

# GENERAL SALES AND DELIVERY CONDITIONS OF GETZNER TEXTIL AG

## § 1 SCOPE AND APPLICATION

(a) These General Sales and Delivery Conditions (hereinafter: 'Terms') apply to all legal transactions concluded by Getzner Textil AG (hereinafter: "Getzner") with companies, and in particular the delivery of goods and the provision of services.

(b) By acceptance or execution of our offer, the customer is deemed to have unrestrictedly acknowledged these Terms. Verbal agreements and deviations from these Terms are valid only with written confirmation of Getzner. The terms and conditions of the contractual partner or of third parties do not apply and are not accepted by Getzner without the need for them to be rejected. Getzner reserves the right to expressly consent in writing to the terms and conditions of the contractual partner or of third parties in individual cases.

(c) These Terms shall apply to all future transactions and are valid even if they are not expressly specified as a contractual component in the individual case.

(d) The agreed contractual language for transactions between the contractual parties is English.

## § 2 OFFER, ACCEPTANCE AND ORDER CONFIRMATION

(a) The offers made by Getzner are non-binding and subject to change.

(b) Irrespective of whether Getzner receives orders in writing or verbally, they are accepted only if confirmed in writing. Verbal agreements are non-binding unless confirmed in writing. The order confirmation can be sent to the customer by post, email or fax. Getzner reserves the right to reject orders without giving reason. Liability claims of any type resulting from this are expressly excluded. All sales are concluded exclusively for determined quantities, items, qualities and at fixed prices. Both contractual parties shall be bound hereto. Commission business shall not be entered into.

(c) Block orders are permitted and must be limited in time when concluding the contract. The acceptance period must not exceed 12 months.

(d) The customer is not entitled to assign its contractual claim to the delivery of goods or services to third parties.

## § 3 PRICES AND PACKAGING

(a) All prices are net, in Euro, plus the respective applicable VAT. Unless agreed otherwise, prices are 'FCA Getzner, Gerberstrasse 4, 6700 Bludenz, Austria' (as per INCOTERMS® in the version applicable at the time of concluding the contract), including customary packaging. Special packaging requested by the customer, and associated additional costs, shall be borne by the customer.

(b) All taxes, duties, charges and other levies shall be borne by the customer.

(c) Getzner reserves the right to adjust prices according to the additional charges, if factors relevant for calculating the price, which are not within Getzner's sphere of influence (wage tariffs, raw materials, freight costs, public charges, etc.), change.

(d) If goods / services can be supplied only at a later date for reasons within the customer's sphere, Getzner is entitled to charge higher prices and to demand immediate payment or to withdraw from the contract after giving notice of a grace period of 12 calendar days. Getzner's right to claim additional damage shall remain unaffected.

## § 4 DELIVERY CONDITIONS (PLACE OF FULFILMENT, DELIVERY, DELAYED DELIVERY AND ACCEPTANCE)

(a) The place of fulfilment for all deliveries and services is Getzner's domicile in Bludenz. If deliveries or services take place elsewhere, Getzner's domicile in Bludenz shall also be deemed to be place of fulfilment.

(b) The time for the supply of goods / provision of services is based on the agreements between the contractual parties. Delivery shall be at Getzner's domicile (place of delivery). The delivery is deemed to have been made on time if the customer has received the shipping documents and the delivery is either offered at the place of delivery for collection, or if the delivery has left the factory. Any risk will transfer to the customer as soon as the goods are offered at the place of delivery.

(c) The customer must collect the goods within 7 calendar days from them being made available at the place of delivery. If the goods are not accepted by the customer within this period, it shall be in default of acceptance, and the delivery shall be deemed to have taken place. If the customer is in default of acceptance, Getzner may charge the customer for additional costs incurred (cf. section 3 lit d).

(d) The contractually agreed delivery period is to be understood as approximate date (calendar weeks). If time shall be of the essence (working day), this must be expressly agreed as such. The agreed delivery period shall start when all commercial and / or technical questions concerning the delivery have been answered and the customer has fulfilled all its obligations (e.g. confirmation that advance payments have been made, application for an import licence) in full and promptly. If there are changes or insufficient fulfilment of the customer's obligations, the delivery period shall be extended correspondingly. Non-granting of an import licence shall not release the customer from its obligations.

(e) If the delivery or service cannot take place on time due to unforeseen circumstances beyond Getzner's control (non-culpable business disruption, force majeure, strike, delivery delays or failures by suppliers, war, official measures, other non-culpable business interruptions, etc.), the delivery period shall be extended automatically by the duration of the disruption. The customer shall immediately be given notice in the event of such circumstances and the soonest possible delivery date shall be announced. Claims for compensation in the aforementioned cases are excluded if the respective contractual partner has fulfilled its duty of information. Getzner has the right to deliver on

the next possible date – provided the delayed delivery is reasonable for the customer. If late delivery is not reasonable for the customer, it can withdraw from the contract by submitting immediate written notification to Getzner.

