

GENERAL TERMS OF BUSINESS

for AIRphalt GmbH, Gewerbestraße 10, 5621 St. Veit im Pongau.

These terms of business apply to commercial transactions with all companies, legal entities under public law or other enterprises under public law.

1. General Provisions

1.1 The General Terms of Business stated below apply to all offers, sales, shipments and services provided by AIRphalt GmbH, unless otherwise specifically agree in writing. The most recent version of these terms shall also act as a framework agreement for future contracts regarding the sale and/or shipment of products to the same buyer, without any specific reference thereto being required. The purchaser's own business conditions shall not apply.

1.2 Any modifications, additions or deletions to these terms of business are not allowed and are deemed as not applicable. Any orders or confirmations by buyer, with reference to buyer's terms of business or purchasing requirements are herewith specifically voided. Any and all changes or additions to this agreement or to these terms of business must be in writing and shall only take effect if they are acknowledged in writing by AIRphalt GmbH.

2. Sales offer/Contract effect

2.1 Sales offers by AIRphalt GmbH are non-binding and are subject to confirmation, unless otherwise stipulated in writing. The buyer is solely responsible for the correct selection of type of product, product suitability and volume of product to be delivered.

2.2 Contracts shall only come into force when confirmed in writing by AIRphalt GmbH.

2.3 Any oral side-agreements or oral assurances going beyond the written contract are invalid. This shall also apply to any waiver of this requirement for written format.

3. Prices/Payment/Invoicing

3.1 Price quotations are subject to the applicable price lists of AIRphalt GmbH, plus the legally stipulated sales tax. Written contract confirmations shall be governed by the prices stated in the AIRphalt contract confirmation, plus the legally stipulated sales tax. Contracts having no expressly fixed prices shall be governed by the AIRphalt GmbH price calculation provided on the date of the delivery/service. In addition: AIRphalt GmbH shall be entitled to make price adjustments within one month after contract signing, when such adjustments are due to changes in cost factors (e.g.: labor agreements, costs of raw materials or power, costs for auxiliary and operating materials) which are

incurred after contract signing: Any price escalation must be justifiable according to the change in pricing-related factors and shall be noticed to the buyer within a reasonable period of time. In the event that fixed pricing is agreed, this shall apply only when the adjustments have occurred after contract signing and which were not foreseeable at the time of contract signing.

- 3.2 Unless otherwise stipulated, the AIRphalt GmbH pricing shall apply FOB the manufacturing plant or warehouse of AIRphalt GmbH, including loading, sales tax and any other relevant taxes and outlays.
- 3.3 Invoices shall be prepared exclusively the EURO currency.
- 3.4 AIRphalt GmbH is entitled to invoice for partial payments, which shall be due within the schedule specified in section 3.5.
- 3.5 Unless otherwise stipulated, invoices shall be due for payment to AIRphalt within 30 days after the invoice date. Payments are deemed as being received from the day on which AIRphalt GmbH has free use of the funds. If the buyer is in arrears, then AIRphalt GmbH is entitled to charge interest in the amount of 8% above the prevailing base interest rate within the meaning of the ABGB, from the date following the due date. If the AIRphalt GmbH overdraft interest rate is higher than the interest rate stated above, then AIRphalt GmbH shall be entitled to apply an interest rate corresponding to the overdraft interest rate. In addition, buyer shall be required to compensate AIRphalt GmbH for costs involved with collection and/or recovery of receivables, where such collection and/or recovery becomes necessary to collect payment owed.
- 3.6 In the event that insolvency proceedings are opened regarding the buyer's assets, or if other circumstances become known regarding buyer's inability to make payment, then all payments due to AIRphalt GmbH shall become immediately due and payable and a surety bond may be demanded.
- 3.7 AIRphalt GmbH is entitled, in spite of any provisions and/or buyer assurances to the contrary, to apply buyer's payments first to their older debts. If expenses and interest have already been incurred, then AIRphalt GmbH is entitled first to apply the payment to these expenses, then to interest and then finally to the primary amounts outstanding. Payment instructions and exchange shall only be accepted after separate agreement and solely for the sake of payment. Checks shall only be accepted for payment. All collection and discount fees, plus other occurring fees shall be paid by buyer.
- 3.8 Buyer shall only be entitled to offsets, retention or amelioration – even if complaints for defect or counter-claims are to be enforced – only after the counter-claims have been legally established or are undisputed.
- 3.9 A discount can be claimed by buyer only to the extent that such discount was established in the written terms of contract or on the invoice.

