

General Terms of Delivery of Georg Linz GmbH & Co. KG, Nuremberg

1 General provisions; scope of application

1.1 These General Terms of Delivery govern the legal relations between Georg Linz GmbH & Co. KG (hereinafter also referred to as "LINZ") and its customers with regard to deliveries to be provided by LINZ.

1.2 The General Terms of Delivery apply only to companies within the meaning of § 310 paragraph 1 BGB.

1.3 In connection with deliveries within the scope of validity, only these General Terms of Delivery apply. Contrary or deviating terms of the customer from these General Terms and Conditions will not be recognized by LINZ, unless LINZ has expressly agreed in writing their validity. These General Terms of Delivery shall also apply if LINZ unconditionally carries out the delivery to the customer in the knowledge of conflicting or deviating terms and conditions of the customer.

1.4 These General Terms of Delivery also apply to future deliveries by LINZ to the customer.

2 Procedures until the conclusion of the contract; content of the contract; subject to change

The procedure until the legally binding conclusion of the contract between LINZ and the customer is as follows: The customer usually makes a non-binding inquiry to LINZ. LINZ will examine the request and, if necessary, make a non-binding offer to the customer. All information given here, e.g. drawings, illustrations, offers, dimensions, quantities and weights are initially not binding. A binding contract is only concluded with the order confirmation from Linz following the customer's order, the content of which alone is decisive for the delivery owed. The order confirmation is therefore only an acceptance in the sense of §§ 147 ff. BGB. The order confirmation must be in writing form. We reserve the right to make design and material changes to the specification specified in the order confirmation insofar as the normal or contracted use of the delivery is not considerably or adversely affected and the change is to be expected by the customer.

3 Rights to documents and developments; ownership of tools

3.1 LINZ reserves all rights of ownership and copyright to all documents, technical, commercial or other business data or information of a physical or non-physical nature, as well as to developments and samples in its entirety. This applies in particular to cost estimates, drawings as well as constructions and developments.

3.2 The customer is not entitled to register patents or other industrial property rights. The customer receives no ownership, license, replica, use or other rights without express permission.

3.3 Documents may only be made accessible to third parties for the purpose of carrying out the contract and in compliance with the confidentiality agreed in clause 13 and shall be returned on request in the event that no contract is concluded between the parties.

3.4 If LINZ manufactures or develops tools in connection with an order, ownership is solely attributable to LINZ.

3a Procurement of personalized accessories

In the event that the customer regularly places an order with LINZ, LINZ shall be entitled, for reasons of efficiency, to stockpile, store and order personalized accessories (eg. labels) for products in a reasonable quantity regardless of a specific current order. In the event these quantities will not be delivered within 18 months since order LINZ is entitled to charge the customer separately.

4 Prices; payment terms; offset to claims; right of lien

4.1 Unless otherwise agreed in the order confirmation, all prices are to be understood as "ex works" plus the costs for packaging, transport or shipping as well as any duties or other charges. Added to this is always the sales tax in the respective statutory amount. Furthermore, the customer must always bear the costs which have to be paid by LINZ for submitting the print design (for example, cliché costs or screen printing costs); this also applies if these costs are not explicitly stated in the order confirmation.

4.2 Unless otherwise agreed in the order confirmation, payment claims without deduction of discount shall be due immediately upon receipt of the invoice. Payments are to be made to the bank account indicated by LINZ.

4.3 The customer is only entitled to offset against claims of LINZ if his counterclaims are legally acknowledged, undisputed or recognized by LINZ.

4.4 The customer is only authorized to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

5 Retention of title

5.1 LINZ reserves the ownership of the objects of delivery (hereinafter referred to as "reserved goods") until receipt of all payments from the business relationship with the customer. In case of breach of contract by the customer, in particular in case of default of payment, LINZ is entitled to take back the reserved goods. The withdrawal of the reserved goods by LINZ is a withdrawal from the contract. After recovering the reserved goods LINZ is authorized to sell these and apply the proceeds of the realization towards the customer's liabilities after deduction of the utilization costs. The customer is obliged to treat the retained goods with care; in particular, he is obliged to insure these at his own expense against damage caused by fire, water and theft to the value of new.