(f) Getzner may make partial deliveries and provide partial services only if this is reasonable for the customer, and if this does not incur additional costs. These contractually agreed conditions shall apply to partial deliveries and partial services.

(g) In the event that Getzner fails to perform within the agreed delivery deadline, a grace period of 14 calendar days shall start without any declaration being required. After the grace period, the customer may withdraw from the contract by means of written notification to Getzner. The customer cannot assert any claims due to late delivery prior to expiration of the grace period. If the customer wishes to claim damages it must give written notice to Getzner of a 4-week delivery period after expiry of the agreed delivery period.

## **§ 5 PAYMENT TERMS (PAYMENT, DEFAULT AND RETENTION)**

(a) The provisions of section 4 lit a shall apply as per the fulfilment of payment obligations.

(b) The invoice is payable in full by bank transfer within 30 days of invoicing, free and clear of costs and charges. Payment is on time if credited to our bank account on the last day of the payment deadline at the latest. Payments shall be applied to the oldest debts and the resulting interest and costs (even if allocated differently). This shall also apply to prepayments by customers.

(c) The customer is in default in the event of failure to make the payment by the agreed payment date. In the case of default, the customer shall be charged default interest at the statutory amount of 9.2 per cent above the base rate (section 456 Austrian Commercial Code). In addition, Getzner may demand immediate payment of debts not settled as at the respective payment date and charge all reminder and debt collection costs as well as the statutory default interest. Getzner may withdraw from the contract and claim compensation for lost profits in the event of failure after giving a notice period of 12 working days.

(d) In the event of a significant deterioration in the customer's financial circumstances, imminent insolvency, or if compulsory execution is levied against the Customer's assets, Getzner is entitled to declare all claims immediately due and payable and to withhold the supply of goods / services from contracts which have not yet been fulfilled and to perform these exclusively against payment in advance.

(e) To fulfil the statutory duties of care regarding the prevention of money laundering and terrorism financing, the customer shall support Getzner at all times in implementing preventive measures, and shall perform and report on all actions necessary for this honestly and in full.

#### **§ 6 RIGHT TO OFF-SET AND TO RETAIN PAYMENTS**

The right to off-set and to retain payments on due invoice amounts is only permitted with undisputed or legally binding claims, unless a claim for damages directly linked to the purchaser's claim for faultless delivery is concerned.

#### **§ 7 RETENTION OF TITLE**

(a) The goods, but not proprietary rights, are being transferred to the customer on delivery. Ownership of the delivered goods is conditional and is transferred to the customer only on fulfilment of its contractually agreed obligations in full – including but not limited to settlement of all claims (including secondary claims and claims for compensation). If the customer breaches the contract, Getzner may demand the return of the goods.

(b) The customer may sell, transfer, process or provide as collateral, or mix or combine the goods subject to retention of title (hereinafter: 'Retained Goods') with other objects as part of its normal business only with prior written consent from Getzner and only if its financial situation does not subsequently deteriorate.

(c) If the Retained Goods are resold by the customer on credit, the customer undertakes to retain title of the goods (extended retention of title). Furthermore, the customer shall assign to Getzner any claims arising from the resale, with all ancillary rights, up to the amount of the purchase price. Getzner accepts

this assignment. The customer must provide Getzner with the information necessary for the assigned claims, and must allow the information to be verified.

(d) The customer is entitled to operate factoring for its receivables. Getzner shall be informed of this immediately. If the customer has sold its liabilities to a factor, the customer assigns its claim against the factor which replaces the original claim to Getzner. The customer must transfer the proceeds to Getzner in proportion to the value of Getzner's rights to the goods. The customer must disclose the assignment to the factor if it is overdue with payment of an invoice by more than 10 days or if its financial situation deteriorates significantly. Getzner accepts this assignment.

(e) If the Retained Goods are processed, mixed or combined with other items and the processing cannot be reversed, Getzner shall acquire joint ownership in the new items according to the invoice value of the Retained Good in proportion to the total value of the new item, without obligation on the part of Getzner as a result.

(f) The customer shall store the Retained Goods free of charge and carefully (i.e. professionally and appropriately in a way suitable to the goods). The customer shall, at its own cost, insure the Retained Goods against all transport and storage risks, including but not limited to theft, water damage and fire within the usual scope. The customer hereby assigns its claims for damages against insurance companies or third parties because of the realisation of the aforementioned risks in the invoiced amount of the Retained Goods to Getzner. Getzner accepts the assignment.

(g) Retained Goods must not be pledged or assigned for security. In the event of a seizure, Getzner must be informed immediately of the creditor who has executed the seizure.

(h) When asserting the retention of title by reclaiming the Retained Goods, Getzner may dispose of the Retained Goods by private sale or auction. The Retained Goods are reclaimed at the generated proceeds, yet not exceeding the originally agreed price. Exercising the retention of title shall not automatically be

deemed a withdrawal from the contract, unless this is expressly declared as such.

