

# GENERAL TERMS AND CONDITIONS OF BUSINESS

## GENERAL TERMS AND CONDITIONS OF SALE AND DELIVERY

(Version October 2020)

### 1. General:

#### 1.1

Deliveries of goods to our customers are made only on the basis of the terms and conditions below, unless provided otherwise in any special terms and conditions. Deviating agreements shall require the written form (**not applicable to consumer transactions**). Our employees are not entitled without written power of attorney to make deviating verbal covenants or agreements, not even to consumers.

#### 1.2

The possible invalidity of individual provisions of these General Terms and Conditions of Sale and Delivery shall not affect the other provisions. Instead of a possibly invalid provision, a provision shall be considered agreed which comes as close as possible to the invalid provision in a legally admissible manner (**not applicable to consumer transactions**).

#### 1.3

These Terms and Conditions shall apply mutatis mutandis also for services or other deliveries to be caused by us, unless provided otherwise in any special terms and conditions.

#### 1.4

We will not accept any conflicting general terms and conditions of the customer.

### 2. Order acceptance:

#### 2.1

If we do not reject within three working days after receipt of an oral purchase order, the order shall be considered accepted. We shall declare rejection of a written order within 14 days after its receipt, otherwise it shall be considered accepted as of the date when the order was placed.

#### 2.2

In case of shipping by mail, the rejection shall be timely if it is posted within the deadlines.

### 3. Right of withdrawal for consumers according to the Consumer Protection Act:

#### 3.1

If the consumer has issued his declaration of contract neither in the rooms which are permanently used by us for our business purpose, nor on a stand used for this purpose at a trade fair or on a market, he may withdraw from his declaration of intent to sign the contract or from the contract within 14 days. The period shall commence upon delivery of a document to the customer which contains at least our name and address and information on the right of withdrawal, but at the earliest upon conclusion of the contract. In case of contracts on the

purchase of goods, the period shall commence at the earliest on the day when the consumer acquires possession of the goods.

If no such document has been issued, the period of withdrawal shall be extended by twelve months. If we issue the document within twelve months from commencement of the period, the period of withdrawal shall end 14 days after the date when the consumer receives the document.

### 3.2

The consumer shall have no right of withdrawal if he has initiated the business with us himself, or if no negotiations between the parties involved took place before conclusion of the contract.

### 3.3

The declaration of withdrawal is not restricted to a particular form. The period of withdrawal is observed if the declaration of withdrawal is dispatched within the period.

### 3.4

The consumer may also withdraw from his declaration of willingness to sign the contract or from the contract if without his instigation any circumstances which are essential for his consent, such as approval by third parties, prospect of tax benefits or public subsidies or a credit, which we presented as probable during the contract negotiations, do not occur or only occur to a much lesser extent.

Withdrawal may be declared within one week, as soon as it is apparent for the consumer that the mentioned circumstances will not occur or only occur to a much lesser extent, and he has received a written instruction on this right of withdrawal. However, the right of withdrawal shall expire one month after full completion of the contract by both contracting partners at the latest. Apart from that, section 3.3 shall apply.

The consumer shall have no right of withdrawal if

1. he knew or should have known already during the contract negotiations that the relevant circumstances will not occur or will occur only to a considerably lesser extent,
2. exclusion of the right of withdrawal was individually negotiated, or
3. we agree to reasonably adjust the contract.

### 3.5

The direct costs for the return of the goods shall be borne by the consumer.

## 4. Performance, passage of risk, default and force majeure:

### 4.1

Place of performance for delivery and payment shall be our registered office, even if handover takes place in another location as agreed. In such case, the customer shall approve shipping by rail, mail, road transport or any other advisable mode of transport, and shall bear the cost of the delivery (transport, intermediate storage, loading and unloading).

### 4.2

Benefit and risks shall pass to the customer upon shipment of the goods from our warehouse at the latest, in the case of delivery ex works from the appropriate location, notwithstanding the

pricing agreed for the delivery, such as “carriage free”, etc. (**applicable to consumer transactions only if a separate transport agreement is concluded**). Possible claims for damages shall be unaffected.