5.2 The customer is entitled to resell the reserved goods in the ordinary course of business; however, he hereby assigns to LINZ all claims in the amount of the final invoice amount (including value added tax) of the LINZ claim accruing to him from the resale against his customers or third parties, irrespective of whether the retained goods continue to be sold without or after processing has been. To collect this claim, the customer remains authorized even after the assignment. The power of LINZ to collect the claim itself remains unaffected. However, LINZ undertakes not to collect the claim as long as the customer meets its payment obligations from the proceeds collected, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed or payments have not been suspended. However, if this is the case, LINZ may demand that the customer discloses the assigned claims and their debtors to LINZ, provides all information required for collection, hands over the associated

documents and notifies the debtors (third parties) of the assignment.

5.3 LINZ undertakes to release the securities to which it is entitled at the request of the customer to the extent that the realizable value of the securities exceeds the claims to be secured by more than 10%; the selection of the securities to be released is the responsibility of LINZ.

6 Delivery time; delay in delivery

6.1 The beginning of a delivery time specified by LINZ or a delivery date specified by Linz shall be subject to the clarification of all technical questions. The customer has to cooperate in this clarification.

6.2 LINZ's obligation to comply with the delivery time also requires the timely and proper fulfillment of the obligations of the customer. We reserve the right to plead non-performance of the contract.

6.3 The delivery time is met if the delivery has been reported to the customer as ready for dispatch and made available for dispatch by the time it expires.

6.4 If non-compliance is due to force majeure, including obstacles, accidents, incidents or malfunctions that could not be prevented despite due diligence, the delivery time shall be extended accordingly. Force majeure includes, in particular, mobilization, war, riots, terrorism, acts of government, failure to grant necessary export licenses, epidemics, strikes and lockouts, scarcity of raw materials, lack of transport capacity, power failure and natural events.

6.5 If the agreed delivery is a firm deal within the meaning of § 286 (2) No. 4 BGB or § 376 HGB, LINZ shall be liable in accordance with the statutory provisions. The same applies if a delay in delivery for which LINZ is responsible entitles the customer to declare that its interest in the further performance of the contract has ceased.

6.6 In all other cases of delayed delivery, claims for damages by the customer due to delay or instead of performance are excluded.

This does not apply if LINZ is compulsorily liable on the basis of statutory provisions, for example:

- a) in cases of malice or intent, gross negligence,
- b) because of non-compliance with an assumed guarantee or agreed quality;
- c) because of injury to life, body or health,
- d) according to the Product Liability Act,
- e) due to the breach of such contractual obligations, the fulfillment of which is essential for the proper execution of the contract and whose compliance the contractual partner may regularly rely (so-called essential contractual obligations).

The claim for damages for the breach of essential contractual obligations, however, is limited to the contractually typical, foreseeable damage, unless fraudulent intent or gross negligence, liability is based on injury to life, body or health or liability is mandatory for other reasons due to statutory provisions without limitation. A change of the burden of proof to the disadvantage of the customer is not associated with the above regulations.

7 Transfer of risk; partial deliveries

7.1 The risk passes to the customer when the delivery is made available for dispatch at Linz's work and after notification of readiness has been made to the customer. This shall also apply if partial deliveries are made, if LINZ bears the shipping costs or has assumed cooperation actions (eg. coordination of deadlines for shipping).

7.2 LINZ will cover deliveries with transport insurance at the request and expense of the customer. Therewith no change of the transfer of risk according to section 7.1 is connected.

7.3 LINZ is entitled to partial deliveries, as far as this is reasonable for the customer.

8 Procedure in the event of complaints (notification of defects); liability for defects

8.1 Claims for defects on the part of the customer presuppose that the customer has fulfilled its obligation to inspect and give notice of defects in accordance with § 377 HGB (German Commercial Code).

