

General Terms and Conditions 2019 - Doppelmayr Cable Car GmbH

(Referred to as „DOPPELMAYR“ from here on)

Konrad-Doppelmayr-Straße 1, A-6922 Wolfurt / Austria



1. Offer, Order / Order Confirmation

- 1.1. Following a request from DOPPELMAYR, the supplier is asked to provide an offer to DOPPELMAYR free of charge, which adheres to these General Terms and Conditions. The supplier's offer shall conform to the requirements and descriptions of DOPPELMAYR. If there are deviations, the supplier shall point these out expressly. Should the supplier issue an order confirmation that deviates from the order, DOPPELMAYR is only bound to it after express written consent.
- 1.2. The supplier's offer shall include all additional costs thereby incurring for DOPPELMAYR, like taxes, duties, charges, packaging, transport, license fees, etc., in detail.
2. **Delivery, Place of Delivery, Delivery Date**
- 2.3. The delivery of the goods shall conform to the instructions given by DOPPELMAYR. If there are no such instructions, the supplier is responsible for correct packaging and transport. The supplier shall expressly inform DOPPELMAYR about all special care to be taken during unloading or unpacking activities.
- 2.4. Unless otherwise specified in the order, the place of delivery is the premises of DOPPELMAYR in Wolfurt. The supplier is solely responsible to acquire the necessary export licenses required in his country, as well as adhering to all export, import, transit control prescriptions and formalities. If the transport is delayed for any reason, the supplier shall contact DOPPELMAYR immediately and / or store the goods properly at his own expense and responsibility.
- 2.5. The delivery is deemed to be complete when the goods have arrived at the place of delivery or DOPPELMAYR has collected and loaded the goods on the means of transport. If the supplier is responsible for the delayed delivery, DOPPELMAYR has the right to either demand a later delivery and compensation because of that delay (there may also be an additional penalty for nonperformance if so stipulated in the contract), or to waive the right to a later delivery, or to withdraw from the contract and demand compensation due to nonperformance. DOPPELMAYR's acceptance of a delivery does not negate the right to further compensation.
- 2.6. Unless otherwise agreed, all expenses and risks of damage or loss after loading in cases where DOPPELMAYR collects the goods, or before unloading in cases of a delivery to DOPPELMAYR, pass over to DOPPELMAYR.
- 2.7. Force majeure and other disruptions that occur at DOPPELMAYR or its suppliers and which result in reduction or cancellation of production activities at DOPPELMAYR exempt DOPPELMAYR from the duty to accept the goods and / or any possible liability from damages as long as these disruptions last.

3. Quality Requirements

- 3.1. The goods shall be delivered and provided according to the applicable laws and order specifications. The supplier is obliged, adhering to all applicable and valid standards and codes, to assess all order requirements, like given specifications, drawings, technical data, descriptions, samples, etc., as soon as these requirements are received; these requirements shall be adhered to when executing the order. The supplier shall immediately inform DOPPELMAYR about all possible differences or other defects that he discovers while assessing and / or fulfilling the requirements. The supplier has the express duty of disclosure towards DOPPELMAYR.
- 3.2. If the order requirements do not specify the quality of the goods, the supplier shall guarantee, quoting the binding quality designation, the best possible quality of his products for the current and all future orders. The supplier shall notify DOPPELMAYR in good time about all changes in quality. If there are changes in quality without prior notification, DOPPELMAYR has the right to reject the goods. The supplier is liable for all direct and indirect damages.
- 3.3. If the production of specific products necessitates special production drawings, the supplier must provide these in advance for DOPPELMAYR's approval.
- 3.4. Without DOPPELMAYR's prior written consent, the supplier shall not relegate any part or all of the order to a subsupplier. At all times, DOPPELMAYR reserves the right to review the production or progress of the goods at the supplier's and / or sub supplier's facilities, as well as to verify the stipulated quality requirements; DOPPELMAYR may relegate these review or verification activities to a third party.
- 3.5. The supplier shall announce to DOPPELMAYR all possible production discontinuations and / or transfers in good time, but no less than 6 months prior to the last possible order date.

4. Prices

- 4.1. All prices shall be fixed prices. If, in special cases, the prices are not stipulated beforehand, they shall be part of the order confirmation. The right to disagree with or withdraw from the contract shall be reserved. The preparation of the design documents is included in the agreed prices.

