

General terms and conditions of business Wholesale

Alba Trade Handels G.m.b.H.

Schwarzenbergstrasse 1-3/4; 1010 Vienna, Austria

Managing Director Alban Caslli

Tel: 0043 1 607 00 98

Email: office@albatrade.at

VAT: ATU61732389

Company number 261598d

§ 1 General - area of applicability

- (1) The following general terms and conditions of business shall apply exclusively to contracts, in particular sales agreement, work contracts or other engaged services between Alba Trade Handels GmbH which is entered in the company register of Vienna under company number 261598d (hereinafter also referred to as Alba Trade or Supplier) and the party engaging the work, the buyer or the principal (hereinafter also referred to as Customer).
- (2) These terms and conditions of business apply to all current and future business relationships. Deviating, conflicting or supplementary terms and conditions of business shall not become part of the contract, even if we are aware of these, unless their applicability is expressly agreed to in writing.
- (3) These terms and conditions of business shall apply exclusively to entrepreneurs, ie to natural persons or partnerships with legal capacity with whom we enter into a business relationship and which are acting in the performance of their commercial or independent professional activities.
- (4) The following general terms and conditions of business in their respective form valid at the time of conclusion of the contract shall apply.
- (5) The Customer shall be subject to the applicability of these general terms and conditions of business. Should Alba Trade enter into a longer business relationship with the Customer, these general terms and conditions of business shall also apply even if their applicability is not referred to separately. In addition, these general terms and conditions of business shall apply to all ancillary services connected to the performance of the engaged service. The general terms and conditions of business shall also apply to follow up orders, even if these are not agreed separately in writing or orally. Oral agreements with the Supplier shall only become valid if these are confirmed by the Supplier in writing.
- (6) Provisions which deviate from these general terms and conditions of business which may be found in the order confirmation of Alba Trade or in separately negotiated

contracts in particular shall take priority over the general terms and conditions of business. General terms and conditions of business or form sheets of the Customer shall not become part of the contract under any circumstances.

§ 2 Conclusion of the contract

- (1) All offers (also on Internet sites) are non-binding and subject to confirmation. This applies to prices, images and prospectuses in particular. Changes to form, colour and/or weight shall remain reserved within the framework of what is reasonable. Notifications of Alba Trade, also following a request by the Customer, are subject to confirmation and also if prices, dates and deadlines and other specifications are named therein.
- (2) By means of the ordering of goods from us, the Customer is submitting a binding declaration to us that it wishes to purchase the ordered items. We are entitled to accept the contractual offer in the order which is issued to us or one of our representatives within two weeks of receipt by us. The acceptance can be declared either in writing or by delivery of the goods to the entrepreneur. The contract will be concluded in writing at the time of the order confirmation which is sent to the Customer.
- (3) The Customer shall submit its orders by email or fax or personally in the form provided by the Supplier. The order must contain the following: Name of the Customer (billing address), precise description and quantity of the ordered products, precise delivery address (if this differs from the place of business of the Customer), the date of the order and delivery deadline, the price and the terms and conditions of payment and delivery.
- (4) Should the order confirmation submitted by the Customer deviate from its order, the order confirmation shall apply in cases of doubt.
- (5) The contract shall be concluded in reservation of correctly and timely self-supply on the part of our suppliers. This only applies in case that the non-delivery is caused by a hindrance for which we are not responsible, in particular in case of the conclusion of a congruent hedging transaction with our supplier. The Customer will be informed immediately of the non-availability of the service. Should any consideration have already been provided, this will be reimbursed immediately.
- (6) In case of non-compliance with the delivery time, the Customer can set a period of grace. Should this period of grace have expired fruitlessly, the entrepreneur can rescind the sales agreement. The Customer shall not be entitled to any damages claims, unless the delay is due to intent or gross negligent on our part or on the part of one of our vicarious agents.
- (7) Delivery deadlines will be suspended in case of the circumstances listed below and shall not continue to run again until the reason for the suspension no longer applies: Infringement of the co-operation obligation of the Customer or other breaches of contract by the Customer under this agreement or another contract, suspension, interruption or delay on the part of the sub-supplier of the Supplier, technical breakdowns to transportation equipment and all cases of force majeure in accordance with § 10 of these general terms and conditions of business.

§ 3 Acceptance default

- (1) Should the Customer enter default with its obligation to accept the goods following proper supply, we are entitled, following the expiry of a period of grace of at least 10 days, to claim damages or to rescind the contract.
- (2) Should the payment of a deposit have been agreed and made, this sum can be used to cover the costs of Alba Trade or to cover damages which are caused by the payment default and will be retained by Alba Trade. This does not mean that Alba Trade is foregoing other claims to which it is entitled as a result.

- (3) Should the Customer enter acceptance default (in particular due to failure to take possession), the goods will either be (i) stored at the premises of Alba Trade or a third party or (ii) sent to the Customer, both at the expense and risk of the Customer. Should the goods be stored at the premises of Alba Trade, we are entitled to charge a fee which corresponds to that which would be charged by a public storage facility. Alba Trade shall only incur liability for deterioration or destruction of the goods stored at our premises in case of intent or gross negligence. The rights of Alba Trade under §§ 373 ff of the Austrian Enterprise Code (UGB) shall remain unaffected thereby.

