

HIRNBÖCK STABAU GMBH

General terms and conditions

1. General

By placing an order, the buyer acknowledges our general conditions of sale, delivery and payment. These shall apply to all deliveries and services, including other ancillary services, even if not referred to further in particular. The Buyer's terms and conditions of sale, delivery, business and purchasing conditions are not binding for us. Any conditions whatsoever of the Buyer are hereby explicitly rejected. It is explicitly stated that there is no immorality between the two parties. Deviations, additions, special guarantees and other individual agreements must be made in writing without any exception. With unconditional acceptance of the delivery or service the Buyer acknowledges the validity of these conditions in any case. Our general terms of sale and delivery are agreed upon for the entire business relation, especially for re-orders. This also applies if future orders do not explicitly refer to them or the Buyer orders on different conditions, without us explicitly contradicting, with regard to immorality being referred to the above.

2. Sale

Our offers are non-binding and do not oblige us to deliver. Orders are only binding for us once we have accepted them with a written order confirmation. If in this order confirmation the written differs from the printed, the written is valid. Subsequent modifications will become binding only after our written confirmation. We reserve the right to withdraw from the contract free of charge, in the event that we become aware that the economic circumstances of the Buyer are not sufficient to cover our claims after the confirmation of order and prior to the delivery of the goods. In the case of a cancellation by the Buyer, we are entitled to demand either the loss suffered and lost profit or a 15% cancellation fee which shall not be subject to judicial mitigation.

3. Delivery

Delivery times are always non-binding and calculated as approximates, unless we have explicitly agreed in writing to deliver within a certain period or on a specific date. Claims for damages in this respect can only be asserted against us in the case of intent and gross negligence. The transport risk is always on the recipient or the purchaser or buyer and our liability ends when handing over the goods to the forwarding agent, even if the prices are based on a "carriage paid to named destination" basis.

The same applies to any oral ancillary agreements as well as to subsequent amendments to the contract. If, however, we deliver to you on the basis of verbal or telephone orders, the purchaser cannot rely on it since all agreements, arrangements, etc. are binding for us only after our written confirmation. In the case of delivery on the basis of telephone orders, the consequences of wrong delivery due to possible errors in hearing or misunderstandings shall not be at our expense. If the Buyer delays the acceptance of the delivery and we do not withdraw from the contract, the goods will be made available at our site, whereby the agreed purchase price becomes due.

4. Payment

Invoices must be settled within 30 days from the commercial invoice date. Payments by means of bills of exchange are only possible with our express consent and if no bills receivable exist; all additional charges shall be borne by the Buyer. Checks and bills of exchange will only be considered as payment after honouring. In the event of a delay in payment, the Buyer shall be obliged to pay interest on arrears amounting to 5% above the base rate of the European Central Bank.

This shall not affect the claim of additional default damages. Failure to comply with our terms of payment as well as circumstances which jeopardize the Buyer's creditworthiness will promptly make all our claims due without regard to possible deferred payment. In this case, we may withdraw from the contract or demand compensation for non-performance. The statutory rights to refuse performance and retention are excluded with regard to the contractual obligations of the Buyer. The set-off with possible counter-claims against our claims is excluded, unless they are acknowledged in writing or legally established. The Buyer agrees that all payments he makes will be billed first on interest and other ancillary charges and only then on the goods subject to retention of title.

5. Retention of Title

Goods delivered by us shall remain our property until full payment of all outstanding claims arising from the entire business relation, whereby limitation is explicitly excluded. In the case of processing with other goods which are not our property, the seller shall be entitled to the co-ownership of the new item in proportion to the value of the goods subject to retention of title to the other processed goods at the time of processing. For the new item resulting from the processing, the same applies as for the reserved goods in the sense of these conditions.

The Buyer is only allowed to sell the reserved goods in normal business transactions according to his normal business conditions and as long as he is not in arrears. He is only entitled and authorised to the resale of the reserved goods providing that the receivables from the resale are transferred to us. In case a third party tries to seize our goods subject to retention of title, the Buyer must immediately inform us in writing. He is obligated to return the reserved goods to our registered office within 3 working days from request, at his own expense. He is obliged to allow us, if necessary, to enter his warehouse for the purpose of picking up the goods. Insofar as goods with retention of title are returned to us within the scope of the retention of title, our open purchase price claim remains valid at 70% of the invoice value from the title of the compensation due to loss of earnings, lost planning expenses, impairment, etc.

6. Consulting

For processing and advisory notes (or similar), we will only assume liability, if these indications are given by us binding, in writing and in relation to a specific construction project known to us upon written request by the Buyer. In any case, the Buyer remains obliged to examine our notes, taking into account the product descriptions and characteristics of our goods and the specific purpose of use and in case of doubt, if necessary, to consult a specialist.

7. Returned Goods

The return of already delivered, not defective goods (returned goods) takes place in exceptional cases by agreement and exclusively in perfect condition of the goods. The return costs shall be borne by the Buyer. The handling costs in the amount of 15% of the gross price at the time of the delivery shall be charged to the Buyer. Any damage to the goods by the Buyer or freight carrier shall rule out return of the goods.

8. Complaint, Warranty and Damages

The Buyer is obliged to inspect the goods immediately upon receipt for any defects - also optical ones. The assertion of defect quantities requires the submission of a certificate from the forwarding agent. A resale, processing and treatment of defective goods shall be omitted. Complaints of any kind must be made in writing immediately upon receipt of the goods, in the case of obvious defects, before processing, in the case of concealed defects immediately after notification. Damage caused by weathering or improper storage is excluded from warranty. We shall only be obliged to pay damages of any kind, no matter on which legal grounds they are derived, in the case of gross negligence (wilful intent and gross negligence) or due to the absence of characteristics guaranteed in the contract. Liability for consequential damages is excluded.

9. Applicable Law, Place of Performance, Jurisdiction and Partial Ineffectiveness

Austrian law always applies for all business relations with us. For all the rights and obligations resulting from the transactions with us, the place of fulfilment is Salzburg, Austria. Jurisdiction for legal disputes for all present and future claims arising from the business relationship is Salzburg. Without prejudice to this, we are also entitled to appeal to another court responsible for the buyer/purchaser/customer. Should individual provisions of these terms and conditions be or become invalid in whole or in part, the remaining conditions shall remain fully effective. In the event of ineffective provisions, then, those which reach their purpose in the most appropriate manner, will then take the place.