

# GENERAL TERMS AND CONDITIONS OF PURCHASE

## Saubermacher

Version from 1.1.2023

### 1. SCOPE AND DEFINITIONS

- 1.1. These General Terms and Conditions of Purchase ("GTCP") shall apply to all agreements, including pre-contractual legal relationships, between Saubermacher and suppliers regarding deliveries and services which Saubermacher commissions, orders, purchases and/or uses.
- 1.2. "Saubermacher" means Saubermacher Dienstleistungs-Aktiengesellschaft, FN 46653 h, A-8073 Feldkirchen bei Graz, Hans-Roth-Straße 1, including its branches or - if a subsidiary of Saubermacher Dienstleistungs-Aktiengesellschaft commissions, orders, purchases and/or uses the delivery or service - the relevant subsidiary. Subsidiaries" shall be understood to mean all companies, including their branches, listed in Annex 1.  
Any subsequent change in the ownership structure or legal succession shall not affect the applicability of these GPC.
- 1.3. "Supplier" shall be understood to mean the legal entity, including any legal successors, who is obliged to perform and/or is wholly or partially liable for performance with regard to the delivery or services which Saubermacher commissions, orders, purchases and/or makes use of.
- 1.4. "Supply(s) and service(s)" means all types of goods and services, in particular goods and services, but also intangible goods, irrespective of whether they have been or may be made the subject of IP applications.
- 1.5. Conditions contained in general order, business or delivery conditions or contract forms of the supplier, which contradict these GPC or otherwise deviate from these GPC, shall not become part of the contract, even if Saubermacher does not expressly contradict them. These GPC also apply if Saubermacher has accepted the delivery or service without reservation or has made payment(s) for it in the knowledge of conditions contained in the order, business or delivery conditions or contract forms of the supplier which contradict these GPC or otherwise deviate from these GPC. These GPC shall also apply to subsequent or future transactions with the Supplier without the need to refer to these GPC again.
- 1.6. "Written" means i) written pursuant to section 886 ABGB, ii) a document that is signed by hand, scanned and then transmitted by e-mail, iii) an electronically signed document.
- 1.7. Unless these GTCP provide otherwise, all terms and definitions used in these GTCP shall be governed by the relevant, Austrian laws as amended from time to time, in particular the latest applicable version of the Waste Management Act, the General Civil Code and the Business Code.
- 1.8. For reasons of better readability, gender-neutral differentiation (e.g. supplier) is not used in these AEB. The abbreviated form of language is for editorial reasons only and does not imply any valuation.

### 2. ORDERS, OFFERS AND PRICES

- 2.1. Contracts, orders and any other legal declarations by Saubermacher towards the supplier are only binding if they are made in writing or confirmed in writing.
- 2.2. Offers and cost estimates directed to Saubermacher are free of charge and binding for the supplier. The supplier expressly acknowledges that offers and cost proposals as well as related documents will not be returned by Saubermacher.
- 2.3. The supplier is obliged to submit an offer for the changes or additions to the agreed delivery item or service requested by Saubermacher after placing the order without unnecessary delay. Special conditions already agreed, in particular bonuses, rebates, discounts and other reductions, shall also apply in case of doubt to such offers for changes or additions.
- 2.4. If the supplier participates in a tender on the part of Saubermacher, claims for compensation on the part of the supplier for the costs and expenses incurred in this connection as well as claims for remuneration on the part of the supplier in this regard are excluded in any case.
- 2.5. Supplier prices in orders, purchase orders, quotations, cost estimates, agreements, etc. shall be deemed to be fixed and maximum prices and shall include all costs and expenses of the supplier in connection with the delivery or service. If services are invoiced on the basis of time spent, corresponding time records must be submitted without being requested. In the absence of express currency specifications to the contrary, amounts shall be deemed to be in euros. If supplier prices are agreed in a different currency and exchange rate fluctuations (in relation to the euro) occur after the conclusion of the contract to the detriment of Saubermacher, a corresponding price reduction shall be deemed to have been agreed.
- 2.6. Even without explicit mention in delivery or service descriptions, customary norms, (industrial) standards and certifications (in particular ÖNORMEN, DIN standards) shall be deemed to be warranted by the supplier. Likewise, compliance with all relevant legal and protective regulations, in particular those of labour and trade law, shall be deemed assured by the supplier within the scope of performance.
- 2.7. In the case of consulting services and if persons are named in the order or offer, the use of persons other than those named requires the prior written consent of Saubermacher - otherwise no fee will be charged for the services of these other persons.
- 2.8. The supplier assures Saubermacher that it has permanently ensured adequate insurance cover with regard to any liability risks in connection with its deliveries and services and that it will provide Saubermacher with corresponding insurance certificates upon request.