#### 4.3

Unless agreed otherwise, the delivery time shall be 30 days after conclusion of the contract. In case of goods which are not stored in our warehouse, the delivery time shall be 30 days at the most from receipt of the goods from the upstream supplier (**not applicable to consumer transactions**).

#### 4.4 Force Majeure

##### 4.4.1

Force majeure is an event which is beyond the control of the parties to the contract and could not have been foreseen and which either prevents, significantly hampers or makes uneconomic the performance of the contract or the mutually presupposed use of the subject matter of the contract, such as in particular strike, war, civil war, riot, terrorism, cybercrime, natural disasters or natural events such as e.g. low or high water, ice, storm, lack of energy, transport and customs clearance delays, official decrees, as well as all measures, effects or events in connection with epidemics, epidemics or pandemics (in particular COVID-19) or other comparable cases.

##### 4.4.2

In the event of force majeure, we are entitled to extend the performance period by the duration of the force majeure and an additional reasonable grace period. Furthermore, we are entitled to withdraw from the contract with immediate effect for the duration of the force majeure, irrespective of the extension of the deadline.

##### 4.4.3

For his part, the customer is entitled to withdraw from the contract with immediate effect if the service has not been provided within 4 weeks at the latest from the expiry of the originally agreed service period (**only applicable to consumer transactions**).

##### 4.4.4

The customer may not assert any rights against us from or in connection with this withdrawal from the contract or the extension of the performance period; in particular, claims for damages from any legal title whatsoever are excluded to the extent permitted by law.

The customer waives the assertion of a possible loss of the basis of the business and related claims (**not applicable to consumer transactions**).

##### 4.4.5

The aforementioned provisions shall also apply in the event that a force majeure event occurs at our manufacturers, suppliers or vicarious agents.

#### 4.5

In case of delayed shipment from the factory or from our warehouse which is due to circumstances for which the customer is responsible, the risk shall pass to the customer on the day when the goods are ready for shipping. If delivery on call has been agreed, the goods shall

be considered called off three months from the order date at the latest. We will inform the customer in due time on the expiry of the period and on the significance of his behaviour. If we are unable to perform due to the lack of corresponding merchandise planning of the customer, the effects of the default of acceptance shall occur upon this date.

If the customer fails to collect the goods contrary to the contract, we are entitled to charge the customer a penalty of 1.5% of the net invoice amount per started week from the date of default of acceptance (**not applicable to consumer transactions**). This does not exclude any further claims for damages.

#### 4.6

We are entitled to perform and issue invoices for partial or advance deliveries.

#### 4.7

Complaints based on alleged non-delivery or incomplete delivery shall be raised in writing immediately but not later than within seven days from receipt of the delivery note. If the customer has not received a delivery note, the period shall commence upon receipt of the invoice. Any breach of this obligation does not reduce the customer's right to claim warranty, but may give reasons for contributory negligence.

### 5. Offers and cost estimates:

#### 5.1

Our offers are non-binding and do include an obligation to accept orders.

#### 5.2

Cost estimates shall only be submitted in writing. Only written cost estimates which are remunerated shall be binding. Unless provided otherwise in any binding cost estimates, we shall be bound by the prices contained in the cost estimate for one month (**not applicable to consumer transactions**).

#### 5.3.

Changes to orders and/or additional orders shall be invoiced separately.

### 6. Prices:

#### 6.1

If there are cost increases between conclusion of the contract and delivery, which are due to circumstance which are beyond our control, such as an increase of our acquisition price, increase of the producer's prices and/or wholesale prices due to an increase of labour costs under any law, regulation or collective agreement, or on increase or introduction of duties or due to stable value clauses, the affected prices shall increase accordingly (**not applicable to consumer transactions**).

#### 6.2

The prices shall be ex warehouse. Packaging, in particular transport packaging, pallets, insurances, delivery, etc. shall be additionally charged.

