

## GENERAL TERMS AND CONDITIONS OF PURCHASE

Unless any special written agreements have been made, our orders shall be governed without exception by the terms and conditions below. To the extent that deviating written agreements are made for individual issues on a case by case basis, these Terms and Conditions of Purchase shall apply subsidiarily. By accepting our order, these Terms and Conditions of Purchase shall become part of the contract. We explicitly do not accept any deviating terms and conditions specified in the order acknowledgment or anywhere else, and non-objection cannot be construed as acceptance.

If individual provisions of the contract should become ineffective, all other provisions of the contract shall remain effective (severability clause).

### 1. Purchase orders

You may download the current version of our Terms and Conditions of Purchase at any time from our homepage on [www.breitenfeld.at](http://www.breitenfeld.at) under "Downloads", or request a copy from us. You are herewith expressly requested to read and print them.

Binding purchase orders are submitted by us exclusively in writing (by fax, mail or e-mail). Oral inquiries, in particular inquiries by telephone, shall not be construed as purchase order, but are to be considered only as an advance notice of an order. A legally valid purchase order requires the subsequent transmission of our written acknowledgment (incl. order number). If special written agreements have been taken as a basis, or special written agreements have been made in particular cases (see above), they are usually attached to the written purchase order.

Upon receipt, each purchase order shall be immediately confirmed in writing with the Seller, and any written objection against our Terms and Conditions of Purchase shall also be raised without delay. If no written response is given within 8 calendar days, the purchase order is deemed accepted according to our Terms and Conditions of Purchase. It is again expressly pointed out that we intend to work exclusively in accordance with our Terms and Conditions of Purchase, and any deviating agreements to be made in the individual case would be made exclusively in writing. If you do not wish to accept our Terms and Conditions of Purchase, you shall make deviating agreements with us. The mere transmission of different conditions of purchase, or mere reference to any type of other conditions that should apply in your opinion have no relevance at all and do not change anything about the general applicability of our Terms and Conditions of Purchase.

### 2. Performance

The type and scope of delivery has to be in line with our specifications. Place of performance for the delivery shall be the place of destination specified by us, place of performance for any payments shall be A-8662 St. Barbara, the local place of jurisdiction for all disputes shall be the court responsible for St. Barbara. The contractual relationships shall be governed by Austrian law. Upon takeover of the goods, the delivery shall be inspected by random sampling according to DIN 40080 (single sampling plan for ordinary inspection), inspection level S1. Acceptance number (c) = 0, rejection number (d) = 1. If the goods do not comply according to the sampling mentioned above, the entire delivery may be returned.

### 3. Delivery time

The delivery dates agreed with us must be strictly observed. Early delivery is admissible only with our express approval. In such case, however, the payment terms shall not commence until the originally agreed date.

Partial deliveries will not be accepted, unless we have expressly requested them. If the delivery is not performed within the delivery period we have prescribed, which is calculated from the day when we submitted our purchase order, or if delivery is incomplete, we reserve the right – without prejudice to the legal rights we have in such a case – to cancel the order. Notwithstanding this, we have to be informed immediately in writing once it is certain that delivery in time is hardly or only partly possible, stating the reasons and expected duration of the delay, and we are not obligated to grant a period of grace.

### 4. Packaging

The goods shall be packaged as usual in the trade, in an appropriate and immaculate manner. If the packaging costs are borne by the Purchaser, only the cost price shall be charged. In any case, we reserve the right to provide the casing (boxes, casks, barrels, etc.). Borrowed packaging shall be subject to the agreements made in the individual case. The packaging will be returned at the Seller's risk.

### 5. Shipping

Any shipping instructions given by us must be thoroughly observed. In case of non-compliance with our shipping instructions, all resulting damages and costs shall be borne by the Seller. The shipping and delivery options which are most favourable for us shall always be used, unless we have specified a particular mode of transport. The shipping advice must be sent to us immediately upon the dispatch of each individual shipment, and the shipment itself must always be accompanied by a packing slip or delivery note. Shipment by rail shall in general be addressed directly to the address indicated in the order form. Damages or costs resulting from wrong or faulty addressing, missing order number, packing slips or delivery notes shall be borne by the Seller. Postal items must be shipped postage free without exception. Delivery using a forwarding agent requires our express prior approval, because otherwise we will not accept any forwarding invoices. In such cases, our shipping instructions and our order numbers shall be notified to the forwarder. We will only pay the costs for transport insurance if this has been expressly agreed in writing in advance. Possible stamp duties and similar duties incurred as a result of our purchase order shall be borne by the Seller.

### 6. Takeover and warranty

The risk shall pass to us upon due takeover at the place of performance, even if free delivery was not agreed. If the purchased goods consist of a machine which is assembled by the Seller at the place of performance, the risk will pass to us as soon as the machine was delivered as agreed in the contract, and its perfect functioning has been amicably established by a test run. In such a case, the obligation to provide warranty shall start at the date when perfect functioning was amicably established. Complaints about open quality defects shall be made within 14 days after

takeover at the place of performance. Other defects including the absence of assured qualities or defects that arise during the intended use of the goods are not subject to any deadline, unless expressly agreed otherwise in writing.