§ 4 Warranty

- (1) Alba Trade provides a warranty that the delivery corresponds to the quality set out in the order confirmation or is equivalent to that of goods of the same nature and which can be reasonably expected by the Customer.
- (2) In case of defects to the good, we will initially fulfil our warranty obligations by means of improvement or a replacement delivery, depending on our choice.
- (3) Should the supplementary performance fail, the Customer can, as a rule, choose between requesting a reduction of the remuneration (reduction) or cancellation of the contract (rescission). In case of breaches of contract which are only of a minor nature, in particular in case of minor defects, the Customer is not however entitled to any right of rescission.
- (4) Should the Customer choose rescission of the contract once supplementary performance has failed, it shall not be entitled to any additional damages claims due to the defect. The defective item must be sent back to Alba Trade at our expense. This does not apply should we or our vicarious agents have caused the breach of contract in gross negligence, intentionally or fraudulently.
- (5) The respective statutory regulation applies in relation to the warranty period for new goods. In case of second hand goods, the limitation period is one year from the time of delivery. This does not apply should the entrepreneur not have notified us of the defect in a timely manner.
- (6) As a rule, only the product description provided by us or the manufacturer is deemed to be agreed in relation to the quality of the goods. Public statements, promotions or advertising of the manufacturer also do not represent any contractually binding undertaking in relation to the quality of the goods.
- (7) The Customer does not receive any guarantees in a legal sense from us. Manufacturer guarantees remain unaffected thereby.
- (8) The warranty claim will be forfeited in case of alteration, processing or incorrect treatment of the delivered goods. Alba Trade shall not be obliged to pay the costs of defect corrections which are carried out by the Customer itself or by a third party engaged by the Customer.

§ 6 Damages claims

- (1) Alba Trade shall only be liable to pay damages in case of breach of an obligation assumed under the contract or which applies under the law if intent or gross negligence can be proven on its part. The Customer shall be obliged to provide the proof in this respect; the same applies to reimbursement of losses connected to the defect.
- (2) Claims for the reimbursement of lost profit as well as claims for reimbursement of expenses connected to operational disruptions, production breakdowns or indirect losses due to the delivery of goods which are in breach of contract shall be excluded.
- (3) The contract concluded between the Parties does not contain any protection obligations in favour of third parties. This also applies if it is expected that a third party will be the recipient of the service or that a third party will be involved with the goods.

§ 7 Transfer of risk - shipping

- (1) The risk of possible destruction and possible deterioration of the goods shall be transferred to the Customer at the time of handover or in accordance with the applicable Incoterms clause.
- (2) The handover shall be the same if the Customer has entered acceptance default.
- (3) Unless the Customer states a specific shipping request, we will send the goods via the route which we consider to be the most suitable.
- (4) Should the sale be 'on hold', the following applies: Following receipt of the agreed deposit payment, the goods will be delivered to the storage company/delivery company/transportation company which is named in the offer or in the associated correspondence. This company will store the goods on behalf of Alba Trade until the Customer has paid for these in full or sufficiently in full and Alba Trade officially releases the goods. The Customer must then inspect the goods in accordance with § 7 Number (5).
- (5) The Customer shall be obliged to immediately inspect the delivery at the time of handover in relation to quantity, colour, weight and packaging and to compare the delivery with the attached images and to record any objections. In case of damage or defects, the Customer must immediately inform Alba Trade of the defects in relation to the delivery. The Customer must record the defect in connection with the delivery in the transportation documents (for example CMR) and these must be countersigned by the shipping company or other persons who were engaged in the delivery of the goods. In addition, the Customer must document the defects to the damaged goods and/or the pallets and/or packaging by means of pictures. In case of weight deviations which are observed during customs clearance, the Customer must send the weight certification from customs to Alba Trade. The Customer shall lose the right to claim that the delivery is in breach of contract should it fail to carry out the inspection or should it fail to provide a written complaint in relation to a breach of contract immediately following the time it would have become aware of such in case of a proper inspection, stating the precise reason for the complaint.

§ 8 Remuneration

- (1) The invoice will be issued following the delivery of the goods to the Customer. The payment day is defined as the day on which we are able to freely dispose of the funds. All prices are based on those at the time of the offer which is submitted to the Customer by Alba Trade or the time of signature of the written order document by the Customer.
- (2) Should more than one claim be due, payments of the Customer shall each be set off against the oldest claim. In relation to the individual claims, the costs connected to the enforcement of the claim, then the interest and finally the capital will be paid. A deviating payment dedication by the Customer is not valid.
- (3) In case of payment default for which the Customer is responsible, default interest to the sum of 8% per annum must be paid. In addition, Alba Trade is entitled to terminate the contract in full or in part.
- (4) Without the written agreement of the Supplier, the Customer is not entitled to set off its payment obligation against other claims or to reserve the payment for any reasons.
- (5) We are not obliged to accept bills of exchange or cheques. However, should we accept bills of exchange in an individual case, any discount and collection charges shall be borne by the Customer.
- (6) Bank charges in connection with the payment shall be borne by the Customer. The Customer must ensure that Alba Trade receives the full sum which has been billed without any deductions.

