

## **GENERAL TERMS OF SALES AND DELIVERY (hereinafter: AVLB) of Ascendum Baumaschinen Österreich GmbH, hereinafter referred to as the seller**

### **I. GENERAL INFORMATION:**

**1. Scope:** The AVLB shall exclusively apply until a possible revocation by the seller to all purchase contracts. Deviating terms and conditions of the buyer will not obligate the seller, even if such deviating terms and conditions are not explicitly objected to. The AVLB shall also apply to, no matter in which form, follow-up orders are carried out.

**2. Form requirements:** Declarations and agreements before, during and after submitting an offer or conclusion of the purchase contract require a written form in order to be valid; oral agreements, in particular oral promises of properties of the object of purchase are invalid. If the seller's declaration of acceptance deviates from the buyer's order, the deviation shall be deemed as approved if the buyer does not object within 8 days. The seller will then have the choice to carry out the delivery or service as per order or to refuse the execution.

**3. Object of purchase:** The details contained in technical descriptions and written advertising materials, no matter of what kind, (catalogues, brochures, circulars, advertisements, etc.) concerning the condition of the object of purchase are non-binding. The seller additionally reserves the right to make all changes, in particular to the construction and form of the object of purchase on the part of the manufacturer's plant.

**4. Place of jurisdiction:** Austrian law is applicable exclusively to the general terms and conditions of sale and delivery including the issue of their valid effective date and their effects before and afterwards. The validity of UN sales law is explicitly waived. In all cases the place of performance is the registered office of the seller and therefore also irrespective of whether the freight costs are covered by the seller. Any disputes arising from the general terms and conditions of sale and delivery including the issue of their valid effective date and their effects before and afterwards shall be settled exclusively by Willson, which is the competent court of state capital Salzburg, or at the choice of the seller by the competent court under the jurisdiction of which the buyer has a registered office or subsidiary, is ordinarily resident or has his assets. In the event that an enforcement agreement or treaty exists between Austria and the country of residence of the buyer, all disputes from and in connection with the general terms and conditions of sale and delivery including the issue of their valid effective date and their effects before and afterwards shall be settled exclusively by the court of arbitration of the Austrian Chamber of Commerce. The respective current version of the rules of arbitration applies. The place of arbitration is Salzburg. The language of arbitration is German. Both the buyer and the seller waive the right to appeal against the arbitration ruling or otherwise oppose its legal validity and enforcement because such a waiver is effective under mandatory law.

### **II. PURCHASE PRICE:**

**1. Purchase price:** If not otherwise agreed delivery prices, net prices, duty paid ex warehouse of the seller without packaging, loading or insurance.

**2. Change to the purchase price:** If a change in the prices of the manufacturing plant or any other increase in the production costs occurs between the submission of the offer and the delivery the seller is entitled to charge these additional costs to the buyer. In any case the seller is entitled to cancel the contract if the buyer is not willing to pay the correspondingly higher price.

**3. Credit interest:** With credit transactions the seller is entitled to increase the interest rate by the same interest rate difference by which the banks of the seller increase the interest rate compared to the time when the purchase contract was concluded. **4. Repair costs:** Repair cost estimates are non-binding estimates; the actual material used and work required will be invoiced.

---

#### **Ascendum Baumaschinen Österreich GmbH**

Grafenholzweg 1 T. +43 (0)662 469 11-0  
5101 Bergheim - Austria

Salzburger Sparkasse:  
UniCredit Bank Austria AG:

BIC SBGSAT2SXXX  
BIC BKAUATWW

IBAN AT13 2040 4000 4122 9964  
IBAN AT57 1100 0089 5306 0400

Landes-/Handelsgericht Salzburg  
FN: 60505d ARA: 5468

DVR: 0513750  
UID: ATU34766107

### III. PAYMENT:

**1. Type of payment:** The purchase price has to be paid in cash or by transfer onto one of the seller's accounts. Payment orders, cheques and bills of exchange will only be accepted owing to an explicit written agreement and only on account of payment; all collection and discount charges as well as discount interest shall be for the buyer's expense and are due promptly.

**2. Offsetting of the payments:** Payments of the buyer will first be offset against work services and deliveries of spare parts, then against costs and interest and finally against deliveries of devices. Within these groups the payment will be offset against the oldest debt. Contrary payment dedications of the buyer are non-binding for the seller.

**3. Compensation:** The buyer is not entitled to offset possible counterclaims against the receivables of the seller together with secondary costs (especially interest).

**4. Immediate maturity:** In case of non-payment or in case of incomplete payment also of only one single instalment as of the agreed time of maturity: **a)** Immediate maturity will occur (i.e. the total residual debt is due and payable immediately); **b)** If the seller is entitled to cancel the contract by setting a final deadline of at least 3 days and in this case to take the object of purchase back with the reimbursement of all expenses.

