

General Terms and Conditions

A) General

The following terms and conditions apply to all deliveries and services provided by Neudoerfler. The conclusion of a contract is only possible on the basis of the following General Terms and Conditions. Terms and conditions of the Customer, if any, shall not be accepted. For consumers within the meaning of the Austrian Consumer Protection Act, these provisions only apply insofar as there are no compelling provisions under the law that override the provisions herein.

B) Order Confirmation

B1)

Explanations, consultations and conclusions of business transactions which are issued or concluded by us or our employees shall only become binding for us upon our written confirmation. Explanations on the side of our client, which are based on these general terms and conditions, are to be made in writing to become effective.

B2)

Contracts for delivery become effective when we issue a written confirmation of order or deliver the goods or send the invoice. This also applies if a cost estimate or an offer from us exists. Our offers are subject to alteration. The completeness of our cost estimates can, with regard to unforeseeable processes, not be guaranteed. Our order confirmations are deemed approved if the client does not object within 5 days.

B3)

In the event that the order is changed, the prices shall be adjusted accordingly. Unless otherwise agreed, reasonable fees may be charged for changes to the order and additional services.

B4)

Plans, drawings, cost estimates and other documents, as well as brochures, magazines, designs, presentations and the like all remain our intellectual property. Any use, in particular the distribution, copying, publishing or making available, including only partial copying, requires our explicit approval.

C) Contract withdrawal

C1)

Should we be entitled to withdraw from the contract then this can be explained with regard to parts of a delivery.

C2)

If we put into practice our right to withdraw from the contract based on reasons caused by the client, even without this being his fault, the customer has the obligation to cover the costs of preparatory efforts (material purchased, special services, labour expenditure and the like). These efforts can be estimated with 30 % of the contract value, without any particular proof needed on our part. Custom designs must be paid for in full, excluding shipment costs.

C3)

Should the client withdraw from the contract, he is required to reimburse at least (meaning if he is not required to reimburse us with the complete sum of the order anyway) the preparatory costs according to C2.

D) Terms of payment

D1)

All invoices, notwithstanding other agreements, are to be paid on delivery.

D2)

Up to invoice amounts of EUR 20,000.00, payment is to be made after receipt of the invoice. If the invoice exceeds EUR 20,001.00 the following applies: one third as advance payment, one third upon delivery and one third after receipt of the invoice.

D3)

In case of order cancellation, a cancellation fee of at least 30 % (minimum EUR 100,-) applies. A cancellation fee of at least 50 % applies, if production of the order has already started.

E) Prices

E1)

Unless otherwise agreed, prices include packaging but are exclusive of statutory value added tax and relate to delivery ex factory.

E2)

Price increases due to increased wage costs or incidental wage costs, increased costs for material (including increases due to currency fluctuations with the import of raw materials or components from third parties) are acknowledged by the client.

E3)

By way of deviation of standard practices in the execution of the contract, the resulting manipulation costs will be charged to the client (for example, splitting of the order in partial deliveries which were not agreed upon, choosing a way of delivery which was not anticipated, and the like).

F) Delivery date and delivery

F1)

Delivery dates and times are only binding if they have previously been agreed on in writing, and only apply under conditions of uninterrupted production.

F2)

The delivery periods begin to run upon full clarification of all details of the order and the order confirmation has been returned to us.

F3)

Form of delivery is subject to our choosing.

F4)

Delivery is fulfilled upon delivery,

- if delivered by trucks or,

- with deliveries by post or train, when the goods leave our factory or,

- if the assembly of the product

is agreed upon, when this assembly is finished, and also if it is unfinished, if the reason for this is caused by the client.

F5)

It lies within the customer's responsibility to enable delivery for us (for example, heating, dry rooms, electricity, lighting, escalators, and the like). Should the client fail to do this, he or she will be charged for the additional expenditures.

F6)

If required, special assembly dates and the estimated duration will be arranged. All arrangements become void, if this is due to the fault of the client, the fault of third parties involved in the construction or as a result of force majeure. In such cases, new assembly dates will be arranged, whereas naturally the initial assembly duration cannot be shortened and additional expenditures will be charged.

F7)

All services, which exceed the order confirmation, will be invoiced separately.

G) Invoices and payment

G1)

We are entitled to invoicing, as soon as delivery is completed according to the terms in F3. With partial deliveries, partial invoicing is possible.

G2)

If no justified objection is made in writing within a period of two weeks after receipt of invoice, it is regarded as approved.



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Disclaimer: Neudoerfler, together with Bene and Hali, is one of the leading companies in the European office furniture industry. Due to our high standards of quality, we share common principles and guidelines. In order to guarantee uniform standards group-wide, information is exchanged between Neudoerfler, Bene and Hali. This results in mutually beneficial efficiency gains and synergy effects.

G3)

If we become aware of circumstances which are qualified to seriously doubt the creditworthiness of the customer subsequent to the conclusion of the contract, we are entitled to require advance payments and to withdraw from the delivery contract should these not be received.