8.2 Prior to the assertion of warranty rights, the customer must first of all carefully check whether the complaint of causes originates in his own sphere of influence, or whether a defect is actually being considered. In the latter case, the parties should, if possible, agree on whether a defect actually exists. If a complaint is unjustified, LINZ is entitled to demand reimbursement from the customer for the expenses incurred.

8.3 Claims for defects do not exist

- a) for phenomena that are due to measures or constructions that the customer has expressly requested, or
- b) phenomena attributable to improper storage, or
- c) for appearances on materials or products provided by the customer or whose use the customer has expressly requested, contrary to a reference given by LINZ.
- d) in connection with the individual marking of products. The application of markings on the products (for example, warnings, addresses or other information) is the sole responsibility of the customer; even and insofar as Linz cooperates in this for reasons of goodwill.

There are no shortcomings

- a) in the event of insignificant deviation from the agreed quality, or
- b) if there is only insignificant impairment of usability, or
- c) in case of natural wear and tear

Furthermore, no claims for defects shall exist for damages resulting from incorrect or negligent handling, excessive strain, overloading or due to special external influences, which are not assumed under the contract.

If the customer or third parties carry out improper modifications or repair work, no claims for defects exist for these and the resulting consequences either.

8.4 If there is a defect, LINZ shall be entitled, at its discretion, to subsequent performance within a reasonable period of time in the form of remedy of the defect or delivery of a new item free of defects. LINZ shall also bear the expenses required for the purpose of subsequent performance, in particular transport, travel, labor and material costs, insofar as these are not increased by the object of the delivery having been brought to a location other than the customer's place of business; unless the shipment corresponds to its intended use. LINZ is not obliged to bear the costs for the installation or removal of the defective delivery within the scope of subsequent performance.

8.5 Insofar as it is reasonable for the customer, he is obliged to provide LINZ with professional support during subsequent performance. In particular, the customer must point out special technical features and special risks (for example, during removal and installation) resulting from the processing or combination of the delivery by the customer. If necessary, the customer also has to assist LINZ in an advisory capacity with its own experts or commissioned third parties.

8.6 If the subsequent performance fails, the customer is entitled, at his discretion, to demand withdrawal or reduction.

8.7 Claims by the customer for damages are excluded, unless LINZ is also compulsorily liable for damages due to legal regulations, for example:

- a) in cases of malice or intent, gross negligence,
- b) because of non-compliance with an assumed guarantee or agreed quality
- c) because of injury to life, body or health,
- d) according to the Product Liability Law,
- e) due to the breach of such contractual obligations, the fulfillment of which is essential for the proper execution of the contract on whose compliance the contractual partner may regularly rely (so-called essential contractual obligations).

The claim for damages for the violation of essential contractual obligations is, however, limited to the contract-typical, foreseeable damage, unless there is malice, intent or gross negligence, liability is based on injury to life, body or health or liability is mandatory for other reasons due to statutory provisions without limitation. A change in the burden of proof to the detriment of the customer is not associated with the above provisions.

8.8 The customer's right of recourse against LINZ according to § 478 BGB (recourse of the entrepreneur) exists only to the extent that the customer has not made any agreements with his customer that go beyond the statutory warranty claims. Section 8.4 sentence 2 and sentence 3 shall also apply accordingly to the scope of the customer's right of recourse against LINZ pursuant to § 478 BGB (2) (German Civil Code).

8.9 The limitation period for the claims regulated in this clause is based on clause 12.

9 Reservation of performance

The fulfillment of the contract is subject to the proviso that there are no impediments arising from German, US and other applicable national, EU or international regulations of foreign trade law as well as no embargos or other sanctions to the contrary. The customer is obliged to provide all information and documents required for export, transport or import.

10 Impossibility; adaption of contract

10.1 Insofar as the delivery is impossible, the customer is entitled to claim damages, unless LINZ is not responsible for the impossibility. However, the customer's claim for damages is limited to 10% of the value of that part of the delivery which cannot be used appropriately because of the impossibility. This restriction does not apply if liability is mandatory in cases of intent, gross negligence or injury to life, body or health; a change in the burden of proof to the detriment of the customer is not associated with this. The customer's right to withdraw from the contract remains unaffected.

