

# General Terms and Conditions of Sale (“GTC”) for Deliveries and Services of Greiner AG (“Greiner”)

Date: June 2020

## 1. Scope

- a. These GTC apply to all deliveries and services provided by Greiner AG, FN 174160 v, Greinerstrasse 70, 4550 Kremsmünster, Austria (hereinafter also referred to as **Greiner**) to a contracting party.
- b. All deliveries and services are provided exclusively on the basis of these GTC, even if Greiner does not expressly object to contradictory GTC. Terms and conditions of the contracting party that contradict or deviate from these GTC shall not be recognized unless Greiner has expressly agreed to such terms in writing. It is agreed that, when these GTC come into effect, any verbal agreements regarding contracts shall cease to apply to the legal transaction in question.
- c. No actions taken in the course of fulfilling the contract shall be deemed acceptance of deviating contractual conditions. Any agreements that deviate from these GTC shall be made in writing and shall apply only to the legal transaction in question and not to subsequent transactions.
- d. These GTC shall apply to all current and future business transactions with the contracting party, even without express reference to these GTC.

## 2. Subject matter and conclusion of the agreement

- a. The subject matter of the agreement is the deliveries and performance agreed between Greiner and the contracting party.
- b. A performance obligation – and particularly an obligation to meet a proposed deadline – arises only after Greiner confirms an order in writing.
- c. Offers and other statements by Greiner are subject to change and shall become binding only if provided in writing and expressly indicated as such.
- d. Greiner may also engage third parties to provide (part of) its deliveries and services, who may be paid directly by Greiner. No contractual relationship shall arise between the third party and the contracting party.
- e. In particular, the contracting party is subject to a duty to cooperate by providing Greiner with the necessary framework conditions for the proper provision of deliveries and services, as well as all information necessary for performance of the services (particularly documents, previously created basic documentation). Should the contracting party fail to fulfill its obligations, Greiner shall not be held responsible for resulting delays and/or additional costs and losses. Any performance deadlines shall be adjusted accordingly.

## 3. Terms and times of delivery

- a. The FCA Incoterm 4550 Kremsmünster (Incoterms 2020) shall generally apply to deliveries.
- b. Terms of delivery shall be defined individually for any contracts with a contracting party headquartered outside of the Republic of Austria. In the case of multi-part legal transactions, a written agreement shall always be concluded between Greiner and the contracting party regarding the Incoterm clauses to be used.
- c. The contracting party shall have sole responsibility for import unless otherwise stated in the agreed Incoterm. The purchase price does not include customs duties for importing goods into the contracting party's country of domicile. All taxes/duties in connection with the import of goods into the contracting party's country of domicile shall be paid by the contracting party, and the contracting party shall indemnify and hold Greiner harmless.
- d. The delivery or performance shall be provided based on the terms and conditions valid on the date of acceptance of the order (in the order confirmation from Greiner).
- e. Greiner shall meet delivery dates and deadlines as far as possible. All delivery date information from Greiner is provided to the best of its knowledge but is not binding. Unless expressly indicated as binding, this information shall be non-binding and such dates shall always be considered estimated dates of provision and handover to the contracting party.
- f. Should Greiner fail to deliver on time, the contracting party shall set a reasonable grace period of at least three weeks, and may terminate the agreement subject to these GTC only after this grace period has expired without rectification of the situation. The contracting party shall notify Greiner of the termination or withdrawal by registered letter. The right of withdrawal or termination shall apply only to the part of the delivery or performance that is in default. The contracting party may assert claims for damages only if the delay in delivery is due to intentional fault or gross negligence.
- g. If the contracting party is in default of acceptance, it shall still pay the price. Greiner may choose to either request fulfillment (payment of the purchase

price) or, after setting a reasonable grace period of up to 14 days, withdraw from the contract. In such case, Greiner shall arrange storage at the contracting party's risk and expense. At the contracting party's request, Greiner shall insure the subject matter of the contract at the contracting party's expense.