4. Shipment/Transfer of Risk

- 4.1 Unless otherwise agreed, the delivery schedule shall commence on the date of written contract confirmation by AIRphalt GmbH.
- 4.2 If the shipment is to be on-call, then the product shall be deemed as having been picked up by no later than 6 months after order.
- 4.3 Delays in delivery and performance of services owing to force majeure and due to events which significantly impede or make it impossible for AIRphalt GmbH to provide delivery/service, shall not be the responsibility of AIRphalt GmbH, even for cases of binding, agreed delivery schedules. This shall also include any subsequently occurring difficulties in procurement of material, breaks in operations, strikes, lock-outs, lack of raw material or power, lack of personnel, deficient transport vehicles, official regulations etc., even if they involve sub-contractors to AIRphalt GmbH. Such events shall entitle AIRphalt GmbH to extend the delivery or service date by the amount of time lost due to the delay, plus a reasonable start-up time, or to withdraw from any as-yet incompleting portion of the service specified in the contract.
- 4.4 Place of performance is the location of the AIRphalt GmbH branch office.
- 4.5 Risk and hazard shall pass to the buyer upon transfer of product to the shipping agent, freight forwarder or other approved or specified shipper. In the event that the shipment becomes delayed or impossible to deliver, without AIRphalt GmbH being thereby involved, the hazard and risk shall pass to the buyer when buyer receives a message stating readiness to ship.
- 4.6 If the product is not picked up by the buyer at the agreed delivery time and delivery location, then AIRphalt GmbH is entitled to warehouse the product at the expense and hazard of the buyer, to invoice for the product and, after giving an additional delay schedule of 21 days provided by registered letter, to withdraw from the contract. Claims for compensation of damages shall remain thereby unaffected.
- 4.7 Delivery shall be provided without off-loading. Off-loading of the delivery vehicle shall be initiated by the buyer without delay; any delays shall be at the responsibility of buyer. Delivery shall be made under the proviso that the vehicle has a sufficient and allowed access. Failure to make delivery due to lack of sufficient and allowed access or lack of suitable load surface shall be deemed to be an arrears in acceptance.
- 4.8 Services going beyond mere delivery shall require a separate agreement and shall be invoiced separately.
- 4.9 AIRphalt GmbH shall be entitled to make partial deliveries and to invoice them separately.

5. Drums and Repackaging

- 5.1 The loaned drums provided exclusively by AIRphalt GmbH shall be returned when emptied, in an orderly condition and at buyer's expense (provided EXW pricing is used) to the AIRphalt GmbH warehouse or manufacturing plant.
- 5.2 Lost or damaged drums (or parts thereof) shall be invoiced to buyer at the full replacement value. The net fee for drums shall be calculated as the difference between the delivered number of drums against the confirmed, return delivery ticket. Loaned drums shall be used exclusively for shipping of AIRphalt products.
- 5.3 The provisions pertaining to loan drums shall be applied equally to pallets used for shipping of palletized goods.
- 5.4 Packaging and disposable drums used by AIRphalt GmbH shall only be returned according to the provisions set by law. All drums identified by the green dot, when fully emptied, may be returned to the Altstoff-Recycling-Austria AG (ARA) at an ARA collection station.

6. Transfer of Ownership

- 6.1 The delivered product shall remain under ownership of AIRphalt GmbH until complete payment is made, together with all receivables arising from the purchase agreement. Until final transfer of ownership, the buyer shall not be entitled to use the delivered product as collateral for an assurance for third parties.
- 6.2 In the event of collateral use or other encumbrance by third parties, the buyer shall be required to notify AIRphalt GmbH immediately, by registered letter, and to supply all information necessary for enforcement of our ownership rights.
- 6.3 The buyer at this present time waives all receivables against third parties, where such receivables involve any subsequent sale, processing, bonding or mixing of the product, until satisfaction of all claims of a remunerative nature by AIRphalt GmbH against buyer. This waiver shall be so indicated in the business ledgers, delivery tickets, invoices, etc. of buyer.
- 6.4 AIRphalt GmbH shall be entitled – in the event that the buy does not perform all contractual obligations – to collect the products still under their ownership, at buyer's expense (e.g. transport costs), without thereby withdrawing from the contract. In the enforcement of the ownership clause, a withdrawal from the contract shall only occur if such withdrawal is expressly stated.