The Seller shall assume full warranty, as legally applicable in Austria at the time of the order, for immaculate quality and professional execution, as well as appropriate and fail-safe functioning. Any non-compliant goods will be made available, and repair, replacement or the compensation of lost value will be requested without any costs for us. If the Seller is unable to remove any defects within an appropriate period specified by us on a case by case basis, we shall have the choice either to procure replacement at the Seller's expense, or to withdraw from the contract, notwithstanding the right to claim compensation for the damages incurred.

In any case, the Seller bears the burden of proof during the whole guarantee period and/or warranty that the corresponding defects did not exist at the time of delivery.

The goods handed over for treatment shall always remain the property of Breitenfeld. That means that in case of insolvency, Breitenfeld shall have a equivalent right for segregation from the insolvency assets.

The Seller warrants and shall be liable that the ordered facility/facilities comply with the relevant standards and laws applicable at the time of marketing. Breitenfeld shall be entitled to engage external consultants to inspect these standards (e.g. TÜV). In case of a justified defect or deviation from applicable standards, the Seller shall pay these inspection costs as well as the costs of establishing the state conforming to the standard. Breitenfeld shall also be entitled to retain such expenses from any amount retained to secure warranty claims.

Delivery of the goods shall be accompanied by the corresponding CE declaration of conformity, which is an integral part of the purchase order. If the CE declaration of conformity is not supplied, this represents a material defect of the delivery, giving the right to withdraw from the contract and resulting in unrestricted claims for damages.

## 7. Invoicing and payment

Please send invoices immediately after delivery or performance as a single copy to our address. Invoices for several orders as well as partial invoices will be returned to the sender. Unless agreed otherwise, payment will be effected by bank transfer after due takeover of the goods and verification of the invoice, 14 days with a 3 percent discount, until the end of the month following the delivery with a 2 percent discount, or after 90 days without discount. The stipulated payment terms shall start on the date of invoice receipt. The time of payment does not affect the Seller's warranty and the right of complaints. Assignments shall be admissible only with our express approval.

The assignment must always include our order number and the Seller's invoice number. Deviating payment terms indicated on the invoice are only binding for us if we have expressly confirmed them in writing. We reserve the right to use all legally admissible options to set off with our counterclaims when paying the invoices.

## 8. General

The Seller assumes unconditional liability that the goods delivered by the Seller do not infringe existing patents or protected trademarks or other intangible property rights. The Seller undertakes to indemnify and hold us harmless from all claims asserted against us as a result of infringements resulting from the use of the goods supplied by the Seller.

The Seller further undertakes to ensure that all machines delivered by it are fitted with the protective equipment according to the applicable Austrian regulations. If they were not attached or insufficiently attached, the Seller shall indemnify and hold us harmless from all claims asserted against us as a result of infringements of existing protective regulations. All specifications, drawings, models and samples made available to the Seller upon our purchase order, as well as the drawings, models, samples manufactured by the Seller according to our particular specifications shall remain our property and must not be used for other purposes, reproduced or made available to third parties. Unless agreed otherwise in writing, they have to be returned to us immediately after execution of the delivery or in case of non-performance of the delivery without special request. The Seller shall consider any purchase orders and the associated works and all documents made available for this purpose as trade secret, and treat them confidential. The Seller shall be liable for all damages resulting from the infringement of any of these obligations. Unless expressly agreed otherwise in writing, the preparation of plans, etc. will not be remunerated.

It is not allowed to use the purchase orders for advertising purposes. Inquiries shall be directed exclusively to our Purchase Department. Please indicate the full order number in all documents relating to the present order. If delivery is performed by a sub-supplier, the latter shall also strictly comply with the Terms and Conditions of Purchase. Suppliers and their representatives may visit the Breitenfeld facilities only after advance notification of the Breitenfeld Purchase Department.

The Seller agrees to provide access to all facilities associated with the purchase order and to the related documents to Breitenfeld, its customers and regulatory authorities if necessary and after advance notification.

The Seller shall be obligated to notify deviations from the order specifications in advance, and to obtain the approval for delivery of the deviating products.

The Seller is further obligated to inform Breitenfeld in advance on changes to the product and/or the manufacturing process, changes of its sub-suppliers, and relocations of the production facility/facilities, and to obtain the approval of Breitenfeld, if necessary.

If services are performed using staff assignments, the Seller shall be liable for compliance with all regulations of building authorities and according to labour law, in particular safety precautions for persons employed by it on the Breitenfeld premises. It is emphasized that the persons employed by the Seller are obligated to wear personal protective equipment. Please also refer to the safety notes of Breitenfeld on our homepage [www.breitenfeld.at](http://www.breitenfeld.at).

A name list (company name, name of employee, mobile phone number of the person responsible on site) for the Seller's staff has to be submitted to the Breitenfeld Purchase Department at least 24 hours before start of the works. When arriving at Breitenfeld, the Seller's staff has to sign in with the doorman of Breitenfeld, and sign off after completion of their activities. In addition, the staff must be identified by the Seller's company logo on their working garments.

In case of building contracts, the Seller shall take over the obligations from the Austrian Act on the Coordination of Construction Works (*BauKG*), in particular the preparation of a Safety and Health Plan (*SiGe-Plan*).

State 05/2018