

TERMS AND CONDITIONS OF SALE

§ 1 General – Scope of validity

(1) Our Terms and Conditions of Sale shall exclusively apply; any terms and conditions of the purchaser that are inconsistent with or deviate from these Terms and Conditions of Sale shall not be applicable unless where we have explicitly agreed to the validity of these in writing. Our Terms and Conditions of Sale shall apply even if we execute the delivery to the purchaser unconditionally in the knowledge of deviating terms and conditions of the purchaser.

(2) All agreements entered into between us and the purchaser for the purpose of executing the contract have been specified in writing in this contract. The product information specified in our latest product catalogue shall additionally apply.

§ 2 Offer – Offer documents

(1) We have the right to accept orders (offers in accordance with Section 861 of the Austrian Civil Code, ABGB) within 2 weeks by written order confirmation.

(2) The minimum order quantity is 1 packaging unit (1 box). Orders for less than this minimum quantity shall be subject to a small-quantity surcharge of € 50.00.

(3) Figures, drawings, weights, quantities and measurements normally include only approximate values unless where these have explicitly been specified as binding in the individual case.

(4) We reserve the property rights and copyrights to figures, drawings, calculations and any other documents. This also applies to those written documents that have been identified as "confidential". The purchaser requires our explicit consent in writing before disclosing any information to third parties.

(5) Models and tools produced on behalf of the purchaser shall remain our property even if the purchaser paid for part of or the entire costs.

§ 3 Prices – Terms of payment

(1) Unless anything to the contrary results from the order confirmation, our prices shall be "ex works".

(2) Our prices do not include the legal value added tax; this will be indicated separately on the invoice in the amount as legally valid on the date of invoicing.

(3) Unless anything to the contrary results from the order confirmation, the purchase price shall be payable net (without deduction) within 30 from date of invoice. A cash discount of 2% may be deducted if payment is made within 8 days. Any default in payment shall be subject to the legal regulations.

(4) The purchaser shall only be entitled to offset counterclaims that have been recognised by declaratory judgement, are undisputed or have been acknowledged by us. In addition, it shall be entitled to exercising a right of retention if its counterclaim is based on the same contractual relationship.

§ 4 Delivery time

(1) The delivery time indicated by us shall be subject to the prior clarification of all technical questions and may be exceeded by up to two weeks (for special orders by up to three weeks) unless a fixed delivery date has been agreed.

(2) The fulfilment of our delivery obligation is additionally subject to the timely and correct fulfilment of the obligations of the purchaser. We reserve the right to plead defence of non-performance of the contract.

(3) If the purchaser is in default of acceptance or culpably violates any other obligations to cooperate, we are entitled to demand compensation for the losses incurred, including any extra expenses. We reserve the right to make further demands.

(4) If the conditions of paragraph (3) are fulfilled, the danger of accidental decline or accidental deterioration of the purchased item shall pass on to the purchaser at the time when the latter is in default of acceptance or debt.

(5) Our liability is subject to the legal provisions if the relevant purchase contract is a transaction at a fixed date as defined by Section 919 ABGB or by Section 376 UGB (Austrian Commercial Code). Our liability shall also be subject to the legal provisions if, as a consequence of a delay in delivery for that we are responsible, the purchaser is entitled to claim that its interest in the further performance of contract has discontinued.

(6) In addition, our liability shall be subject to the legal provisions if the delayed delivery was caused by wilful or grossly negligent breach of contract for that we are responsible; we shall be responsible for any fault on the part of our representatives or vicarious agents. In cases where the delayed delivery was not caused by wilful breach of contract for that we were responsible, any liability for damages on our part shall be limited to the foreseeable, typically arising damage.

(7) Our liability shall also be subject to the legal provisions where the delayed delivery for that we are responsible is due to the culpable violation of a material contract obligation; however, in such case, any liability for damages shall be limited to the predictable, typically arising damage.

(8) In addition, we shall be liable to pay a flat-rate penalty for delayed delivery in the amount of 2% of the value of the delivered goods, however, not exceeding a maximum 10% of the value of the delivered goods.

(9) Any additional legal claims and rights of the purchaser shall remain unaffected.

§ 5 Transfer of risk – Packaging costs

(1) Unless anything to the contrary results from the order confirmation, the delivery shall be agreed "ex works" (EXW).

(2) With the exception of pallets, we shall not accept return of transport and any other packaging in accordance with the packaging regulation. It is the purchaser's duty to arrange for the disposal of the packaging at its cost.

(3) If requested by the purchaser, we shall take out transport insurance to cover the delivery; the purchaser shall pay for the associated costs.