- h. Greiner may make partial deliveries and provide partial performance at any time if this is acceptable to the contracting party.
- i. The transfer of risk from Greiner to the contracting party shall take place based on the agreed Incoterms. If, after the transfer of risk to the contracting party, the subject matter of the contract is lost or damaged, this shall not release the contracting party from its obligation to pay the agreed price. If the contracting party is responsible for a delay in dispatch, risk shall transfer to the contracting party on the date on which the goods are ready for dispatch. Risk shall also transfer to the contracting party if the subject matter of the contract is made available but the contracting party refuses acceptance without justification.

## 4. Services (particularly consultancy services)

- a. Greiner provides services in a range of areas, including advisory services in the form of training, consulting and workshops.
- b. Greiner shall invoice the cost of materials separately.
- c. The contracting party shall be responsible for organizing the venue, refreshments and equipment unless otherwise expressly agreed in writing.
- d. Travel time shall be charged at half of the agreed hourly rate per person.
- e. Arrival the day before will generally be necessary for distances of more than 150 km.
- f. Greiner may change the following travel and accommodation costs for locations away from the respective Greiner location:
  - The applicable official kilometer rate
  - Other travel costs (flight, taxi, train tickets, etc.)
  - Overnight accommodation costs based on actual cost
- g. The hours/days reported by Greiner represent an estimate of the actual time spent. The final amount shall be invoiced at the end of the project or month based on the actual time and costs; any necessary overtime shall be agreed with the contracting party in good time.
- h. If agreed training sessions/workshops are postponed or canceled, Greiner may impose the following cancellation conditions:
  - Cancellation up to nine weeks before the agreed date: no cancellation fee
  - Cancellation nine weeks or less before the agreed date: cancellation fee of 100% of the training/workshop costs (net)
  - If Greiner is responsible for failing to fulfill its obligation to provide the services or failing to provide a suitable replacement (especially due to illness), the contracting party shall not be entitled to performance and Greiner shall not be entitled to its fee. The contracting party may choose to either postpone the event or cancel it free of charge.
- i. The absence of individual participants does not constitute grounds for reimbursement of seminar charges or fees.
- j. The price shall not be reduced if individual participants do not attend.
- k. If a participant is unable to attend, a substitute may be appointed.
- l. Greiner reserves the right to adjust exercises based on the knowledge of participants or due to unforeseen circumstances or force majeure events (e.g. bad weather).
- m. Participation is at the individual's own risk. All participants are required to act with reasonable care and to follow the trainer's instructions.
- n. Greiner may unilaterally decide to change the date of training sessions/workshops. Participants may cancel their place on the new date free of charge.
- o. Confirmation of completion of the course shall be issued only upon fulfillment of the eligibility conditions. This applies in particular if the participant is present for 75% of teaching time.

## 5. Prices and payment conditions

- a. Unless agreed otherwise, all prices and charges are net prices stated in euro excluding any applicable statutory VAT and other taxes/deductions and excluding packaging surcharges, transport costs and any administration fees that may be payable. Any withholding tax to be paid by Greiner shall be charged to the contracting party.
- b. Prices may be updated annually.
- c. Unless specific payment terms have been agreed in writing, payment shall

be made in full after provision of the service, within 30 days of the invoice. If the contractual relationship is longer than three months, monthly invoices may be issued for partial payment.