## § 8 DEFECTS AND WARRANTY

(a) Getzner warrants that the supplies / services correspond to the product specification. The customer shall inform itself of the properties, qualities and, in particular, the manufacturing tolerances of our products by inspecting and, if necessary, accepting the product specifications. Minor technically unavoidable deviations in product properties (quality, colour, finishing, design, etc.) and customary in the industry, cannot be considered defects, unless the customer has expressly requested delivery true to sample.

(b) To exercise the warranty rights, the customer must fulfil all statutory obligations of inspection and the duty to notify defects. Apparent defects, and defects which would be identified during immediate and careful inspection, must be notified within 10 working days (received by Getzner) of delivery by means of written complaint. Other defects (hidden defects) must be reported in writing no later than 3 working days (received by Getzner) after discovery. The customer shall verify any defects to goods transparently. Defects which are not notified on time and in due form shall be deemed to be approved by the customer.

(c) Any goods reported as defective may be processed for the assertion of warranty claims only with prior written consent from Getzner. Any claim for open defects shall be excluded after the supplied goods have been cut or processed in any other way.

(d) If only a part of the delivery is defective, the customer may not notify the entire delivery as defective, but instead only the part of the delivery that does not comply with the contract.

(e) In the case of justified notice of defects, the customer is entitled to subsequent performance at Getzner's discretion, i.e. repair, additional delivery or replacement of the defective goods. Defective goods may only be returned with prior written consent from Getzner. In this case, Getzner shall bear the shipping costs unless the costs are increased as a result of the return

from or delivery to a location other than that contractually agreed. If subsequent performance is impossible or unsuccessful, the customer may reduce the purchase price or withdraw from the contract.

(f) A contract may not be challenged on the ground of error or shortfall exceeding fifty percent.

## § 9 LIABILITY

(a) Getzner's liability is restricted – outside the scope of the Product Liability Act – to intent and gross negligence. Liability for property and financial damage caused by slight negligence is excluded. Getzner is liable for gross negligence only insofar as this is proven by the injured party.

(b) Liability for compensation due to breach of material contractual obligations is restricted – insofar as legally possible – to the foreseeable damage typical for a contract of this kind, limited to the amount of the respective order value. Liability for consequential damage – notably lost profits or cost of reclaiming the goods – is expressly excluded.

(c) Getzner is not liable for damage resulting from defective integration of the delivered goods into the products of the customer or its purchasers. Additionally, Getzner is not liable for damage resulting from defective instructions from the customer (e.g. specifications, storage or processing instructions).

(d) Liability for culpable injury to life, body, or health shall remain unaffected by the liability restrictions.

(e) Unless expressly specified otherwise, our products are not or only conditionally suitable for use in the automotive industry, medicine or the aerospace and shipping industry, and their suitability has been neither tested nor certified. Any risk associated with the application of our products in these areas lies exclusively with the customer, who must fully hold harmless and indemnify us from all claims in this respect. This also applies to all other areas of application for which our products are not suitable according to the product specifications (properties, qualities, manufacturing tolerances, etc.) defined in the technical data sheet.

(f) Unless specified otherwise in these Terms, customer claims for compensation are excluded.

## **§ 10 DATA PROTECTION, CONFIDENTIALITY AND PROPERTY RIGHTS**

(a) The contractual partner undertakes to comply with the applicable data protection regulations of the EU General Data Protection Regulation (GDPR), the EU Directive on the Protection of Trade Secrets, and the associated national legal provisions.

(b) The contractual partner shall treat all business information from Getzner that comes to its knowledge, and related commercial and technical information, in strictest confidence, shall take necessary technical and organisational measures and shall permanently maintain confidentiality in respect of third parties.

(c) Any use of Getzner's intellectual property, in particular the reproduction, dissemination or publication, even in part, which goes beyond the contractually agreed own use, is prohibited. Getzner reserves all rights and possible claims for compensation.

(d) The public use and representation of products and services (for instance as a reference), as well as corporate representations of any kind – digitally embodied or in any other form – requires the express written consent of Getzner.

## **§ 11 APPLICABLE LAW**

Legal transactions with Getzner shall be governed by and construed in accordance with the laws of the Republic of Austria. The application of the provisions of the United Nations Convention on Contracts for the International Sale of Goods and those of the International Private Law is expressly excluded.

## **§ 12 PLACE OF JURISDICTION**

All disputes arising out of or in connection with legal transactions with Getzner shall exclusively be referred to the court having local and subject-matter jurisdiction at Getzner's registered office in Austria.

## **§ 13 SEVERABILITY CLAUSE**

Should any provision of these Terms or a provision subsequently added to these Terms be or become void or invalid in part or in full, or if there is a gap in these Terms, this shall not affect the validity of the remaining provisions or parts of the partly invalid provision. The void or invalid provision is deemed to have been replaced from the outset by a valid provision or a gap is deemed to have been closed from the outside by a valid provision which closest reflects the economic purpose of what the contractual partners intended or would have intended according to the meaning and purpose of these Terms, had they considered this point when concluding these Terms.

### **Getzner Textil AG**

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