

## GENERAL TERMS AND CONDITIONS

### Lorünser Austria GmbH

#### 1. Area of Application

1.1. Unless otherwise agreed by the parties expressly in writing, the present General Terms and Conditions ("AGB") shall apply to all goods and services as well as offers and payments from and to the Lorünser GmbH (in the following "Lorünser").

1.2. Any terms and conditions or purchase conditions of the customer mentioned in the customer's inquiries, orders or other correspondence shall not become part of the contract with Lorünser, unless Lorünser has consented thereto beforehand in writing. If in individual cases diverging provisions have been agreed in writing, such provisions shall solely apply to that individual business transaction.

#### 2. Offers

2.1. Any information by Lorünser regarding goods and prices shall be without obligation and subject to confirmation. Only the customer's order is deemed to be a binding offer. The customer shall be bound to the order for two weeks after it has been received by Lorünser.

2.2. The customer's order shall be accepted through a written order confirmation and the allocation of an order number by Lorünser. Up to that point in time, there shall be no obligation on part of Lorünser to supply such goods or services.

2.3. Any documentation coming with the products such as drawings or information regarding dimensions, weights or performance shall not be considered to be guaranteed qualities, unless otherwise agreed in writing. We reserve the right to changes based construction requirements or any other changes of technical data.

2.4. If the parties to the contract agree on any additional services or other modifications that have an impact on delivery times, these shall lose their validity and shall be renegotiated.

2.5. Errors in terms of print, calculation, orthographic or budgeting shall not be binding for Lorünser. The customer may not make any claims whatsoever arising from aforementioned errors.

#### 3. Prices, Order Modifications

3.1. Unless otherwise agreed in writing, prices are in Euro excluding VAT as prescribed in Austria.

3.2. Prices are valid ex works Weiz/Austria, without customs, including packaging. Not included in the price are fees, charges, custom fees, transportation, travel expenses and/or petty expenses, insurance, delivery costs and postage unless explicitly listed. Such costs shall be charged to the customer separately.

3.3. The customer shall bear any costs associated with special packaging, loading, transportation and transport insurance, storage, assembly, mounting and translation of operation manuals in any other language than German or the negotiation language.

3.4. After the order has been received, Lorünser shall charge for any later modifications of the order if this causes additional charges.

#### 4. Delivery, Passing of Risk

4.1. If Lorünser has not explicitly agreed to a delivery date in writing, such information regarding the delivery of goods and services shall be without obligations.

4.2. If Lorünser believes that the goods to be delivered cannot be delivered within the delivery time, Lorünser shall inform the customer accordingly in writing immediately, including the reasons for such delays and the previewed time of delivery.

4.3. Lorünser reserves the right to make part deliveries.

4.5. Delivery is made as soon as possible to the address specified by the customer. Lorünser shall have the right to postpone or cancel announced deliveries if circumstances outside Lorünser's power make such deliveries impossible or unreasonably hard. This applies especially to industrial disputes and circumstances outside of the parties' power such as fire, war, strike, etc. The same applies if such unforeseen obstacles and circumstances affect a sub-contractor.

4.6. The danger of accidental loss or damage of the goods shall be transferred to the customer when the goods are dispatched or given in the care of the logistics company or transportation company, unless otherwise agreed in writing. The customer shall claim any transport damages and/or wrong quantities immediately to the transport company.

4.7. The risk of accidental loss or damage for goods that cannot be delivered at the foreseen date upon the customer's request or cannot be delivered for a reason in the responsibility of the customer and default taking delivery shall be transferred to the customer at the time of storage of such goods in our warehouse in Weiz or a warehouse of the customer.

4.8. The delivery has been made if Lorünser dispatches the goods at the last date of the agreed term or the goods are ready to be dispatched respectively.

4.9. If the goods are not delivered at the agreed date and the reason therefore lies within the responsibility of Lorünser, the customer shall give Lorünser a grace period of four weeks by registered mail: Only after that period has passed without any delivery being made, the customer may withdraw from the contract altogether.