- d. Greiner may also send invoices to the contracting party electronically. The contracting party expressly agrees to receive invoices from Greiner electronically.
- e. To the extent permitted by law, the withholding of payments to Greiner for any reason or offsetting against the contracting party's counterclaims is excluded.
- f. Payments shall be deemed to have been made on the date on which Greiner has full, irrevocable access to and is free to dispose of the funds. Receipt of payment in Greiner's account shall be determinative. If money owed to Greiner by a contracting party is paid by bank transfer, such payment shall be deemed to have been made on time if the contracting party initiates the transfer on the due date.
- g. If the contracting party's payment is delayed (including for reasons outside its control), interest on the arrears shall be charged at the statutory rate and at least 4% above the base rate. This shall not affect claims for compensation for losses actually suffered or further legal claims.
- h. If the contracting party's (at least partial) payment is delayed (including for reasons beyond its control), Greiner shall be released from all other performance obligations and may withhold outstanding services. Greiner may charge the contracting party for pre-litigation costs, particularly dunning and debt collection expenses and legal fees.
- i. If deliveries and services are to be provided to other EU member states, the contracting party shall give its VAT identification number to Greiner without delay.
- j. Tax exemption can be ensured for intra-Community deliveries and exports only if the legal requirements are met at the time of providing the service.
- k. The contracting party shall, immediately and unprompted, send to Greiner in a suitable form all (transport) evidence and documents necessary to obtain tax exemption for intra-Community deliveries or exports.
- l. If the contracting party fails to meet this obligation, Greiner reserves the right to immediately invoice it for statutory VAT, which the contracting party shall be required to pay together with the invoice amount. The contracting party shall fully indemnify and hold Greiner harmless for any disadvantage and losses suffered as a result. In particular, in the event of an inspection by the tax authority and subsequent refusal of tax exemption, the contracting party shall immediately pay to Greiner the VAT subsequently invoiced separately.
- m. Greiner accepts no responsibility for future tax/legal changes; taxes and duties payable as a result of such legal changes shall be borne by the contracting party. The contracting party shall take care to ensure that these taxes are reported and paid correctly and shall fully indemnify and hold Greiner harmless in this regard.
- n. The contracting party shall be liable for all additional tax payments incurred due to incorrect disclosures by the contracting party and shall fully indemnify and hold Greiner harmless in this regard.
- o. The contracting party shall inform Greiner without delay if withholding tax is payable for the delivery or service in the contracting party's country of domicile. After Greiner has received this information, it shall immediately send to the contracting party all documents necessary to obtain a tax reduction, tax exemption or the application of a zero tax rate for the subject matter of the contract. The contracting party is responsible for ensuring that the tax authority in its country of domicile receives on time all of the necessary information resulting in reduced withholding tax for the subject matter of the contract or service. The contracting party indemnifies and holds Greiner harmless in this regard.

## 6. Retention of title

- a. Greiner shall retain ownership of the subject matter of the contract until the invoice amounts have been paid in full (retention of title).
- b. Until ownership is transferred, the contracting party holds the subject matter of the contract as custodian for Greiner. The contracting party shall, at its own expense, store the goods appropriately, protect them from loss and deterioration, and insure them. If payment is not received on time, Greiner may, without setting any further grace period, withdraw from an agreement subject to these GTC and demand the return of the subject matter of the contract and, if the contracting party does not comply, go to the storage locations of the contracting party or third parties and repossess the subject matter of the contract.
- c. If the subject matter of the contract owned by Greiner has been mixed or combined with other items, the contracting party shall relinquish its ownership or co-ownership rights to the new item to Greiner and take due care to store the item for Greiner.
- d. The contracting party may dispose of the subject matter of the contract owned by Greiner in the normal course of its business only if it is not in payment arrears. The contracting party hereby assigns to Greiner its

purchase price claims against its customers arising from the resale of the goods and shall include a corresponding note in its books or on its invoices and take all necessary steps to ensure that such assignment is legally enforceable.

## 7. Warranty

- a. Greiner warrants that, unless otherwise specified, the subject matter of the contract shall be delivered in accordance with the conditions of sale, shall comply with the performance specification and shall be produced in accordance with generally accepted industry standards. Greiner makes no representation or warranty regarding suitability for a particular purpose or function.
- b. Under its warranty obligation, Greiner may choose whether to repair or replace goods that are shown to be defective. Warranty claims must be made within six months of delivery of the goods. Replacements shall be delivered to the same place as the original delivery. Where goods are replaced under warranty, the contracting party shall be entitled to a new warranty period of six months from the date of the replacement. All warranty periods shall end no later than six months from the first delivery. The warranty period shall also expire in the event of improper use or modification of the subject matter of the contract.
- c. Greiner accepts no liability for delivered goods that are not in compliance with the contract if the contracting party was aware of or should have been aware of the non-conformity at the time of signing of the contract.
- d. The contracting party shall immediately investigate or arrange the investigation of the subject matter of the contract. The contracting party loses the right to assert a lack of conformity of the delivered goods if it fails to notify Greiner in writing, precisely specifying the nature of the non-conformity, immediately after it identifies or should have identified the non-conformity.
- e. The contracting party is always required to provide proof of the defective nature of the subject matter of the contract at the time of handover. Section 924 of the Austrian Civil Code (ABGB) shall not apply.

