

**Standard Business Conditions (SBC)**  
**of ALGE-TIMING GmbH, Rotkreuzstraße 39, A-6890 Lustenau**

**§ 1 General – scope of application**

(1) The following general terms and conditions of delivery and purchase shall apply and be valid regarding any and all of our services. Deviations from these SBC as well as conflicting or otherwise from our conditions deviating conditions of the customer or supplier shall not be accepted unless we have given our explicit written consent to their applicability. Our standard business conditions equally apply if we - although aware of the customer's conflicting or from our conditions deviating conditions - unconditionally and without restriction accept the customer's request for contract conclusion, respectively if we accept his goods and services.

(2) Our standard business conditions shall also apply to any and all following contracts with the contracting partner.

(3) Our offers shall always be non-binding.

Conclusion of the contract: The contract between Alge Timing GmbH and the customer shall be concluded by declaration of acceptance or actual delivery. In the case that Alge should subsequently realize that a mistake has occurred regarding the details on products, prices or the availability, Alge undertakes to inform the customer on such mistake without delay. The customer may accept the order anew under amended conditions. Otherwise Alge Timing GmbH shall be entitled to withdraw from the contract.

(4) Orders shall only be binding if made in written form.

**§ 2 Prices – Costs – Delivery**

(1) The prices we offer are subject to the purchase prices and the wage and salary rates currently valid for us. If a mistake regarding price information should have occurred we shall be entitled to

(respective) correction. In such case we shall inform the customer without delay. The customer may either confirm the order once again or Alge shall have the possibility to withdraw from the contract.

(2) Costs of shipment shall be borne by the customer. Consignments are not insured with regard to the transport.

(3) Delivery terms are non-binding unless a delivery period has been agreed upon in the contract. An agreed delivery period shall begin with the date of order confirmation and, if technical documents, material, auxiliary supplies or equipment has/have to be provided by the customer or if advance payments have to be made, it shall begin with our receipt of such. If the delivery period is exceeded for reasons we are responsible for, the customer shall be entitled to withdraw from the contract after allowing a reasonable period of time. Further claims may only be made in case of at least gross negligence on our part.

### **§ 3 Risk of loss – Production delay**

(1) The customer shall bear all risks of loss regarding delivery.

(2) All our delivery obligations shall be deemed fulfilled as soon as the goods are properly handed over to mail, railway, freight carrier or shipper or as soon as the goods have been loaded onto customer vehicles. From this point in time all risks shall be borne by the customer.

(3) Circumstances which have neither been caused by us nor which we are to be held responsible for in any way and which excessively incumber or temporarily impede the production or delivery of the ordered goods, such as in case of force majeure and war as well as administrative measures, operation disorders, strikes, lockouts, be it within our own scope or that of our suppliers, shall release us for the period of such impediment and the aftermath from our delivery obligation.

### **§ 4 Payment conditions**

(1) Payments: prepayment, respectively according to individual agreements.

Unjustified cash discounts shall not be accepted and will be demanded.

- (2) If no other agreements exist, the customer shall have to pay 12 % interest after delivery and upon expiry of the 30th day from the date of the invoice.
- (3) In the absence of other provisions payments shall be deemed to offset the oldest outstanding debt including connective claims (e.g. interest, law enforcement costs, etc.). The customer shall have to pay an allowance in the amount of EUR 10,00 plus VAT for each written reminder following delay in payment.
- (4) Accepted types of payment shall exclusively be bank transfer and payment in cash EURO.
- (5) The exercise of a right of retention by the customer shall be excluded.
- (6) A setoff against our claims shall only be admitted with counterclaims of the customer which are undisputed by us or established as final and absolute.
- (7) If the customer has fallen into arrears with the payment, we shall not be obliged to delivery, respectively to the manufacture of ordered goods until overdue amounts have been fully paid. In such cases as well as in case of a deterioration of the customer's financial conditions (e.g. acts of protest, a petition in bankruptcy, pending enforcement procedures, etc.), in the case of transfer of the business to third parties, liquidation of the business or death of the customer, we shall be entitled to ask for payment in advance regarding deliveries not yet executed.