### 3. DELIVERY MODALITIES, ACCEPTANCE, DELAY, OWNERSHIP AND SUPPORT

- 3.1. Deliveries to Saubermacher shall be made in accordance with DDP Incoterms® 2020 (in the case of transactions within the EU/EEA or in the case of purely domestic transactions, restricted to the applicable regulatory contents), whereby the exact location shall be taken from the relevant order in the absence of any written stipulation to the contrary on the part of Saubermacher.

- 3.2. The supplier shall provide Saubermacher with any shipping information upon request.
- 3.3. The supplier shall be responsible for the disposal in particular of packaging materials arising in the course of the delivery and shall bear the costs in this respect.
- 3.4. In addition to information required by law, including foreign trade law, delivery/transport documents must contain: Order number Saubermacher and subject as per order/purchase order on the part of Saubermacher.
- 3.5. For each case of defective delivery/transport documentation that triggers a processing procedure at Saubermacher, the supplier must immediately reimburse Saubermacher a processing lump sum in the amount of EUR 100 up to a total net order value of EUR 20,000 and a processing lump sum in the amount of EUR 200 in the case of a higher total net order value upon first request, whereby any further claims for compensation and other claims on the part of Saubermacher remain unaffected.
- 3.6. In all cases in which deliveries or services are not carried out as agreed in terms of quality, quantity or time, Saubermacher is entitled - subject to further claims - to refuse acceptance. A (partial) acceptance in such cases is in no way to be interpreted as a waiver on the part of Saubermacher.
- 3.7. Saubermacher is entitled to demand a temporary interruption of the execution of the order until the time of acceptance. In addition, Saubermacher is entitled to withdraw from the contract in whole or in part without giving reasons until the time of acceptance. In the event of such an unfounded withdrawal, the supplier is exclusively entitled to claim compensation from Saubermacher for any costs and expenses demonstrably incurred directly and immediately by the supplier up to that point for this order, whereby any personnel costs remain out of consideration and any conceivable savings possibilities as well as any conceivable other utilisation possibilities of previous performance results are to be deducted. The supplier shall not be entitled to any (substitute) claim against Saubermacher arising from or in connection with such an unfounded withdrawal before the start of the actual execution of the order by the supplier.
- 3.8. Obligations on the part of Saubermacher to give notice of defects are deemed to be expressly waived.
- 3.9. For each case of total or partial delay with deliveries or services, a contractual penalty (penalty) shall be deemed to have been agreed, irrespective of damage and fault, which corresponds to 1% of the total net order value per week of delay or part thereof and is not to be regarded as a penalty. This penalty shall be paid by the supplier immediately upon first request. Other claims, in particular for performance and damages, including compensation for lost profit, shall remain unaffected.
- 3.10. Saubermacher is in no way obliged to accept (partial) deliveries before the agreed delivery date or to accept (partial) services before the agreed acceptance date. Irrespective of whether Saubermacher accepts a premature (partial) delivery or accepts prematurely provided (partial) services, any costs and expenses incurred in this connection are to be borne by the supplier.
- 3.11. In the absence of an agreed earlier point in time, the sole and unrestricted ownership of the item in question, free of third party rights, is transferred to Saubermacher at the latest upon

acceptance or acceptance on the part of Saubermacher, whereby this is deemed to be guaranteed by the supplier; retention of title, security ownership and the like are not accepted on the part of Saubermacher.