5. Payment

- 5.1. Payment shall be made after receiving an invoice conforming to terms of commercial law and reception of the goods at the stipulated premises within 30 days at a 3% trade discount or 60 days after deductions.
- 5.2. Paying an invoice shall not mean that DOPPELMAYR has approved or accepted the goods, nor shall it mean that DOPPELMAYR waives the entitlement to warranties and / or guarantees.
- 5.3. The supplier shall not offset any claims towards DOPPELMAYR against any claims of DOPPELMAYR towards the supplier.

6. Review, Claim and Nonacceptance

- 6.1. The values that DOPPELMAYR records during acceptance inspections and / or incoming goods inspections with regard to delivered amount, mass, weight and quality are generally binding. DOPPELMAYR will provide, in writing, a list of nonconformities as soon as they are noticed, taking the respective operative conditions at DOPPELMAYR into account.
- 6.2. Thereby, the supplier waives the right to claim at a later time. DOPPELMAYR shall not be required to accept any partially or excessively delivered goods not agreed to in writing prior to delivery. With a claim, DOPPELMAYR sets a deadline for the supplier to either complete or amend the delivery at a location specified by DOPPELMAYR or to provide a replacement delivery. Both completed / amended or replacement deliveries shall be free of charge. If the deadline is not met, DOPPELMAYR shall be entitled to either correct the deficiency or to instruct a third party to provide a replacement, both at the supplier's expense and warranty.
- 6.3. If the deficiency is substantial, the supplier shall take the goods back at his own expense, refund DOPPELMAYR the price already paid and, additionally, all verified expenses related to checking the goods and rectification of defects. If DOPPELMAYR accepts the deficient goods, DOPPELMAYR shall reserve the right to deduct the amount for a possibly reduced value from the agreed price.
- 6.4. DOPPELMAYR generally notifies the supplier about all possible deficiencies within 2 weeks of their discovery. Under reservation of item 7, the warranty period shall comprise 24 months after reception or acceptance of the goods at the DOPPELMAYR facilities in Wolfurt or another place of delivery specified by DOPPELMAYR.
- 6.5. If the delivered goods are installed as a component of a product and the deficiency can only be discovered after putting that product into service, DOPPELMAYR shall be entitled to raise a warranty claim with the supplier for any deficiencies until the expiry of the limitation period.
- 6.6. If there is a claim, the supplier shall refund DOPPELMAYR all expenses paid regarding the rectification of the deficiency.
- 6.7. Depending on DOPPELMAYR's choice, the supplier shall either repair or replace all delivered goods at his own expense. This also applies even after the warranty period has expired if DOPPELMAYR deems the deficient goods to possibly be harmful to other parts or the health and safety of persons in general. The supplier shall also compensate DOPPELMAYR for any damages resulting from such a replacement.
- 6.8. DOPPELMAYR shall reserve the right to decline the reception of, and reserve payment for, the goods for as long as there are deficiencies of any kind that DOPPELMAYR cannot correct using reasonable means.
- 6.9. The supplier shall also support DOPPELMAYR's efforts to repair the delivered goods or repair them himself at his own expense.

7. Warranty / Defects Liability

- 7.1. The supplier shall be aware that DOPPELMAYR's products are employed in public transport systems worldwide. The goods to be delivered shall conform to the state of the scientific and technical knowledge at the time of delivery and provide the kind of safety that can be expected under consideration of all circumstances, especially regarding the product's usage and circumstances of its usage as it can be expected, and the point in time the product is released to the public, unless other warranties have expressly been agreed on beforehand.
- 7.2. Unless otherwise expressly specified in a warranty agreement, and / or a special specification requirements have been agreed to, the supplier's warranty for the delivered goods shall include guarantees for freedom from defects regarding design and construction; for usage of prescribed materials or, if not specified, suitable materials that are free from deficiencies; for production and assembly; and the fulfillment of all additional requirements laid out in the order and its attachments.
- 7.3. Taking item 7.1 into account, the supplier shall guarantee to DOPPELMAYR that the delivered goods conform to applicable laws and regulations for their distribution and use, and that the rights of no third party shall be restricted or violated. The supplier shall also be liable, in the same way, for goods, parts and / or services provided by a third party, but not manufactured by the supplier. The stipulated warranty period shall begin at the moment of the accepted delivery (item 6).
- 7.4. The supplier shall also guarantee – in addition to the quality and characteristics according to items 7.1 and 7.2 – that the delivered goods are fully functional and comply with all laws and regulations valid at the destination site, and that all necessary declarations and signs of conformity, authorizations, permits, accreditations, certificates, etc. are provided.
- 7.5. If DOPPELMAYR installs the delivered goods as a component in a product, and a deficiency is only apparent during operation of said product, DOPPELMAYR shall reserve the right to claim this deficiency until the respective warranty period has expired. In addition, DOPPELMAYR's rights to claim shall expire 24 months after the goods have been installed in the product, but no later than 36 months after receiving the goods at the specified place of delivery.
- 7.6. If there is a claim, the supplier shall compensate DOPPELMAYR for all costs related to the correction of the deficiency. If DOPPELMAYR suspects a deficiency in other goods the supplier has delivered, DOPPELMAYR shall reserve the right to demand a recall or replacement of all goods that are perceived as deficient. Depending on DOPPELMAYR's choice, the supplier shall either repair or replace all delivered goods at his own expense. This also applies even after the warranty period has expired if DOPPELMAYR deems the deficient goods to possibly be harmful to other parts or the health and safety of persons in general. The supplier shall also compensate DOPPELMAYR for any damages resulting from such a replacement.