§ 9 Reservation of ownership

- (1) We reserve ownership in relation to all goods delivered by us until the Customer has settled all claims under the ongoing business relationship in full.
- (2) The Customer is entitled to sell on the goods in the course of regular business dealings. However it hereby now assigns to us all claims to the sum of the invoice amount which

it acquires against a third party in connection with the resale. We hereby accept the assignment. Following the assignment, the Customer is entitled to collect the claim. We reserve the right to collect the claim ourselves, should the entrepreneur not comply with its payment obligations correctly and enter payment default.

- (3) The Customer shall be obliged to immediately notify us of any third party attacks against the goods, such as in case of an attachment, as well as any damage to or destruction of the goods. In case of attachments to the goods subject to reservation of ownership or claims assigned to us by third party, the Customer shall also be obliged to immediately inform both the party bringing the attachment and the enforcement authorities orally and in writing of our rights (reservation of ownership) and to take all other actions in order to safeguard our rights. Should a reservation of ownership continue to exist, the Customer must also immediately notify us of any change in ownership of the goods, as well as of changes to its own place of residence or place of business. At all time, the entrepreneur must provide proof of the location of the goods subject to reservation of ownership when requested to do so.
- (4) In case of behaviour on the part of the Customer which is in breach of contract, in particular in case of payment default or breach of an obligation under Paragraph 3 or Paragraph 4 of this provision, we are entitled to rescind the contract and request the surrender of the goods.

§ 10 Force majeure

- (1) Force majeure and other hindrances which are unforeseeable and over which Alba Trade has no influence, such as labour disputes, travel disruption, as well as accidents for which Alba Trade or its suppliers are not responsible shall release Alba Trade from the delivery obligation for the duration of their effects, even if these occur on the part of one of our suppliers; in such a case, Alba Trade shall not be responsible for any consequences connected to the delay.

§ 11 Special conditions of sale

- (1) In all cases, the Customer shall be obliged to maintain the original state (including the packaging) of the goods which form the subject matter of the contract until the resale. The Customer may not alter or damage the goods or allow third parties to do so.
- (2) The Customer is responsible for compliance with all applicable export and import laws, including those of the Republic of Austria, the European Union and other countries, including but not limited to all necessary customs clearance requirements, export and import licences and exemptions and the provisions of all of the correct documents. The Customer shall be obliged to release Alba Trade from claims which are brought against us due to the Customer failing to comply with the applicable export and import laws.
- (3) The Customer acknowledges and hereby agrees that it will not knowingly sell, assign, export or re-export items which are purchased from alba Trade if this breaches trade embargos or sanctions of the Republic of Austria, the European Union or other countries.
- (4) The Customer hereby guarantees that it is not involved in fraudulent acts, in particular but not exclusively tax fraud.

§ 12 Confidentiality clause

- (1) Should the Customer obtain information in the course of the order or delivery, it may not pass the said information on to third parties or exploit this for its own benefit or that of a third party. The Customer must treat this information confidentially. The Customer must also impose this obligation on all of its subcontractors and employees.

§ 13 Data protection

- (1) The Customer hereby agrees that its personal data, such as name/company, occupation, date of birth, company register number, powers of representation, contact person, business address and other addresses of the customer, telephone number, fax

number, email address, bank details, credit card data and VAT number will be gathered, saved and processed with the assistance of automated procedures for the purpose of fulfilment of the contract and its management, as well as for our own advertising purposes, for example for the sending of offers, advertising prospectuses and newsletters (in paper and electronic form), as well as for the purpose of reference to the current or past business relationship with the Customer (reference).

- (2) This agreement can be revoked at any time by email, fax or letter to the contact address stated in the header of these general terms and conditions of business.
- (3) More detailed information can be found in the data protection declaration.

§ 14 Closing provisions

- (1) The substantive law of the Republic of Austria shall apply.
- (2) Should the Customer be a merchant, legal person under public law or a public law special fund, the exclusive place of jurisdiction for all disputes under this contract shall be our place of business. The same applies if the Customer has no general place of jurisdiction in Austria or where its place of residence or usual whereabouts are unknown at the time of bringing of the lawsuit.
- (3) Should any individual provisions of the contract with the entrepreneur, including these general terms and conditions of business, be or become ineffective in full or in part, this shall not affect the validity of the remaining clauses. The provision which is ineffective in full or in part shall be replaced by a clause which comes as close as possible to the economic intent of the ineffective provision.
- (4) The Customer hereby agrees that an enquiry may be made of the trade credit database Coface - Compagnie française d'assurance pour le commerce extérieur SA Niederlassung Austria; Marxergasse 4c 1030 Vienna, Austria. The Customer also hereby issues its agreement that in case of payment default, all data will be transferred to the trade credit database and will be made accessible to third parties as a result.