

TERMS AND CONDITIONS OF PURCHASE

1. Contracts, orders

Contracts and orders require the written form to be effective; verbal and telephone agreements only become binding and effective if they are confirmed by us in writing.

Our contracts and orders are subject exclusively to our terms and conditions of purchase and, unless these rule otherwise, the legal provisions.

We hereby gainsay and reject contractors' and suppliers' terms and conditions of sale and delivery.

2. Acceptance/confirmation of contracts

Acceptance of contracts and orders must be confirmed in writing. We are only bound by a contract or an order if we receive written confirmation from the contractor/supplier within 14 days from the date of the contract or order.

3. Delivery dates

Delivery dates shall be agreed. If the delivery date is missed the contractor/supplier shall enter delay without further warning or deadlines from us. In the event of delay the contractor/supplier undertakes to pay us flat-rate compensation in the amount of 10% of the gross value of the contract regardless of other legal claims and without regard to fault. The contractor/supplier explicitly retains the right to prove that we did not incur damages or that the damages incurred were significantly less than the above flat rate.

Postponement of deliveries due to force majeure shall not be considered delay, if we are informed of the relevant events or potential events in a timely manner.

4. Warranty, acceptance

The contractor/supplier shall **guarantee** the use of the best defect-free materials, appropriate implementation, defect-free installation and suitable construction according to the contractually agreed or discernible use of the object of delivery.

AVISTA OIL Deutschland GmbH must make complaint for obvious defects within two weeks, beginning on the day when the work or good is put to use. Otherwise statutory warranty periods shall apply.

The acceptance of the object of delivery or payment of the compensation for work or purchase price shall have no influence on the persistence of any defect warranty rights.

In the event of a defective object of delivery the contractor/supplier is obliged to carry out repair, replacement or on-site repair according to our choice, regardless of other legal claims on our part. In urgent cases we have the right, after setting the contractor/supplier an appropriate deadline, to rectify the defect ourselves at the contractor's expense, enlist a third party to do this or otherwise obtain a replacement. The same applies if the contractor enters into delay on the fulfilment of its warranty obligations. We explicitly retain the right to claim compensation alongside this.

Installation and operating instructions for all objects of delivery must be sent to us in a timely manner, otherwise the contractor/supplier shall be liable to us and our customers for all damages resulting from inappropriate use.

5. Liability

The contractor/supplier undertakes to take out liability insurance to cover all compensation claims which may arise in connection with the carrying out of services, and to maintain it for as long as services are being carried out.

The contractor's/supplier's liability for damages falling within its responsibility is not thereby limited to the insured amounts.

This insurance must also cover the personal liability of persons involved in carrying out services on behalf of the contractor/supplier.

It is also the contractor's/supplier's responsibility to protect itself against risks by taking out construction, installation and transport insurance.

6. Scope of liability

The contractors/suppliers shall be liable to us and to our customers in an unlimited amount for direct and indirect damages due to delay, warranty for guarantee, material or legal defects, unlawful acts, positive breach of contract or fault at conclusion of the contract, including cases where its vicarious agents are responsible.

7. Accident prevention

All machines, apparatus and technical devices must correspond to the requirements of the relevant accident prevention regulations and other legal provisions applicable at the time of delivery. If this is not the case, it shall be deemed a material defect, which we may claim for at any time without regard to fault. We have no auditing duty with regard to compliance with accident prevention regulations and other legal provisions.

8. Legal defects, retention of title

The contractor/supplier shall ensure that third-party rights do not obstruct the appropriate use of the purchased good, and in particular that third party property rights are not violated. If, however, we are subject to a claim arising from a possible violation of third-party rights, e.g. copyright, patent rights and other property rights, the contractor/supplier shall release us from this claim and from any payments in connection with it.

Deliveries must not be subject to retention of title. We hereby explicitly gainsay the contractor's/supplier's forms.

9. Place of fulfilment, transport

The place of fulfilment is the receiving address given in our order. Unless otherwise agreed in writing overleaf, all deliveries must be free of postage and packing fees. If we do bear postage fees, the contractor/supplier is obliged to choose the most economical delivery method.

The contractor/supplier shall be liable without regard to fault for proper delivery and for appropriate and professional packaging.

10. Transfer of risk

Risk shall be transferred to us as soon as the delivered good is at the relevant goods station if transport is by rail or on the premises if forwarding services are used, and has been handed over.

11. Payment

Payment shall be made with a payment method of our choice to the paying agent supplied by the contractor/supplier on the agreed dates and in accordance with the other terms and conditions.

Unless otherwise agreed, the payment shall be made according to our choice after delivery and receipt of invoice within 8 days at a 3% discount, within 14 days at a 2% discount, or within 30 days net. We reserve the right to pay by cash or bills of exchange.

In principle we reject cash on delivery.

12. Assignment of claims

Assignment or pledging of claims against us requires our prior written consent to be effective. The contractor may only offset with undisputed or legally established claims.

13. Drawings and models

The models, drawings and calculations submitted for the fulfilment of our contract remain our property and must be returned after the contract has been carried out.

14. Place of jurisdiction

The exclusive place of jurisdiction for disputes arising from agreements on the basis of our contracts and orders is Dollbergen. The law of the Federal Republic of Germany shall apply. The UN Convention on Contracts for the International Sale of Goods is hereby waived.

15. Amendments

All amendments to the above terms and conditions require written confirmation from both parties to be effective.

16. Severability clause

Should individual provisions of this document be or become invalid, the other provisions shall remain valid. The invalid provision shall be replaced by one which approaches as closely as possible its economic purpose.