7. Warrantee:

- 7.1 The warrantee provisions per the AGBG stipulated by law, and the obligation to give notice of defects according to the provisions of the UGB, shall apply. The warrantee period shall be 6 months after delivery.
- 7.2 Immediately after receipt of the product, the buyer shall examine the product for completeness and for its conformance with the delivery ticket; any general defects shall be noticed immediately after their discovery and in writing – otherwise any claim for compensation shall be void.
- 7.3 Any defective product may not be processed or installed; buyer must do everything possible to minimize the effects of any damages.
- 7.4 The application instructions of the AIRphalt product shall be noted, and processing instructions supplied on the product shall be followed. AIRphalt GmbH shall assume no liability for failure to observe the stated application instructions or the provided processing instructions.

8. Liability

- 8.1 AIRphalt GmbH shall be liable in accordance with the general provisions for compensation of damages under law. In regard to culpability – with the exception of personal liability – damages shall be awarded solely for intentional and gross negligence. Liability for follow-on damages and loss of profit in cases of minor negligence are excluded.
- 8.2 AIRphalt GmbH shall not be liable for errors in application and processing (item 7.4).
- 8.3 Liability from an award for compensation of damages due to negligent material and physical damages shall expire in six months after notice of damages; any negligent damages to persons and also any and all intentionally caused damages shall expire within three years after notice of damages.

9. Withdrawal from the Contract

- 9.1 In the event that insolvency proceedings are opened in regard to buyer's assets, or if the agreed payment terms are not followed, or if other circumstances become known as relating to buyer's insufficiency to make payment, then AIRphalt GmbH shall be entitled to withdraw from the contract. Our legal rights to withdrawal from a contract shall remain thereby unaffected.
- 9.2 Upon buyer's complete or only partial withdrawal from a signed contract, a cancellation fee in the amount of 20% of the purchase price, plus applicable sales tax, shall apply. Any claims for compensation of damages which go beyond this amount (in particular for expenses and transport costs) shall remain thereby unaffected.

9.3 In the event of failure of performance by AIRphalt GmbH, the buyer may withdraw from the contract by giving a reasonable cancellation schedule.

10. Conveyance

AIRphalt GmbH is entitled to convey the signed contract to a third party. In particular, the buyer gives consent that suppliers/shippers shall make delivery to buyer under the terms agreed with AIRphalt GmbH.

11. Protected Rights

Documents, plans, samples, formulas, mixing ratios and such shall always remain the intellectual property of AIRphalt GmbH, with protected rights of origination and utilization; any utilization without the express consent of AIRphalt GmbH is prohibited.

12. Data Protection/Business Address

12.1 The buyer gives consent for data relating to this business transaction to be saved and manipulated by means of automatic data processing.

12.2 AIRphalt GmbH shall be entitled to obtain information about buyer's assets from third parties (e.g. banks and credit reporting agencies).

12.3 Changes to the business address must be reported to the other party, so long as legal business between the parties has not been fully and finally completed; otherwise any declarations and deliveries to the last-known address shall be deemed as being executed.

13. Partial Invalidity

In the event that any one provision of these General Terms of Business and Delivery, or of any provision within the scope of other agreements, is or should become invalid, then the validity of all other provisions or agreements shall not be thereby affected. In place of the invalidated provision, another provision shall be put into effect which most closely reflects the financial purpose and intent of the invalidated provision.

14. Applicable Law / Court of Record

Austrian commercial law shall apply to this contract; the provisions of international privacy law shall be excluded, also the provisions of the uniform privacy law shall be excluded. Any disputes arising from this contract shall be submitted to the court of jurisdiction for the AIRphalt headquarters.