## **§ 5 Retention of title**

- (1) We herewith reserve the right of ownership regarding the delivered goods until any and all claims arising from the business relation have been settled, including interest, connective claims as well as possible law enforcement costs, equally costs arising in connection with a necessary intervention with respect to a distraint of the delivered goods by a third party. We need to be informed on any levy of execution of the delivered goods as well as the commencement of bankruptcy proceedings without delay.
- (2) If the customer has fallen into arrears we shall be entitled to demand the restitution of the goods delivered under retention of title as a security. Neither such demand nor the levy

of execution on the delivered goods shall constitute a withdrawal from the contract, likewise the demand for separate storage and labelling of the reserved goods.

(3) The customer shall be entitled to the conditional sale of the reserved goods within the scope of proper business. For this purpose he shall already assign to us all his claims against his buyers in the amount that he charges the buyer for the delivered goods.

(4) Upon our request the customer shall be obliged to state the names of his customers against whom he has acquired titles from the sale of our goods as well as the amounts owed, by presenting copies of the respective invoices.

## **§ 6 Representation and warranty, Liability**

(1) Notices of defects shall be made immediately upon receipt of the goods in case of evident defects, in case of hidden defects immediately after their discovery, each enclosing the (all) allegedly defective object(s). Defects claimed after processing of the goods shall be deemed delayed in any case.

(2) The timely notice of defects shall be a requirement for any warranty. Our warranty obligation shall anyhow end after 24 months from the transfer of risk. Otherwise it is herewith referred to section 933 ABGB (Austrian Civil Code). In case of warranty the customer shall have the right to demand the taking back of the objected goods as well as the respective restoration in order to achieve a state free of defects. Only if restoration should be impossible, the customer shall be entitled to demand replacement delivery. In order to perform all restorations appearing necessary to us as well as all replacement deliveries the buyer (customer) shall allow us all necessary time and opportunity, otherwise we shall be released from all warranty obligations.. If the goods should still be imperfect after restoration the customer shall be entitled to demand upon his own choice either a reduction of the purchase price or the rescission of the contract. If a replacement

delivery has been made, the customer shall be obliged to return the defective goods immediately.

(3) We shall only be liable for damages caused at least by gross negligence. The amount of damages to be paid shall anyhow be limited to the amount of damage reimbursement predictable according to the type of contract. Further claims of warranty or damages shall be excluded.

(4) Deviations in features of our products which are customary in trade shall not constitute any defects of the delivered goods

(5) Warranty and damage claims are anyway excluded with regard to secondary damages as well as damages which have been caused by inappropriate or inadequate use, improper application or because of misconduct of the customer himself or third parties or damages which have been caused by the transport, etc. In the case that the customer engages us with the settlement of the transport, our own freight agreements shall apply.

(6) The restrictions with regard to warranty stipulated in the abovementioned clauses shall equally apply to recourse claims according to section 933 lit. b ABGB (Austrian Civil Code).

(7) Damage claims against us beyond those stated hereinabove, based on whatever legal justification, shall be excluded. As far as our liability is excluded or restricted, this shall equally apply for the personal liability of our legal representatives or vicarious agents.

## **§ 7 Governing law – Place of performance – Jurisdiction and Forum**

(1) Legal relations between us and our customers, respectively our suppliers shall exclusively be governed by the laws of the Republic of Austria. The application of the UN-Treaty on the international purchase of goods shall be excluded amicably.

(2) Place of performance for all our services shall be the registered office of our company in Lustenau; this shall equally be the place of performance for the services of the customer, respectively of the suppliers.

(3) Place of venue for any and all disputes shall be Court competent for 6850 Dornbirn.

## **§ 8 Miscellaneous**

Should single provisions of the present agreement be or later become invalid wholly or in part, the validity of the rest of the agreement shall thereby not be affected. In this case the parties undertake to mutually agree on an effective provision in exchange for the ineffective one, which meets the intended economic purpose of the ineffective provision most closely taking into consideration the parties' concerns expressed in the present agreement as far as this is legally possible. The same shall apply as far as the present agreement should lack provisions which the parties could not anticipate.

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