**5. Interest on default and default charges:** In the event of the default of payment (in particular with the occurrence of the immediate maturity) the buyer is obliged; **a)** In the event of default in payment (especially in the case of a missed deadline) the buyer is obliged a) to pay interest on the outstanding amount due at the rate of 9.2 percentage points above the basic rate of interest; **b)** to reimburse the seller all dunning and debt collection expenses; **c)** Payment experience data, in particular concerning undisputed and unjustifiably outstanding claims as well as address data will be transmitted to CRIF GmbH, Diefenbachgasse 35, 1150 Wien, for the lawful use within the scope of its trade licence according to Sections 151-153 Trade Regulations.

### IV. RESERVATION OF TITLE:

**1. Reservation of title:** The object of purchase will remain the property of the seller until the full payment of the purchase price together with secondary costs. As long as the reservation of title exists all disposals over the object of purchase, in particular its sale, pledge, assignment as collateral, rental are not permitted without the seller's written consent.

**2. Notification and insurance obligation:** The buyer is obliged during the further upholding of the reservation of title: **a)** to inform the seller immediately and as proven if the object of purchased should be attached or seized by third parties; **b)** to reimburse the seller all costs, incurred to it in this case with the assertion of the reservation of title; **c)** to reasonably insure the objection of purchase against fire and theft and to bind this insurance for the benefit of the seller, otherwise the seller is entitled to conclude the insurance at the buyer's costs.

**3. If the customer** is in default with his required payments the seller can always take the purchased object back in expense of the customer, also if it does not declare the cancellation of the contract.

### V. DELIVERY:

**1. Delivery time:** The agreed delivery time is # except for accessories # binding and shall be counted from the acceptance of the offer by the seller.

**2. Exceeding of delivery time:** If the agreed delivery time is exceeded by 6 weeks the buyer is entitled to cancel the purchase contract by setting a final deadline of at least 14 days.

**3. Damages:** Under no circumstances is the buyer entitled to a claim for damages against the seller owing to non-fulfilment of the contract, in particular in case of delay in delivery.

**4. Change to the object of purchase:** If changes are agreed to the object of purchase after submission of the offer the seller is not bound to the delivery time stated in the offer even if the offer is accepted.

---

#### Ascendum Baumaschinen Österreich GmbH

Grafenholzweg 1 T. +43 (0)662 469 11-0  
5101 Bergheim - Austria

Salzburger Sparkasse:  
UniCredit Bank Austria AG:

BIC SBGSAT2SXXX  
BIC BKAUATWW

IBAN AT13 2040 4000 4122 9964  
IBAN AT57 1100 0089 5306 0400

Landes-/Handelsgericht Salzburg  
FN: 60505d ARA: 5468

DVR: 0513750  
UID: ATU34766107

**5. Fulfilment of the delivery obligation:** The delivery time shall have been adhered to in any case and irrespective of the agreed place of fulfilment if the readiness for delivery from Salzburg or a branch office is # also orally # reported to the buyer within the agreed delivery time.

**6. Shipment:** A shipment of the object of purchase from the headquarters in Salzburg or a branch office, which is possibly requested by the buyer, is carried out irrespective of the agreed place of performance at the expense and risk of the buyer.

## VI. TAKE-OVER:

**1. Obligations in case of take-over:** With the take-over of the object of purchase by the seller the buyer undertakes: a) to take the object of purchase over personally or through an authorised representative; b) to examine the object of purchase for its correspondence with the purchase contract as well as for possible defects; c) to confirm the take-over of the object of purchase by stating possibly missing parts or possible defects; d) to pay the agreed purchase price (instalment) payment.

**2. Commissioning:** The buyer is, with any other loss of all warranty claims only entitled to put the object of purchase into operation after the submission of a take-over confirmation according to VI/1c of the AVLB and after payment of the agreed purchase price (instalment) payment according to VI/1d of the AVLB.

**3. Refusal of the take-over:** If the buyer refuses to take the object of purchase over the seller is entitled to either request the fulfilment of the purchase contract or by setting a final deadline of at least 3 days to cancel the purchase contract.

**4. Cancellation fee:** In the event of the cancellation of the purchase contract the seller is entitled to request a cancellation fee from the buyer in the amount of 15% of the total purchase price plus value added tax irrespective of the claim for compensation of higher damages. The seller will charge 10% re-storage fee for the return of properly ordered and delivered spare parts, which have to be packed in the original packaging and not damaged.

## VII. WARRANTY OF BRAND-NEW MACHINES

**1. Scope of the warranty:** The seller will assume warranty for the object of purchase to the extent as this is stipulated in the contract or according to Point VII/2.