- 3.12. The supplier's rights of set-off and retention shall be deemed expressly waived.
- 3.13. Without prejudice to other regulations on sustainability, in particular the avoidance of obsolescence, the supplier assures Saubermacher that customer support will be available during Saubermacher's business hours at no extra charge for the normal operating life of the delivery item or service at Saubermacher, but in any case for a period of 10 years from the last delivery or from acceptance; likewise the availability of spare and wear parts, instructions for use, implementation documentation, source codes, etc. at any time. In the case of discontinued products, remaining goods, etc., this circumstance must be expressly communicated by the supplier at the first opportunity.
- 3.14. If software is involved, it shall be delivered together with the necessary accompanying documentation (in particular source codes) on a data carrier and a non-exclusive, unlimited and - apart from the agreed licence fee - gratuitous right of use shall be deemed to have been agreed, which shall be transferable within the Saubermacher Group (see item 1.2) is transferable without restriction. The supplier guarantees Saubermacher customer support available at all times for a period of 10 years from software implementation at Saubermacher, including the installation of any updates and upgrades that may become necessary, without separate payment.

#### **4. INVOICES, PAYMENT METHODS AND TAXES**

- 4.1. In addition to the invoice features required by law, the supplier's invoice must also contain the following information: Order number Saubermacher and subject according to order/order on the part of Saubermacher. If no order number can be noted, at least the orderer on the part of Saubermacher as well as his contact details must be indicated.
- 4.2. Saubermacher reserves the right to return invoices that have been issued to the wrong addressee (see point 1.2) or are otherwise defective, shall be returned unprocessed.
- 4.3. Payment of the invoice amount by Saubermacher shall be made either (i) within 30 days less 3% discount on the net invoice amount, or (ii) within 60 days net. Payment periods begin at the earliest with receipt of the correct invoices by the correct addressee (see point 1.2), but in no case before proper, in particular complete, fulfilment of the invoiced delivery or service.
- 4.4. The settlement of partial deliveries or services requires an express written agreement. Should the settlement be made in partial amounts as agreed and Saubermacher does not pay one or more of the partial amounts within the discount period or does not pay in full or is in default of payment in whole or in part with regard to one or more of the partial amounts, the entitlement to discount remains valid with regard to all other partial amounts already paid and still to be paid.
- 4.5. Saubermacher will make payments by electronic bank transfer to the bank account provided by the supplier, whereby any charges

are to be borne by the supplier. Payment deadlines are deemed to have been met if the transfer order for the amount owed was issued by Saubermacher on the last day of the payment deadline. The supplier acknowledges and agrees that Saubermacher makes payments once a week (as a rule every Friday) if this day is a public holiday, on the next following working day; if the end of a payment period is such that the payment in question can no longer be made with the weekly payment run, this payment period, including the possibility of deducting a discount, is deemed to be extended accordingly.

- 4.6. In the event of default in payment on the part of Saubermacher, interest on arrears shall be deemed to have been agreed at an annual interest rate corresponding to the base interest rate published by the Austrian National Bank plus one and a half percentage points, whereby the base interest rate applicable on the first calendar day of a half year shall be decisive for the respective half year.
- 4.7. All taxes, fees and charges arising from or in connection with the delivery or service, with the exception of statutory value added tax and personal taxes affecting Saubermacher, shall be borne by the supplier. In any case, the supplier must indicate taxes, fees and charges accordingly in all documents. In the event that Saubermacher wishes to take advantage of public subsidies and/or advantageous tax regulations (e.g. double taxation agreements) from or in connection with the delivery or service, the supplier is obligated to support Saubermacher accordingly, unrestrictedly and free of charge.

## **5. CONFIDENTIALITY, IP AND DATA PROTECTION**

- 5.1. The supplier shall use intangible goods of Saubermacher, irrespective of whether these have been or can be made the subject of applications for industrial property rights (e.g. trademarks, (utility) models, patents) and whether they enjoy copyright protection, in particular, project descriptions, plans and sketches, commercial and technical know-how as well as any confidential information of Saubermacher, regardless of how and in what form it becomes accessible to it during the initiation or in the course of the business relationship, regardless of whether it is marked as confidential, treat it as strictly confidential vis-à-vis third parties, take appropriate security precautions to maintain confidentiality and grant its bodies and employees access only to the extent necessary in each case. Any publication, disclosure or other use by or with the cooperation of the supplier is expressly prohibited. Saubermacher does not grant the supplier any rights, in particular any rights of use. The provisions 5.1 shall continue to apply for an unlimited period after termination of the business relationship, whereby the supplier shall be obliged to return and/or demonstrably delete or destroy the data immediately upon first request.
- 5.2. In particular, the supplier is not permitted to use the name/company wording, brand(s), logo(s), slogans and the like of Saubermacher or to use other references to Saubermacher without the prior written consent of Saubermacher.
- 5.3. For each case of a breach of one or more of the provisions in point 5.1 a contractual penalty (penalty) shall be deemed to have been