4.9. If the goods are not delivered at the agreed date and the reason therefore lies solely within the responsibility of the customer, Lorünser shall store the goods in its plant or an external logistic centre for the time of two weeks. In case that period is exceeded, any charges for storage or manipulation shall be billed to the customer.

#### 5. Due Date, Payment, Reservation of Title, Delay in Payment:

5.1. Unless otherwise agreed, all invoices from Lorünser shall be paid (net amount) within 30 days after invoice date without any deductions.

5.2. Lorünser reserves title of all goods delivered to the customer until all receivables from this business transaction, especially purchase price, interests, postage and other parts of the invoice or costs arising from collecting such monies have been paid in full (reservation of title).

5.3. The customer undertakes to comply with the current legislation regarding reservation of title. Any sale, attachment of property, renting, transferring as security or other relinquishment of such goods subject to reservation of title to a third party shall be prohibited. In case of attachment of property or any other demands by a third party regarding the goods subject to reservation of title the customer shall claim ownership interests on behalf of Lorünser at own costs and inform Lorünser accordingly within 24 hours. The reservation of title remains effective if the goods have been installed or affixed to other objects in any way.

5.4. If Lorünser asserts its right to reservation of title, this shall not be considered withdrawal from the contract unless explicitly stated otherwise in writing. To the contrary, Lorünser may claim surrender of the goods and any rights deriving from the purchase contract, especially damages and lost profit.

5.5. If the customer is in default in regard to any agreed payments, Lorünser may insist on the contract being fulfilled or withdraw from the contract after a reasonable grace period of two weeks. In case Lorünser insists on fulfilling the contract, it can:

- a) charge 1% interest rate per months starting with the date on which the payment became due,
- b) postpone the fulfillment of its own obligations until all payments have been made,
- c) use a reasonable prolongation of the delivery term and
- d) declare the entire purchase price being due.

5.6. The customer shall indemnify Lorünser for any further damages arising from the default including any costs for money collection.

5.7. Counterclaims on part of the customer may only be set off against any receivables from Lorünser if they derive from the same contract or its contestation, if such counterclaim has been acknowledged by Lorünser in writing or if a valid court decision has been presented.

5.8. Lorünser reserves the right to request securities before or after delivery of goods or parts of goods deemed necessary for the good fulfillment of the contract if after the contract has been finalized but before payment has been made in full, it appears that the credit line of the customer is insufficient or the creditworthiness of the customer has diminished. If the customer does not meet this request, Lorünser

shall have the right to withdraw from the contract in full or in part. This shall not require notification of default. The customer shall bear the costs thereof.

**5.9.** The customer shall bear any costs for interventions and any legal disputes arising thereof.

#### **6. Warranty:**

**6.1.** The customer shall inspect the goods immediately after receipt and inform Lorünser about any defaults of the goods within 14 days after receipt of the delivery at latest in writing and with a detailed description of any default. Hidden defaults must be claimed immediately after their discovery.

**6.2.** If the customer fails to do so, the goods are considered accepted and no warranty claims, damages based on default or any consequential claims resulting from an error regarding the default-free characteristics of the goods can be made.

**6.3.** In any case, warrant claims must be made within 24 months after receipt of delivery of the goods before the competent courts.

**6.4.** Lorünser shall have the right to inspect any deliveries and services that the customer has complained about in view of the claimed defaults within 14 days after such notification has been received. If the customer denies access, any warranties and rights for damages shall be forfeited.

**6.5.** Faulty deliveries and services, including the lack of guaranteed characteristics as per delivery contract shall be remedied by Lorünser within the warranty period through improvement, new delivery or new service; it lies within the discretion of Lorünser to decide which one. If the problem cannot be solved within a reasonable time frame, the customer shall have the right to give a reasonable grace period. If such grace period passes without the problem being solved, the customer shall have the right to reasonably reduce the purchase price.

**6.6.** The customer does not have the right to claim any further damages, especially damages that have not been caused in connection with the subject to the contract itself.