### 6.3

If additionally charged packaging, in particular transport packaging, pallets, etc. are returned against remuneration, the customer is responsible for the proper storage of these objects until their actual return. If these objects cannot be reused, we are not obligated to accept their return against remuneration.

### 6.4

Entrepreneurs cannot invoke art. 934 of the Austrian Civil Code (lesion beyond moiety).

## 7. Retention of title:

### 7.1

Until full payment of the purchase price, we reserve title to the purchased object. In case of pledging or other claims to the purchased object by third parties, the customer is obligated to point out our title and to notify us without any delay.

### 7.2

The resale of the goods which are subject to retention of title shall require our prior written approval. In this case, the reserved title shall extend to the proceeds or the purchase price claim from this transaction, which is therefore assigned into our ownership. In case of such resale, the customer is obligated to keep the proceeds separate. We are entitled to inform the garnishee on the assignment.

### 7.3

In case of handling or processing and combination of the goods supplied by us with other goods, we are entitled to the co-ownership share in the object resulting from the handling or processing in the proportion which the value of the goods supplied by us has to the other processed goods at the time of processing or combination.

## 8. Payment:

### 8.1

In the absence of other agreements, payments shall be due upon receipt of an invoice.

### 8.2

In case of default of payment, we are entitled without prejudice to our other rights to take back the goods, equipment, etc. which are subject to our retention of title, without resulting in withdrawal from the contract.

### 8.3

In case of default of payment by a consumer we agreed contractual interest with, we are entitled to claim default interest amounting to 5% per annum in addition to the contractual interest. If no contractual interest has been agreed, the default interest rate shall be 9% per annum with quarterly billing.

In case of default of payment by an entrepreneur, we are entitled to claim interest and compounded interest amounting to 13% per annum with quarterly billing. If any changes occur in the money or capital market which result in a general change of the interest on credits, we are entitled to adjust the agreed interest rate accordingly.

8.4

The defaulting customer is obligated to refund all procedural and culpably caused non-procedural costs of the appropriate pursuit of our rights, such as in particular dunning costs, expenses for the involvement of a debt collection agency, and costs of a lawyer engaged by us, to the extent they are in a reasonable proportion to the amount claimed.

8.5

Setting off the purchase price against counterclaims asserted by the customer is excluded, unless the customer is a consumer and have become insolvent or the counterclaim is legally connected with the amount receivable from the customer, has been established by court order or has been accepted by us. Retention of the purchase price or compensation in case of justified claims for improvement shall be admissible only to the extent of the expenses required for the improvement (**not applicable to consumer transactions**).

8.6

Any payments we receive shall first pay off compound interest, interest and additional expenses, then the outstanding capital, and unsecured debt will be paid off before secured debt, starting with the oldest debt.

8.7

The deliveries and services for customers having a permanent business relationship with us will always be performed on the basis of a current account relationship, and the mutual claims are therefore charged on a current account, but taking into account section 8.6. The account balance will be notified by separate notification.

8.8

Unless agreed otherwise in the specific individual case, a current account borrowing rate of 13% per annum shall apply with quarterly billing. If any changes occur in the money or capital market, which result in a general change of the interest on credits, we are entitled to adjust the agreed interest rate accordingly (**not applicable to consumer transactions**).

8.9

It is expressly noted that any confirmation of balances may be made in writing or orally also by implication if the customer does not object the balance notified by us within a reasonable time, but after 4 weeks at the latest. This is pointed out in the notification of balances.

8.10

We expressly reserve the right to decide not to include individual accounts receivable into the existing current account relationship.

## 9. Warranty (**The following is not applicable to consumer transactions**):

9.1

We are entitled at our option to exchange faulty goods for similar faultless goods within a reasonable time, or to repair the defect within a reasonable time. This results in an expiry of the claim for rescission of the contract or price reduction.

#### 9.2

The warranty claim requires that the customer has notified in writing any defects occurred within a reasonable period, within 14 days from handover at the latest, with a detailed description of the defects. Section 4.6 shall remain unaffected.