agreed, irrespective of damage and fault, which shall correspond to twice the total net order value. This penalty shall be paid by the supplier immediately upon first request. Other claims, in particular for injunctive relief, rectification and damages, including compensation for lost profit, shall remain unaffected.

- 5.4. The supplier assures Saubermacher that it will comply with its obligations under data protection law with regard to the processing of personal data within the scope of the business initiation and processing, in particular those in accordance with the General Data Protection Regulation (DSGVO) and other applicable legal provisions. If necessary, Saubermacher is entitled to demand the immediate conclusion of a data protection contract (contract according to Art. 26 DSGVO or contract according to Art. 28 DSGVO) from the supplier, whereby the corresponding Saubermacher contract model is to be used.
- 5.5. The supplier will participate in digital processes specified by Saubermacher as part of the business initiation and processing. In this context, the supplier will not refuse to cooperate with third parties entrusted by Saubermacher with the implementation of such processes and Saubermacher is entitled to make business-related information available to such third parties.

## **6. RESCISSION OF CONTRACT / TERMINATION OF CONTRACT FOR CAUSE**

- 6.1. Saubermacher is entitled to withdraw from the contract and/or - in the case of continuing obligations - to terminate the contract for good cause, in each case with immediate effect, in particular if i) one or more assurances given by the supplier to Saubermacher prove to be incorrect; ii) the supplier does not fulfil one or more obligations to Saubermacher completely and in a timely manner, despite Saubermacher setting a grace period, or the supplier behaves in a way that suggests such non-fulfilment; iii) the supplier loses the public law authorisations required for fulfilment; iv) the assets of the supplier and/or any guarantors (e.g. guarantors, guarantors) are not known to Saubermacher.v) the financial, asset or earnings situation of the Supplier and/or any guarantors (e.g. sureties, guarantors) deteriorates after conclusion of the contract and the Supplier does not immediately provide corresponding (substitute) collateral upon first request; vi) criminal investigations are initiated with regard to the Supplier, its owners, its management and/or its executives under commercial or corruption law.
- 6.2. Such termination of the contract does not affect any other claims on the part of Saubermacher.

## **7. LIABILITY**

- 7.1. The exclusion or limitation of the rights to which Saubermacher is entitled according to the law, in particular warranty, error, compensation, reduction by more than half and cessation of the basis of the business, will not be accepted by Saubermacher. In warranty cases, Saubermacher is also entitled to immediate substitute performance by another professional at standard market conditions in the event of imminent danger or other imminent damage, which must then be immediately reimbursed by the supplier upon first request.

7.2. All assurances given by the supplier with regard to his person, his qualifications and authorisations as well as his deliveries and services, in particular their properties, constitute guarantee promises within the meaning of § 880a second alternative ABGB (Austrian Civil Code).

7.3. The supplier undertakes to indemnify and hold harmless Saubermacher in full on first demand with regard to any claims by third parties that are asserted or asserted against Saubermacher and are directly or indirectly (co-)caused by the supplier, including costs and expenses incurred by Saubermacher in this connection.

7.4. Any (recourse) liability of Saubermacher towards the supplier in relation to claims which have been legally awarded to third parties against the supplier and which have been directly or indirectly (co-)caused by Saubermacher, only exists in the case of gross negligence on the part of Saubermacher. In the event of any other loss of recourse, the claim and the facts giving rise to the claim must be notified to Saubermacher by registered letter by the supplier immediately after the first request by the third party(ies) and is limited to 10 % of the net price paid by Saubermacher to the supplier for the delivery or service in question. The net price paid by Saubermacher to the supplier for the delivery or service in question. Such a claim for recourse must be asserted by the supplier against Saubermacher in court within three months in the event of any other loss, whereby this period shall commence on the date of the legally binding decision against the supplier.