**6.7.** The warranty period starts at the day of the delivery of the goods and is 24 months.

**6.8.** Excluded from warranty are defaults and interruptions outside Lorünser's responsibility such as normal wear and tear, act of God, unsuitable use, manipulations of customer or third party, overstress, unsuitable operation or extreme environmental influences.

**6.9.** Expenses for demounting, assembly, transportation, packaging, travel and accommodation shall be borne by the customer. If Lorünser can prove that the claimed default is not a warranty case, the customer shall reimburse Lorünser at the usual hourly fees, including travel expenses and accommodation, if applicable. If waiting time occurs while warranty works are being carried out and which are outside of Lorünser's responsibility, any costs arising thereof shall be billed to the customer.

#### **7. Liability:**

**7.1.** Unless otherwise agreed in writing, Lorünser is only liable for damages that have been caused intentional or grossly negligent.

**7.2.** Irrespectively of the cause and the legal grounds for damages, Lorünser's liability shall be limited to the purchase price of the goods.

**7.3.** If the object to be delivered has been manufactured based on construction information, drawings or models of the customer, Lorünser shall not be liable for the correctness of the construction, but only for the correct execution of the customer's specification. The customer shall indemnify Lorünser against all claims made by a third party.

**7.4.** Claims for damages can only be made before a court within six months after the customer has been made aware of such damages, but within one year after such (primary) damages have occurred at the latest. The customer shall bear the burden of proof regarding the existence and the amount of such damages.

**7.5.** The customer shall notify Lorünser immediately and submit the necessary documentation.

**7.6.** Any claims for damages on part of the customer based on interruption of business, lost profit, loss of information or data or any consequential damages are explicitly excluded.

**7.7.** The customer undertakes to comply with all existing provisions for protection from hazards, technical specifications, assembly guidelines, operation and user manuals and any other provisions and only charge experts with the operation.

**7.8.** Lorünser shall not be liable for any damages resulting from wrong operation on part of the customer. At this point we would like to highlight that despite the highest quality standards, Lorünser goods may still be damaged when used incorrectly. We refer you to the product information included with every delivery, which must be read and complied with before first operation. If no such product information has been included, the customer shall request one from Lorünser before first operation or - if applicable - seek such information on the Lorünser homepage.

**7.9.** Lorünser only accepts responsibility in case of breach of confidentiality if Lorünser or its employees have acted intentionally or grossly negligent. Any claims against Lorünser employees shall be excluded. Lorünser shall not be liable for works carried out by the technicians responsible for first operation or any other agents, unless such works are part of the first operation or if such defaults are a result of the customer's action.

#### **8. Use of Know-How**

**8.1.** All documentation include developments, know-how and ideas by Lorünser.

**8.2.** The customer may use software, data carriers and documentations to the usual extent, but not submit it to third parties.

#### **9. Exportation**

**9.1.** The customer shall be responsible to comply with domestic or international export regulations.

#### **10. Applicable Law, Jurisdiction:**

**10.1.** All contractual relations between Lorünser and the customer shall be subject to Austrian material law, excluding its norms referring to transferring an action. The applicability of UN-purchase law is excluded.

**10.2.** The competent courts of Feldkirch have jurisdiction for the customer and Lorünser. However, Lorünser reserves the right to initiate an action at the registered office of the customer.

#### **11. Other Provisions:**

**11.1.** Any modifications of the present General Terms and Conditions require written form and must be signed by the parties to the contract or their legal successors. This also applies to refraining from written form.

**11.2.** The application of § 934 ABGB (Contestation of the contract based on laesio enormis or any objections to that end) is explicitly excluded.

**11.3.** If a provision of these General Terms and Conditions or any other agreements between Lorünser and the customer become invalid, ineffective or unenforceable fully or in part, this shall not effect the other provisions. To the extent legally admissible, the invalid, ineffective or unenforceable provision shall be replaced through a valid and enforceable provision that comes closest to the economic purpose of the invalid, ineffective or unenforceable provision in terms of extent, time, place or area of application. The same applies to any loopholes in the contract.