G4)

Payments by bill of exchange are to be agreed upon with the order placement.

H) Default of payment

H1)

In case of default, also in default of payment through no fault of his own, the client will, from the due date, be charged interest of 8% above the current bank rate of the Österreichische Nationalbank (or a subsequent relevant bank rate). In case of default, subject to the assertion of further damage, a late payment fee of 2 % of the amount of debits as well as delay interest in the amount of a usual bank interest for overdrafts applies. In the case of default, we are entitled to charge, besides the late payment fee and default interest, reminder fees as well as intervention and collection fees of a credit protection company or an attorney. If payment is delayed or in case of insolvency, any special discounts, rebates or bonuses granted shall become void and be recalculated. In the case of net price settlements, the official gross price lists of the supplier or their representatives serves as the basis for calculation of the amount of debits. In the absence of a gross price list, the double amount shall be used in the case of net price settlements. In addition, any further damage, especially the damage that occurs because the contractor has to pay higher interest rate on its credit accounts because of the payment delay, has to be compensated irrespective of responsibility for late payments.

I) Transport and assembly

I1)

The delivery process is subject to our choice.

I2)

Shipping damages have to be confirmed in writing immediately on receipt.

I3)

Delivery of goods up to a value of EUR 150,00 will be made per post, via cash on delivery at the expense of the client.

I4)

Delivery is made to the place of unloading of the client, unless otherwise agreed upon. In cases of truck delivery, the client has to guarantee the undisrupted access to the delivery address and, in the case of missing access routes or ways of transport within the house, provide a lockable storage room to place the delivery item. Should the client fail to do this, the delivery item will be stored with risk and costs being on the side of the client, and an invoice will be issued. In addition, transport and storage costs based on actual expenses may be charged. In case the client will not accept the ordered goods at the agreed upon date, or the goods cannot be delivered, the client will be deemed to have delayed in accepting the delivery. The transfer of risk to the client applies on storage of the delivery item (including the storage in containers of the client) Storage in containers will be charged to the client. Storage of the delivery item takes place at the buyer's risk.

J) Warranty

If you are a consumer within the meaning of the Austrian Consumer Protection Act, the following terms concerning warranty do not apply.

J1)

The contents of brochures, technical descriptions or the like as used by us shall not be contract content, unless the client or we explicitly reference this. Public statements about our products or services, such as in advertisements or in details added to the product/ the service, are non-binding.

J2)

In cases of defects at the time of the conclusion of the contract, which are known to the client at that time, or in cases in which the client does not respect all requirements of the contractor concerning the items of the contract (maintenance instructions or the like), or in cases in which improvement works have been undertaken without our approval, spare parts of foreign suppliers have been installed or the client has not met their contractual obligations, warranty is excluded.

The client has to inspect the consignment of delivered goods or services rendered immediately after taking receipt of them, provided that this is acceptable to him, and to report all defects including all shortages and all incorrect deliveries immediately, and damages in transit on handover, in written form (or via fax or e-mail). Should a notice of defect not be raised, or not be raised in time, the product / the service is regarded as approved. The applicability of warranty or damage claims, as well as the right to rescission on the grounds of mistake due to defects is not valid in this case.

J3)

The customer shall bear the burden of proof that the defect already existed when the delivered item was handed over, even if the defect is detected within 6 months of the delivery date. Changes, which have not been approved by us, concerning the original suspension of wall cabinets as well as damages of the security seal lead to the exemption of any right to claim under warranty.

J4)

Should claims to warranty exist, we may at our option either choose the improvement (repair or amendment of the missing) or the exchange of the product or to reduce the compensation by an appropriate degree or to cancel the contract. Should warranty claims exist, they do not entitle the client to withhold the payment until the time of improvement or exchange of the product.

J5)

Warranty rights have to be legally claimed within six months. The deadline begins on the day of handing over.

K) Damages

K1)

If the defect has not been caused by intentional actions or the gross negligence on our part, the client has no claim for damages. The customer will be required to prove blatant gross negligence. Should claims for damages apply, it is our choice to either offer replacement in kind (improvement or exchange) or replacement in money. For the rest, the following applies: in cases of minor negligence we will be exclusively liable for personal damages. In cases of gross negligence, we will be exclusively liable for personal or material damages, but not for financial losses or loss of profits. Insofar as we are liable to render compensation, our liability is limited to five times the amount of the agreed payment. In cases of gross negligence, if a claim for damages applies, our liability for personal damages is limited to ten times the amount of the agreed payment. After the expiration of a period of ten years from the moment of delivery, no claim for damages applies. If you are a consumer within the meaning of the Austrian Consumer Protection Act, the terms for defects do not apply apart from the following: in the case of minor negligence our liability is limited to personal damages.

K2)

Any claim for compensation the contractual partner or third parties shall assert against us under the title „Product Liability“ as defined by the Product Liability Act (PHG) shall be excluded, unless the claimant can prove that the fault lies within our sphere and was at least caused by gross negligence.

