantee that the execution, design, fitness for purpose and manufacturing methods of the ordered item comply with the state-of-the-art and that only material of a first-class and suitable quality was used and the ordered item is suitable for the intended purpose.

9.6. The guarantee period will commence with the successful acceptance of the ordered item by Neuman's customer/end customer or – in the event of use at Neuman's factories – at the point of first use of the ordered item and hand-over of all documentation to Neuman. The guarantee period will end at the latest, however, after a period of four years has expired from delivery (= hand-over of the ordered item to the agreed delivery address) as well as from the hand-over of all items related to the delivery, i.e. also including any required test certificates, descriptions, operating manuals and so on, to Neuman. The guarantee period will start again for the entire delivery item after any faults about which complaints were made have been remedied. If a dispute arises between the parties about whether a case is covered by the guarantee, the supplier undertakes to remedy – at least provisionally – the existing defects at its own cost until the question of whether the case is covered by the guarantee has been clarified. If the delivery item, however, is destined to be used without alteration or within the framework of a product to be made by Neuman or it is to be built into this product and to be delivered to a Neuman customer, the guarantee will only extend for 24 months from the time the items were accepted by Neuman's customer.

9.7. Payments are not regarded as a waiver of complaints about defects or other claims of any type. In the event of complaint about a defect or other complaint, the purchasing price/compensation for work and services may be withheld in full.

9.8. Neuman will be entitled to choose between a reduction in price, free-of-charge improvement, free-of-charge replacement and (in the event of defects that are not minor) to withdraw either partially or entirely from the contract. Possible improvement or replacement must be immediately effected at the supplier's cost and risk, no later than ten days from receipt of Neuman's complaint at the place of storage or installation of the ordered item (insofar as the supplier was notified of this at the time the contract was concluded). If secondary performances by Neuman become necessary (travel, transport, assembly and dismantling costs, etc.), these costs will be assumed by the supplier. In the event of imminent danger, Neuman is entitled to remedy defects or have them remedied at the supplier's cost without this extended period being set and without this impairing Neuman's claims in any way.

9.9. In the event of engineering, consulting, software or documentation performances and in the event of personnel dispatch, the supplier will assume the unlimited guarantee for the correctness and completeness of its written and oral information and instructions.

9.10. In the event of deliveries above or below those specified or in the event of differences in quality, the supplier must reimburse all expenditure incurred for additional checks, packaging, returns or storage and so on. Return shipments of quantities not ordered or supplied in excess will in all events be made at the supplier's risk and cost.

## 10. Invoicing, proofs of performance

Invoices must be sent to the respective address specified by Neuman; they must be in duplicate and include the order number and all other order and delivery details as well as the ARA licence number and the value added tax identification number. Depending on the order or delivery, invoices must be structured or prepared separately in such a way that they may be compared against the order and that the invoices may be clearly assigned to the respective orders. The invoice amount or the individual prices in it must comply with the order; item numbers, weights and quantities must always correspond to the actual scope of delivery or performance. Only invoices issued in accordance with these criteria will initiate the term of payment or cash discount period. In the event of work and assembly performances, the originals of time recording cards and material notes confirmed by the person responsible at Neuman must be attached. Invoices that do not comply with these terms will be deemed to have not been issued and thus will not become due for payment.

## 11. Compensation, product liability

11.1. If Neuman, for whatever legal reason (special product liability provisions, compensation due to breach of contract, warranty and so on), must make performances to its customers or third parties due to the fact that the supplier's delivery or performance was defective, the supplier must hold Neuman completely harmless in relation to such claims.

11.2. The supplier will be obliged to cover the thus obtaining risk with a sufficient product liability insurance contract and at Neuman's request to provide corresponding proof thereof.

The supplier will be obliged to keep all the necessary records and to precisely monitor products. Should it be necessary, the supplier will also be obliged to immediately recall defective products at its own cost, to hand over the manufacturing records and to provide all conceivable support in the prevention of claims of any kind and to name producers or importers within ten days.

## 12. Property rights

12.1. The supplier will be liable for third-party patents or property rights not being violated by the delivery or by the use and transport of the delivery item or by the supplier's performances.

12.2. With the purchasing price/payment for work and services, the acquisition of patent, utility model, brand or sample protection or copyright claims for the free use and (repeated)

resale of the ordered item by Neuman will be settled. If third party property rights are violated in relation to the ordered delivery/performance, the supplier must indemnify and hold Neuman harmless in respect of legal proceedings and claims.

## 13. Models, tools and drawings

13.1. Models and tools that are produced to Neuman's order by the supplier will become the property of Neuman after they have been paid for. They must be treated with care and stored by the supplier and insured against catastrophes such as fire, water, theft, loss and other damage at the supplier's cost. The further sale of parts produced on the basis of these models and tools is not permitted without Neuman's express permission.