The deadline for the assertion of warranty claims for movable objects shall be 6 months and for immovable objects 2 years from the date of handover.

#### 9.3

The customer shall be responsible for providing evidence on the defectiveness of the goods at the time of handover.

#### 9.4

We are entitled to charge the customer for transport and travel costs to the agreed place where the defects are to be rectified.

#### 9.5

Public statements of the manufacturer, the importer or other third parties on particular characteristics of the goods, in particular in advertising, shall not become part of the contract, unless they are expressly referred to.

### 10. Withdrawal from the contract:

#### 10.1

If we are unable to keep the delivery date after acceptance of the contract as a result of intentional or negligent conduct, the customer shall be entitled to withdraw from the contract after fruitless expiry of a reasonable grace period which was set in writing. In the case of goods which are to be specially manufactured or procured according to the customer's specifications, an entrepreneur is not entitled to the right to withdraw from the contract in the event of delay due to slight negligence; a consumer has in this case the right to withdraw from the contract after the unsuccessful expiry of a grace period of four weeks set in writing.

#### 10.2

Otherwise we are entitled in case of default in payment without prejudice to any other rights we may have to fully or partially withdraw from the contract after granting a reasonable grace period. In case of or withdrawal, we are entitled to receive compensation in the amount of 10% of the price of the goods which caused the withdrawal. The assertion of any further damage shall be reserved.

#### 10.3

If any contracting partner should suspend its payments, execution is levied upon its assets or the opening of insolvency proceedings is refused for lack of cost-covering assets or its financial circumstances deteriorate in such a manner that the recoverability of the claim appears to be at risk, the other contracting partner is entitled to withdraw from the contract without setting a grace period.

#### 10.4

In principle, we are not obligated to accept the return of already delivered goods. If as a gesture of goodwill a return is accepted in the individual case, a handling fee of 10% of the net invoice amount will be charged in any case at the customer's expense, plus compensation of possible damages to the returned goods which are calculated on the value as new without taking into account a possibly reduced current market value. If the acceptance of returned goods should entail that the staggered discount of the customer's invoice for the purchase of goods is not reached, the originally granted quantity discounts shall also be returned.

### 11. Liability:

#### 11.1

With regard to consumer transactions, our liability for damages caused by slight negligence except bodily injuries shall be excluded. In the case of entrepreneurial transactions, our liability is limited to damages caused by gross negligence or intent, which arise on the object of the delivery itself.

#### 11.2

The customer shall inform us immediately on any loss he becomes aware of which results from an object delivered by us, in particular if the customer is requested by a third party under product liability to compensate any damage or notify his suppliers, otherwise becomes aware of a product defect of our goods or is damaged himself.

#### 11.3

The assertion of liability, information or recourse claims shall be addressed in writing to the management, providing details on the damage, the facts giving rise to liability including the proof that the deliveries and services were provided by us.

#### 11.4

Unless agreed otherwise, loading is not included in our contractual obligation to provide indemnification. Only the customer is responsible for load securing and load security.

### 12. Address:

The customer shall immediately and expressly notify any changes to his address. Otherwise any written notifications shall be considered received using the normal mail delivery service if they were dispatched to the address last notified to us.

### 13. Data Protection:

**The customer undertakes to process the person-related data sent by us in accordance with the currently valid data protection laws, as amended, for the sole purpose of performing the contract and to delete these data promptly when there is no longer any reason justifying the processing (does not apply to consumer businesses).**



**Regarding our duties to provide information under data protection law according to Articles 13 and 14 of the General Data Protection Regulation (GDPR), please refer to the data protection statement on our website. Upon request, the customer will be provided with a copy of this data protection statement at no charge.**

14. Place of jurisdiction and choice of law:

The place of jurisdiction for all disputes arising directly or indirectly from any transaction is exclusively the competent court in Vienna. **(not applicable to consumer transactions).**

Exclusively Austrian law is agreed, under the express exclusion of the UN Convention on Contracts for the International Sale of Goods and international conflict of laws rules.