L) Call orders

The on-demand period for call orders or orders with delivery upon call for the lack of other arrangements is no longer than four months. Should retrieval not be made within this period, the buyer falls into default in acceptance and we are entitled to issue the invoice. Simultaneously, the consequences for default in acceptance apply (see C for more information).

M) Product descriptions, industrial property rights, information from the customer, changes

M1)

Product descriptions in catalogues, brochures, models, samples, drawings etc. do not represent any guarantee of properties and are not binding. We retain all rights of ownership, copyright and industrial property rights to models, samples, drawings and other documents. We are entitled to request the return of any and all of the documents specified above, provided that the customer has not acquired them in return for payment. The customer shall indemnify us and hold us harmless in respect of infringements of industrial property rights resulting from the manufacture of delivery items in accordance with the customer's individual requirements. If the customer provides plans and/or information or specifies dimensions, the customer shall be liable for the correctness thereof, unless the error is obvious.

M2)

We reserve the right to make changes regarding design and materials as long as these do not significantly or detrimentally affect the contractually stipulated use of the delivery item. In the case of modifications of materials, given that our company is dependent on third parties in this respect, we do not provide any replacement of finishes, veneers, fabrics or colours.

N) Samplings, material examination, cost estimates

Costs for samplings, material examinations and the preparation of a cost estimate are borne by the client. In the case of order confirmation these are reimbursed. Minor variations to samples and showpieces due to material deviations remain reserved.

O) Retention of title

We retain title of ownership of the goods until the purchase price has been paid in full. In the case of resellers, a resale before the complete payment of the invoice is only permitted if we were informed in a timely manner including the name or the company and the detailed address of the buyer and is subject to our consent. In the case of our agreement, the purchase price receivable shall now already be considered as assigned to us and we are entitled to notify the garnishee of this assignment at any time. Claiming reservation of title represents a rescission of contract only if this has been expressly declared.

P) Place of performance, choice of law and jurisdiction / other

All agreements, later changes, additions and the like must be in written form to be valid, including the original signature or a secure electronic signature. This Contract is governed by the substantive law of the Republic of Austria. Should the partner to this contract be the consumer and the conditions stipulated under Art. 5, Para 2 of the European debt contract convention (EVÜ) do not apply, but a case of Art 5, Para 4 in connection with Para. 5 EVÜ is applicable the choice of jurisdiction does not conclude that the consumer who is governed by the compelling legal rights of the state in which he has his official residence loses the thereby guaranteed legal protection. Contract language is German. Place of payment and jurisdiction is Vienna. Court competent is the Court for Commercial Matters in the First District of Vienna, as long as our customer does not conclude the contract as a consumer. We have the right, however, to sue the buyer at his general place of performance.

For clients in Germany, the following additional rules apply:

1.
Seller shall reserve the ownership in the object sold until the client has met all financial obligations (including all demands relating to the current account balance) and is granted the following additional securities.
2.
Ownership of goods stays with the seller. The goods remain the property of the Seller; processing or reshaping will always be performed for the Seller as manufacturer, but without any obligation. If the (co-)ownership of the vendor lapses by mingling of the product, it is now agreed in advance that the purchaser's (co-)ownership of the combined object shall be assigned to the vendor proportionally (in proportion to the invoice value). Buyer shall store the (joint) property of the vendor free of charge. Goods, for which the seller holds a property and/or co-property right, are hereinafter called conditional goods.
3.
The buyer may use and process the reserved property in his usual business processes. Pledging or transfer of ownership by way of security by the customer is not permissible. In any case, the buyer must immediately pay the collected amounts to the seller, inasmuch as the claims of the seller are due.
4.
If third parties seize or confiscate the reserved title goods, the Buyer shall draw attention to our ownership and notify us accordingly without delay. Costs and damages shall be borne by Buyer.
5.
For behaviour by the buyer that is contrary to the contract, in particular for default in payment by the buyer, we are entitled, at the buyer's expense, to demand release of the conditional goods and/or assignment of the right of collection of goods towards third parties. The withdrawal of the goods and the seizure of the reserved goods shall not be regarded as a withdrawal of the contract, insofar as the instalment payment act is not applicable.

Q) Data protection

The client consents that their personal details may be used for the sending of information about new products and services via e-mail. The client furthermore consents that their personal data may be used for purposes of market research. A dissemination of these data as well as results of survey to third parties will not take place. The client expressly declares in this context, to agree to be contacted via e-mail by us (or by data-protection service providers which were hired by us). The customer shall at all times have the right to object to such use by sending us a corresponding notice.

The notice shall be sent to:

Neudoerfler Office Systems GmbH
Kom.-Rat Karl Markon-Str. 530
7201 Neudörfel
Austria
or via e-mail to: bueromoebel@neudoerfler.com

Neudörfel, in January 2022