13.2. Drawings, plans and sketches that Neuman provides to the supplier for manufacturing the ordered items will remain Neuman's property. The supplier undertakes to treat them with care, to not make them available to third parties, to only make copies for the purposes of executing the order and to return all materials, including copies, to Neuman after execution of the delivery.

## 14. Training, documentation

When technical plant and equipment is supplied, Neuman's or the customer's/end customer's operating and maintenance staff must be trained free of charge. On request, the supplier will also provide subsequent and repeat training against a market-usual fee up to ten years after fulfilment of the contract. In the event of deliveries of plant and equipment to be assembled by third parties or by Neuman, the required assembly plans (including all connections, any necessary construction measures and so on), data sheets, fitting instructions, processing information, storage, operating and maintenance regulations, lists of spare and wearing parts, CE declarations or information about special aspects of the ordered item must be included in the delivery. Markings must be made in German (also when deliveries are made from other countries). The operating regulations and instructions must be issued in duplicate in German and, on Neuman's request, in other languages, too.

## 15. Working at Neuman's industrial premises/construction sites

Should the supplier carry out work for Neuman (e.g. at its industrial premises, on Neuman/end-customer construction sites, etc.), it must precisely observe the fire, worker, environmental protection and other regulations that are in force at Neuman's or the end customer's. The supplier is responsible for informing itself about the regulations or requesting the corresponding regulations from Neuman. The supplier will be liable to Neuman for all damage caused by contraventions of these provisions.

## 16. Compensation for performances by Neuman

If within the scope of the provision of performances the supplier requires assistance from Neuman, e.g. unloading assistance, auxiliary staff, the provision of tools and electrical power, etc., the supplier must pay a suitable compensation for such assistance.

## 17. Federal Data Protection Act

Paragraph 22 of the Data Protection Act entitles Neuman to store, transfer, edit and delete the supplier's personal details within the scope of business transactions. The data will be sent to a central point at Neuman's and initially saved there. The supplier is herewith informed thereof.

## 18. Reservation of ownership, offsetting, transfer, transition of ownership

18.1. All deliveries to Neuman must be made free of reservations of ownership and the rights of third parties. Such reservations remain ineffective even without express objection by Neuman.

18.2. Neuman will be entitled to offset claims with counterclaims even with those that are not yet due or with such being made by allied companies within the Neuman group. The supplier is not entitled to offset claims.

18.3. The supplier may not transfer its rights and duties arising out of this contract to third parties without Neuman's express approval.

## 19. Provisions, tooling, confidentiality

19.1. Tooling, e.g. tools, models, etc., as well as printing blocks or photos that are financed by Neuman along with drawings, plans and all the materials required for carrying out the order, including data transferred by electronic data processing, that are provided by Neuman will remain or will, with their production, already become the property of Neuman and must be identified as such. They must at any time on request and always at delivery/performance or in the event of withdrawal from the contract be immediately returned to Neuman. The storage, maintenance and repair of tooling will be effected at the supplier's risk and cost. Utilization by the supplier for its own purposes and particularly for third parties is always prohibited.

19.2. The supplier will be obliged to treat all information provided in conjunction with the order or information it has otherwise become aware of and not only trade and business secrets as confidential. The supplier must place its staff and the companies it commissions under the same obligation. Any forwarding or making available of such information to/for third parties as well as the production of copies of materials relating to the order require Neuman's express written approval. In the event of contraventions to the above, Neuman will also be entitled to either partially or entirely withdraw from the contract.

## 20. General

20.1. Business correspondence must be exchanged exclusively with the member of staff at the purchasing department specified in the order; it must include the order number.

20.2. The requirement for the written form in these conditions is also satisfied with messages by telefax, PDF files sent by email and EDI (Electronic Data Interchange) and similar transaction standards.

20.3. The supplier will also be liable for its suppliers and subcontractors adhering to Neuman's terms and conditions of purchase.

20.4. The supplier will be obliged to immediately provide notification by registered mail of any changes to addresses. Declarations sent to the old address will be regarded as served until notification of the new address has been received.

20.5. Should a clause of this contract be or become ineffective or should the contract be incomplete, this will not affect the remaining content. The ineffective provision must be replaced by a provision that comes commercially closest to the sense and purpose of the ineffective provision in a legally effective manner. Gaps in the contract must be filled in the same way.

## 21. Place of jurisdiction, applicable law

21.1. The agreed place of jurisdiction for all disputes arising out of this contract or its dissolution is exclusively Lilienfeld. However, Neuman will be entitled to take legal action against the supplier at other places, e.g. its general place of jurisdiction.

21.2. This contract is exclusively subject to Austrian law. The UN Convention on Contracts for the International Sale of Goods and reference in the Austrian International Private Law Act (Österreichisches internationales Privatrechtsgesetz – öIPRG) to other legal systems are excluded.