§ 6 Liability for defects

(1) Any claims for defects asserted by the purchaser shall be subject to the latter's correct fulfilment of its duties to investigate and complain as required in Sections 377 and following UGB.

(2) If the purchased item is faulty, the purchaser shall be entitled, at its choice, either to supplementary performance in the form of correction of the fault (rectification) or delivery of a new fault-free item (replacement). In the event of the correction of the fault, we shall be obligated to pay for all expenses that such correction of the fault incurs, in particular transport, travel, labour and material costs, unless where these have increased owing to the fact that the purchase item had to be transported to a place other than the place of performance.

(3) Should the rectification fail, the purchaser shall have the right, at its choice, to rescind the contract or to demand a price reduction.

(4) Our liability shall be subject to the legal provisions if the purchaser has asserted claims for damages caused by intent or gross negligence, including intent or gross negligence on the part of our representatives or vicarious agents. Except in cases where we are responsible for wilful breach of contract, the liability for damages shall be limited to the foreseeable, typically arising damage.

(5) Our liability shall be subject to the legal provisions if we have culpably violated a material contractual obligation; however, in such case, any liability for damages shall be limited to the foreseeable, typically arising damage.

(6) The liability for acts of culpable negligence causing injury to life, limb or health shall remain unaffected; this shall also apply to the statutory liability in accordance with the product liability law.

(7) Any liability other than provided for in the clauses above shall be excluded.

(8) Liability shall also be excluded in cases of non-compliance with the processing information specified in the respective product catalogues.

(9) Any claims for defects shall expire after 12 months, counted from the transfer of risk, unless where a longer warranty period has been agreed in the product information. Section 924 ABGB shall not be applicable and shall be excluded (presumed defectiveness within the first 6 months from transfer).

§ 7 Aggregate liability

(1) Any liability for damages other than provided for in § 6 shall be excluded regardless of the legal basis of the asserted claim. This shall apply in particular to claims for damages for default upon conclusion of contract, for any other violation of duties or due to actions in tort for replacement of material damage. Any liability on our part for damages resulting from lost profit shall be excluded.

(2) To the extent as our liability for damages is excluded or limited, this shall also apply to the personal liability for damages of our employees, workers, staff, representatives and vicarious agents.

§ 8 Retention of title

(1) We reserve the title to the purchased item until all payments resulting from the business relationship with the purchaser have been received. Should the purchaser violate the contract, in particular if it is in default with payment, we shall have the right to take the purchased item back or to demand its immediate return. The return of the purchased item shall not be construed as rescission of contract unless we have explicitly declared this in writing. The seizure of the purchased item by us shall always be a rescission of contract. Following return of the purchased item, we shall be entitled to liquidate it; the proceeds from such liquidation shall be deducted from any amounts payable by the purchaser – minus the reasonable liquidation costs.

(2) The purchaser shall notify us immediately of any seizures or other interventions by third parties. Should such third party not be in a position to reimburse us for the costs of the appropriate legal action in and out of court due to our pursuit of our rights in the purchased item, the purchaser shall be liable for the loss we have suffered.

(3) The purchaser has the right to resell the purchased item in ordinary course of business. In such event, it shall inform the third party of our retention of title. However, the purchaser shall herewith assign all claims to the amount of the final invoice amount (including VAT) of our claim that it accrues from the resale against its buyers or third parties. The purchaser shall remain entitled to assert this claim even after the assignment. Our right to assert the claim ourselves shall remain unaffected. However, we undertake that we will not assert the claim for as long as the purchaser fulfils its payment obligations from the collected proceeds, is not in default with payment and, in particular, no application for the initiation of insolvency proceedings has been made or payments have been suspended. Should this be the case, we may demand that the purchaser notify us of the assigned claims and its debtors, furnishes us with all information required for the collection, submits the associated documents to us and notifies the debtors (third parties) of the assignment.

(4) Any processing or modification carried out by the purchaser on the purchased item shall always be performed for us. If the purchased item is processed with other objects that are not our property, we shall obtain co-ownership of the new item in the ratio of the value of the purchased item (final invoice amount including VAT) to the other processed objects at the time of processing. Otherwise, the item created by processing shall be subject to the same provisions as the purchased item delivered under retention of title.

(5) Upon request of the purchaser, we undertake to release the securities to that we are entitled to the extent that the realizable value of our securities exceeds the claims to be secured by more than 20%; we shall choose which securities will be released.

§ 10 Place of jurisdiction – Place of performance

(1) If the purchaser is an entrepreneur, our place of business shall be the place of jurisdiction; however, we shall have the right to bring an action against the purchaser in a court at its residence.

(2) The laws of the Republic of Austria shall apply with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

(3) Unless anything to the contrary results from the order confirmation, our place of business shall be the place of performance.

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