**2. Warranty provisions:** The seller will assume warranty that delivered brand new machines are free of material defects and defects of title. The warranty period is 12 months from delivery of the object or # with construction machines # 2000 operating hours, depending on which of the afore-mentioned time-based events occurs first. The buyer is obliged, with any other loss of all warranty claims, to comply with the terms, conditions, and pre-requisites of the suppliers and to have the regular service intervals, in particular the first service (depending on the machine type the 50, 100, 250, or 500-hour service) as well as all 1000 hours services, carried out at the seller at his own costs. Service and maintenance, consumer articles and customary wear and tear are excluded from the warranty. First of all the buyer can only request the improvement or the exchange of the object unless the improvement or the exchange is impossible or would involve a disproportionately high amount of work for the seller, compared with the other remedy. Whether this is the case, will also be oriented to the value of the faultless object, the severity of the defect and the inconveniences associated with the other remedy for the seller. The buyer has to permit the seller the possibility of improvement at least twice, whereby the type of the object and the purpose pursued with it are to be taken into consideration. The right to request damages or reimbursement of fruitless expenses owing to material defects and defects of title, it hereby excluded. However, this will not apply to damages, which occurred to the life, body and health of persons. This shall further not apply to other damages, which are due to a grossly negligent or wilful breach of duty on the part of the seller or its vicarious agents. This liability exclusion shall apply to all possible breaches of duty of the seller, this not only to the warranty, but also to impossibility, default and breach of contractual secondary obligations.

**3. Machine data:** The buyer is aware that some machines are fitted with one or more systems which can collect and store information about condition, equipment performance and equipment operating data. The buyer undertakes to in no way impede operation of the information systems. The buyer agrees that the manufacturer and the seller as the authorised dealer may: **a)** access the information systems at any time; **b)** collect equipment data; **c)** store equipment data on systems

---

### Ascendum Baumaschinen Österreich GmbH

Grafenholzweg 1 T. +43 (0)662 469 11-0  
5101 Bergheim - Austria

Salzburger Sparkasse:  
UniCredit Bank Austria AG:

BIC SBGSAT2SXXX  
BIC BKAUATWW

IBAN AT13 2040 4000 4122 9964  
IBAN AT57 1100 0089 5306 0400

Landes-/Handelsgericht Salzburg  
FN: 60505d ARA: 5468

DVR: 0513750  
UID: ATU34766107

of the manufacturer; **d)** use the equipment data to provide services for customers and for internal and other business purposes; **e)** share the equipment data within the manufacturer's organisation and with selected third parties.

#### **VIII. WARRANTY FOR USED MACHINES:**

- 1. The customer assures** that the machine taken by us according to point X. in part exchange is his sole, unlimited property and is not encumbered with rights of third parties.
- 2. No warranty is assumed for used machines**, used equipment and used spare parts.

**IX. WARRANTY with consumer business:** The statutory provisions will apply to warranty claims of consumers insofar as admissible individual agreements do not deviate from this.

#### **X. USED MACHINE AS A DOWN PAYMENT**

- If agreed with the seller in individual cases, the buyer is entitled to give a used machine in payment when purchasing a new machine. In such cases, the Vendor shall inspect the used machine to determine its actual condition. The Seller shall prepare a report on this inspection combined with photographs ("Inspection Report"). The inspection report shall form the basis for the preparation of the used machine evaluation by the seller. On the basis of the inspection report, the Vendor shall carry out an evaluation of the used machine at the time of the inspection; at the same time, the Vendor shall determine the expected wear and tear due to the expected use of the used machine up to the time of the actual handover of the used machine to the Vendor (i.e. the "used machine evaluation"). The handover of the used machine to the Seller shall take place - unless expressly agreed otherwise in writing - step by step with the handover of the new machine to the Buyer. The inspection report and the used machine evaluation are integral parts of the purchase contract for the new machine.
- The buyer is obliged to treat the used machine given in payment with care for the period of further use. If damage to the machine should occur during the period of further use of the machine given in payment, the buyer must inform the seller of this without special request. These damages are then subject to a revaluation of the used machine given in payment by the seller in the sense of point X./1.
- Should damage occur to the used machine given in payment after handover to the seller, which had already existed at the time of handover, but was not obvious and was therefore not reflected in the used machine evaluation in accordance with point X./1., the statutory warranty provisions shall apply, notwithstanding point VII, with the proviso that improvement is not required and only the warranty remedies of price reduction and/or withdrawal from the contract shall apply, provided that it is not a minor defect.
- The buyer is obliged not to make any further dispositions regarding the used machine given in payment as soon as the purchase price of the new machine and the price of the used machine given in payment are fixed. In particular, the buyer undertakes not to give or sell the used machine in payment in any other way. Should the Buyer be in breach of contract vis-à-vis the Seller, the Seller shall be entitled to withdraw from the contract and to invoice the Buyer for any damage incurred or to claim damages - in the event of gross negligence also for lost profit.

April 2021

---

#### **Ascendum Baumaschinen Österreich GmbH**

Grafenholzweg 1 T. +43 (0)662 469 11-0  
5101 Bergheim - Austria

Salzburger Sparkasse:  
UniCredit Bank Austria AG:

BIC SBGSAT2SXXX  
BIC BKAUATWW

IBAN AT13 2040 4000 4122 9964  
IBAN AT57 1100 0089 5306 0400

Landes-/Handelsgericht Salzburg  
FN: 60505d ARA: 5468

DVR: 0513750  
UID: ATU34766107