10.2 If events within the meaning of Section 6.4 considerably change the economic significance or the content of the delivery or have a significant effect on LINZ's operations, the contract will be adapted appropriately in good faith. Insofar as this is not economically justifiable, LINZ is entitled to withdraw from the contract. The same applies if required export licenses are not granted or cannot be used. If LINZ intends to make use of this right of withdrawal, LINZ must inform the customer immediately after recognizing the scope of the event, even if an extension of the delivery time had initially been agreed with the customer.

11 Other liability

11.1 Any further claims for damages or reimbursement of expenses by the customer than those expressly stated in these General Terms and Conditions of Delivery, for whatever legal reason, are excluded. This also includes claims for business interruption, loss of profit, loss of information or data or consequential damages.

11.2 The aforementioned limitation of liability does not apply if LINZ is compulsorily liable for damages, for example:

- a) in cases of malice or intent, gross negligence,
- b) because of non-compliance with an assumed guarantee or agreed quality
- c) because of injury to life, body or health,
- d) according to the Product Liability Law,
- e) due to the breach of such contractual obligations, the fulfillment of which is essential for the proper execution of the contract on whose compliance the contractual partner may regularly rely (so-called essential contractual obligations).

The claim for damages for the violation of essential contractual obligations is, however, limited to the contract-typical, foreseeable damage, unless there is malice, intent or gross negligence, liability is based on injury to life, body or health or liability is mandatory for other reasons due to statutory provisions without limitation. A change in the burden of proof to the detriment of the customer is not associated with the above provisions.

11a Placing the products on the market

The parties agree that the customer "places the products on the market" within the meaning of the Product Safety Act, the Product Liability Act and the Chemicals Act. Any previously required tests and security obligations are incumbent on the customer. LINZ cannot be held liable by the customer in this respect. Should LINZ be claimed by third parties, LINZ is entitled to indemnification claims against the customer.

12 Statute of limitations

All claims of the customer, for whatever legal reason, shall be subject to a limitation period of one year, subject to sentence 2, calculated from the beginning of the statutory limitation period. In the event of malice conduct, intent, culpable injury to life, body, health, claims for damages under the Product Liability Act or in other legally binding cases the statutory limitation provisions shall apply. These also apply to defects of a building or deliveries, which have been used in the usual way for a building and have caused its defectiveness.

13 Confidentiality; non-disclosure

The customer must treat all information provided by LINZ in connection with the contract and its execution confidentially. The customer may only use the information for the purposes specified in the contract. The obligation of secrecy does not apply to such information as the customer can prove that is already generally known or becomes generally known without breach of the customer's obligation of secrecy, or was already known to the customer when it was received without any obligation of secrecy or it was lawfully received from third parties without obligation of secrecy, or it has developed it independently, without using the information provided under this Agreement. The obligations set forth in this Clause shall survive the end of the contract, regardless of how the contract has come to an end.

14 Place of Jurisdiction; applicable law; Place of performance; written form requirement; no transfer of contractual rights by the customer

14.1 Disputes arising from the legal relationship between the customer and LINZ, which cannot be terminated by negotiations between the parties, shall be settled in arbitration proceedings in accordance with the current rules of procedure of the German Institution of Arbitration (DIS), which is also part of the contractual relationship between the customers and LINZ. The seat of the arbitral tribunal is Nuremberg.

14.2 The exclusive place of jurisdiction for both parties is Nuremberg, provided that the customer is a merchant.

14.3 The law of the Federal Republic of Germany applies excluding the UN sales law.

14.4 Unless otherwise agreed in individual cases, the place of performance is Nuremberg.

14.5 Declarations which serve to establish, safeguard or exercise rights must be in writing. The written form is also fulfilled by text form, by remote data transmission (e-mail, for example) or fax, unless the written form is required by law.

14.6 The customer may not transfer his contractual rights to third parties without the written consent of LINZ.