8. Industrial Property Rights / Intangible Property Rights

- 8.1. The supplier shall be liable that no patents, industrial property rights or intangible property rights of any third party at home or abroad are infringed by manufacturing, delivery or use of the goods according to the law and the terms of the contract. The supplier shall be liable for all damages (including judicial and extrajudicial expenses) that DOPPELMAYR and its clients may incur due to an infringement on such industrial property, intangible property and similar rights.
- 8.2. The supplier shall only apply DOPPELMAYR signs, logos and trademarks to his products, and only to the agreed extent, with DOPPELMAYR's express consent. The supplier shall strictly adhere to DOPPELMAYR's specifications.

9. Product Liability

- 9.1. The supplier shall be liable for all his delivered goods as stipulated by applicable product liability laws.
- 9.2. The delivered goods shall conform to all applicable product liability laws and operational health and safety laws of all countries where the goods will be employed.
- 9.3. The supplier shall declare that he has made provisions to fulfill any liability claims to an acceptable extent, either by contracting an insurance suited to the ordinary course of business or other suitable means.
- 9.4. DOPPELMAYR shall reserve the right to defer to the supplier all claims and all additional expenses these claims may incur and that are related to any deficiencies of the delivered goods. Should DOPPELMAYR make use of this reserved right in connection with a product delivered by the supplier, especially with regard to product liability laws (including Switzerland, EU and USA), DOPPELMAYR shall name the supplier. DOPPELMAYR shall also be entitled to full compensation and right of recourse for all expenses resulting from realizing these reserved rights as against the supplier.

10. Confidentiality / Nondisclosure

- 10.1. The supplier shall treat all actions concerning purchasing (tender preparation and the order itself) and all commercial and technical details related to it as a trade secret. This shall also apply to all sub-suppliers. It shall expressly apply to products specifically designed for DOPPELMAYR. The supplier shall grant DOPPELMAYR the right of exploitation to the largest extent possible.
- 10.2. If the trade secret is violated, the supplier shall compensate DOPPELMAYR with 100,000 Euros of liquidated damages in addition to compensation for all losses suffered. DOPPELMAYR shall also reserve the right to withdraw from the contract immediately.
- 10.3. DOPPELMAYR shall treat technical and commercial documents of the supplier as confidential, unless DOPPELMAYR is obliged to publicize them.
- 10.4. The supplier shall only disclose the business relationship with DOPPELMAYR to any third party with DOPPELMAYR's express written consent.

11. Compliance

- 11.1. The Doppelmayr-Garaventa-Group's Code of Conduct is binding for the supplier. It is constantly available on the internet in the version valid from time to time at <http://www.doppelmayr.com>. The Code of Conduct is explicitly mandatory for any employee of the Doppelmayr-Garaventa-Group. The supplier is as well obligated to follow these regulations and to declare them as binding to its employees.

12. Applicable Law, Court of Jurisdiction

- 12.1. Austrian law shall apply to the contract made between DOPPELMAYR and the supplier. The United Nations Convention on Contracts for the International Sale of Goods (CISG) is expressly excluded.
- 12.2. The respectively responsible court in Wolfurt, Austria, shall be the only court of jurisdiction to settle all and any disputes. However, DOPPELMAYR shall reserve the right to file a suit against the supplier at any other responsible court of law.

13. General

- 13.1. Should any part of these General Terms and Conditions have no legal force, the applicability of other parts contained therein shall not be affected by this. All written correspondence shall be in German. Changes and amendments to these General Terms and Conditions and / or its attachments shall be made in writing to be valid.