## **8. DISPLAY**

8.1. The non-exercise of rights is in no way to be interpreted as a waiver on the part of Saubermacher.

8.2. Waivers and acknowledgements on the part of Saubermacher as well as settlement agreements must be in writing in order to be effective.

## **9. ASSIGNMENT OF RIGHTS, SUBCONTRACTOR**

9.1. The assignment or other transfer of rights of the supplier vis-à-vis Saubermacher to third parties, whether by way of individual or universal succession, requires the prior written consent of Saubermacher in order to be effective.

9.2. The supplier assures Saubermacher of personal as well as professional and expert fulfilment. Any intended use of subcontractors by the supplier requires the prior written consent of Saubermacher, which may also be granted subject to conditions. Such consent shall in no way release the supplier from its obligations and the supplier shall remain directly, immediately and unlimitedly responsible and liable to Saubermacher.

## **10. CORPORATE SOCIAL RESPONSIBILITY / SUPPLIER CODE OF CONDUCT**

10.1. The supplier assures Saubermacher that, in order to protect human rights and the environment in its own business area as well as with regard to its suppliers along the supply chain, it will pay attention to compliance with the UN Guiding Principles on Business and Human Rights as well as compliance with (future) applicable legal provisions, that it will ensure this through suitable processes and that it will support Saubermacher in any measures in this regard

free of charge upon first request, in particular by providing information and details.

10.2. In this context, the supplier submits to all existing and future guidelines that Saubermacher has published or will publish online at [www.saubermacher.at](http://www.saubermacher.at).

## **11. HIGHER VIOLENCE**

11.1. Force majeure" shall be understood to mean external, unavoidable and unforeseeable extraordinary events, in particular war, terror and natural disasters, despite the exercise of entrepreneurial diligence.

11.2. If the supplier invokes force majeure against Saubermacher, this must be done immediately after he becomes aware of it and in writing with concrete evidence of the event affecting him and stating the expected duration for which he will be prevented from fulfilling properly.

11.3. In such cases, any (payment) deadlines applicable to Saubermacher are interrupted.

11.4. If the supplier is prevented from proper performance for more than 4 weeks due to force majeure, Saubermacher is entitled to withdraw from the contract or - in the case of a continuing obligation - to terminate the contract for good cause, in each case with immediate effect.

## **12. SEVERABILITY CLAUSE**

Should one or more provisions of these GPC be or become invalid or unenforceable, the validity and enforceability of the remaining provisions shall not be affected. Instead of the invalid or unenforceable provision, the valid and unenforceable provision that comes as close as possible to the economic purpose of the original provision shall be deemed agreed.

## **13. APPLICABLE LAW AND JURISDICTION**

13.1. These GPC as well as contractual relationships (or pre-contractual relationships) to which these GPC apply shall be governed exclusively by Austrian law, to the exclusion of its conflict of law rules and to the exclusion of the UN Convention on Contracts for the International Sale of Goods.

13.2. For disputes arising from or in connection with contractual relationships (or pre-contractual relationships) to which these GPC apply, including disputes about validity and consequences of termination, the exclusive jurisdiction of the court with subject-matter jurisdiction for A-8073 Feldkirchen bei Graz is agreed. However, Saubermacher is also entitled to assert claims against the supplier at any other court in Austria or abroad in whose jurisdiction the supplier has its registered office, a branch or assets.

## ANNEX 1

**Subsidiaries /Cooperations of Saubermacher Dienstleistungs AG,  
for which these AEBs also apply:**

- + Gassner Entsorgung und Umweltservice GmbH
- + Hartberger Saubermacher GmbH & Co KG
- + Komex – Abfallentsorgungs GmbH
- + Mülldeponie Karlschacht Errichtungs- und  
Betriebsgesellschaft m.b.H.
- + Naturgut Kompostierung und Landschaftsbau GmbH
- + pink robin gmbh
- + Saubermacher Bau Recycling und Entsorgung GmbH
- + Saubermacher Outsourcing GmbH
- + sauber + stark GmbH
- + Schilcherland Saubermacher Entsorgungs GmbH
- + Thermo Team Alternativbrennstoffverwertungs GmbH
- + Trügler Recycling – und Transport – GesmbH