## 8. Liability

- a. Greiner shall be liable in case of its own fault and/or fault of its vicarious agents. Liability for ordinary negligence is excluded except where mandatory claims arise as a result of injury to life, limb and/or health.
- b. In addition to the general exclusion of liability for ordinary negligence, Greiner's liability to the contracting party for any claims arising from a contract subject to these GTC, irrespective of the legal basis, shall be limited to 20% of the respective net order value. No claims for compensation may be asserted in excess of this amount.
- c. Under no circumstances shall Greiner be liable (whether on a contractual, tortious or other legal basis) for: (i) loss of profits, loss of production or earnings, loss of use, business interruptions, loss of orders, loss of information and data, contractual claims by third parties against the contracting party (ii) indirect or consequential damage, regardless of whether the parties considered such damage when entering into a contract subject to these GTC or whether the contracting party suffers such damage in connection with this contract and/or its fulfillment.
- d. If the subject matter of the contract is manufactured in accordance with specifications, drawings, designs or other documents provided by the contracting party that infringe the rights of third parties, especially industrial property rights, the contracting party shall fully indemnify and hold harmless Greiner and its representatives.
- e. Greiner shall not be obliged to verify and/or give any warning regarding materials and data provided by the contracting party. Greiner accepts no liability of any kind for direct or indirect losses caused by errors in such data and materials.
- f. Claims for compensation shall lapse/expire within six months of the date when a party becomes aware of damage and the liable party.

## 9. Confidentiality and intellectual property

- a. The contracting party undertakes to maintain strict confidentiality regarding all documents, knowledge and experience and other operational and business secrets of which it gains knowledge in connection with its business with Greiner, and to use such knowledge only for the purpose of the contract in question. In this respect, the contracting party may not reproduce and/or distribute such work or make it accessible to third parties in any way without Greiner's express consent. Greiner shall under no circumstances be liable to third parties as a result of the unauthorized reproduction/distribution of the work or in particular for the accuracy of the work.
- b. The obligation to maintain confidentiality shall continue to apply for five years after the end of the business relationship with Greiner or, if there is no business relationship, for five years after submission of an offer by Greiner.

- c. The aforementioned confidentiality obligation shall not apply to information if and insofar as this information
- was already in the legal possession of the other party prior to its disclosure to the other party and was not subject to a confidentiality obligation;
  - has been published or otherwise made generally known, provided that the contracting party was not involved or responsible for this;
  - has been communicated to the contracting party by one or more third parties after the conclusion of the contract, provided that such third party has not infringed any rule of law;
  - has been released in writing by the disclosing party to the other party;
  - has been made accessible to a third party by the disclosing party without a corresponding obligation and restriction.

#### 10. Compliance and data protection

- a. The contracting party shall, at all times during a contractual relationship with Greiner, comply with the current version of the Code of Conduct for Suppliers and Business Partners [https://sustainability.greiner.com/wp-content/uploads/2019/06/Verhaltenskodex\\_EN.pdf](https://sustainability.greiner.com/wp-content/uploads/2019/06/Verhaltenskodex_EN.pdf) and all applicable laws and provisions, in particular the U.S. Foreign Corrupt Practices Act of 1977 (as amended), as well as applicable antitrust, competition and anti-corruption law. Neither the contracting party nor persons acting in its name, in particular managers, employees and representatives, shall give or offer unauthorized payments or gifts directly or indirectly to third parties, including their employees and managers or to officials, representatives of a governmental or other authority, or to a political party or its candidates. The contracting party undertakes to ensure that its vicarious agents and partners comply with principles that are at least comparable to those set out in the Greiner Code of Conduct. Greiner reserves the right to perform an inspection of the contracting party at any time during business hours, with prior written notice, to ensure compliance with the conditions of the Code of Conduct and all applicable laws and regulations.
- b. The contracting party undertakes, in its own name and on behalf of its employees, contracting parties, other auxiliary personnel and third parties it has engaged, to observe applicable data protection law if it receives access to personal data in connection with the services. In particular, the contracting party shall maintain confidentiality regarding personal data entrusted to it or to which it gains access under this contractual relationship, notwithstanding other statutory secrecy obligations, unless there is a legally permitted reason to transfer the personal data, which has been entrusted or made accessible.
- c. The contracting party acknowledges that it is primarily necessary to process personal data in order to execute the contract and fulfill the contractually agreed performance obligations. All other privacy information, including in particular other purposes of processing at Greiner, is set out in the data protection document for business partners. The contracting party can view this document at the following link: [https://www.greiner.com/fileadmin/user\\_upload/Datenschutz/greiner-DataPrivacy-csc\\_EN\\_V11.pdf](https://www.greiner.com/fileadmin/user_upload/Datenschutz/greiner-DataPrivacy-csc_EN_V11.pdf)
- d. The contracting party consents to the creation and publication by Greiner of image and sound recordings for the purposes of its own marketing, and shall obtain all necessary declarations of consent from its employees, contracting parties, other auxiliary personnel and third parties it engages.
- e. The contracting party is aware that electronic communication (e.g. email) has inherent security risks. Therefore, where this type of communication is used, the contracting party may not assert any claims connected to this type of communication or due to a lack of encryption unless such encryption was expressly stipulated in the individual contract.

#### 11. Termination

- a. If the contract is terminated by the contracting party, Greiner shall be entitled to payments due to it up until the date of termination. Upon termination for reasons for which Greiner is not responsible, the contracting party shall i) pay to Greiner the contractually agreed price less any unincurred costs and expenses, and ii) release Greiner from liability for all losses for which Greiner is not responsible which may result from the termination.
- b. Should the contracting party breach the provisions of sections 9 and 10 of these GTC, Greiner may immediately terminate the contractual relationship and assert any statutory and/or contractual claims, particularly claims for damages and/or for an injunction.

#### 12. Force majeure and export control

- a. In case of force majeure events, Greiner may suspend the service provision for the duration of the disruption and an appropriate start-up time and fully or partially withdraw from the contract according to its effects.
- b. In particular, force majeure events include all actions that it is not possible

for Greiner to prevent or avoid, such as natural disasters, earthquakes, lighting strikes, freezing, seizure, sabotage, fire, strikes, trainer illness, etc.

- c. Greiner is not required to fulfill the contract if this is prevented by national or international foreign trade law, embargoes and/or other sanctions. Greiner shall take care to ensure that it has all export licenses required for its goods and services. The contracting party shall support Greiner in this and provide all necessary declarations and documents. If an export license is not granted, is not granted in time or is revoked, the contracting party and Greiner shall reach an agreement upon an alternative solution. The contracting party shall bear all ensuing additional costs. Claims against Greiner due to export licenses not received, received too late or revoked are excluded. The contracting party shall indemnify and hold Greiner harmless in this regard.

#### 13. Final provisions

- a. The contracting party confirms that all of the information in the contract has been provided in good faith and to the best of its knowledge and undertakes to provide information on any changes without delay.
- b. Changes to the conditions of sale and/or the contract shall be made in writing and signed by the contracting party and Greiner to be effective. This also applies to any deviation from the requirement for written form. Any change that has to be made to the contract and Greiner's contractual obligations after the signing of this contract due to (i) statutory changes, (ii) changes in standards or (iii) official requirements shall be made at the contracting party's expense. The contracting party and Greiner shall inform one another immediately when such changes are required. It is agreed that, when these GTC come into effect, any verbal agreements regarding contracts shall cease to apply to the legal transaction in question.
- c. Austrian substantive law shall apply exclusively. The application of conflict of laws provisions (such as the Austrian Private International Law Act), the United Nations Convention on Contracts for the International Sale of Goods and similar international agreements is excluded.
- d. The place of jurisdiction for all disputes between the contracting party and Greiner is the court with subject-matter jurisdiction in Steyr, Austria. Greiner may also submit claims to the competent court for the contracting party.
- e. Should any clause of these GTC be found to be ineffective or unenforceable, the remaining provisions shall continue to apply. If necessary, the ineffective provision shall be replaced without delay with a provision that comes as close as possible to the intended economic purpose of the ineffective clause.