



General Terms and Conditions of Sale of Adolf Darbo AG

(As of: 01.01.2023)

1. General

1.1 The General Terms and Conditions of Sale (hereinafter referred to as "GTCS") of Adolf Darbo AG shall apply in business transactions of Adolf Darbo AG (hereinafter referred to as "DARBO", "we" or "us") to all contracts concluded between us and the purchaser relating to the purchase of our goods and to all other deliveries and services of DARBO. These terms and conditions shall only apply to companies pursuant to §§ 1 ff. UGB and legal entities under public law.

1.2 The purchaser's general terms and conditions shall not be accepted, even if the purchaser's conditions are not expressly contradicted. If an order for goods is placed, our GTCS are deemed to have been agreed. Any different agreements shall require our written and express confirmation to be effective.

1.3 These GTCS shall also apply to all future deliveries to the purchaser. This shall apply even if the application of these GTCS is not expressly agreed in subsequent business transactions.

2. Offer, delivery, payment

2.1 Our offers are subject to change. The purchase contract shall only be concluded when we send our written order confirmation.

2.2 The prices and terms of payment as stated in our current price list shall apply. Prices stated are exclusive of VAT and exclusive of shipping costs. Unless otherwise agreed or otherwise stated in our offer, delivery shall be ex works (Ex Works INCOTERMS 2020).

2.3 If the buyer is in default of payment, we shall be entitled to charge interest on arrears at the statutory rate (§ 456 UGB (Austrian Enterprise Code)).

2.4 The purchaser shall only have the right to offset payments against counterclaims insofar as the purchaser's counterclaims are undisputed, res judicata or recognised by DARBO.

2.5 DARBO shall be entitled to effect partial deliveries or to withdraw from the contract without stating reasons if the goods are not available or are temporarily unavailable and cannot be held liable for any resulting disadvantage incurred by the purchaser.

2.6 If containers are used for the packaging of the goods, these containers as well as their accessories shall remain our property. They may only be used for processing our goods. The containers must be returned in an undamaged condition no later than 2 months after expiry of the best-before date of the goods contained therein. We reserve the right to charge a fee of EUR 25 per day and container for a longer turnaround time. If a container is returned with damage, the costs of repairing or purchase of a new container must be reimbursed. We reserve the right to assert a claim for further damages.

3. Reservation of title

3.1 The goods shall remain our property until full payment of all of DARBO's claims arising from the purchase contract.

3.2 The purchaser shall be entitled to sell the goods to customers in the normal course of business insofar as he is not in default with payment obligations. The purchaser assigns to DARBO the claims against the third party that arise from the sale. DARBO accepts the assignment. DARBO authorises the purchaser, on a revocable basis, to collect claims assigned to DARBO for our account in his own name. DARBO's right to collect the claims itself shall not be affected by this. However, DARBO shall not collect claims itself and shall not revoke the direct debit authorisation insofar as the purchaser duly fulfils his payment obligations. If the purchaser operates in breach of contract in relation to DARBO, in particular if he is in default with payment obligations, DARBO may demand from the purchaser that he discloses the assigned claims and the relevant debtors, informs the respective debtors of the assignment and transfers to DARBO all the documents and provides all the information that DARBO requires in order to assert the claims.

3.3 If the goods are processed together with other items that are not the property of DARBO, DARBO shall acquire co-ownership of the new item in proportion to the value of the goods to the other processed items at the time of the processing. Insofar as processing takes place in such a way that the purchaser's item is regarded as the main item, it shall be deemed agreed that the purchaser transfers co-ownership to DARBO on a pro-rata basis. DARBO accepts this transfer. The purchaser shall keep the item of co-ownership in safe custody for DARBO, whereby no further obligations shall arise for DARBO from this.



3.4 DARBO undertakes, upon request from the purchaser, to release collateral to which we have entitlement to the extent that the realisable value exceeds the value of the outstanding claims against the purchaser by 10%.

4. Warranty

4.1 Warranty claims shall be governed by applicable statutory provisions unless otherwise stipulated below. The warranty period shall end in principle on the best-before date of the delivered goods. However, DARBO warrants the values stated in the relevant product specification at the longest up to the first connection of the goods for processing within the best-before date.

4.2 The purchaser shall be required to inspect the goods received immediately upon receipt and to notify us in writing about any defects or shortfall immediately, but no later than 5 working days after receipt; otherwise claims shall be excluded. Hidden defects must be reported in writing without delay, but no later than 5 working days after their discovery. If the purchaser fails to give notice of defects in due time, claims for warranty, for loss or damage due to the defect and claims arising from an error concerning the defect-free status of the item can no longer be asserted.

4.3 The purchaser must give DARBO an opportunity to check the presence of the defects to which the complaint relates.

4.4 If, despite all due care, the delivered goods exhibit a defect that was present already at the time of transfer we shall, subject to punctual notification of defects, repair the goods, deliver replacement goods or offer a price reduction, depending on our choice. We must always be given an opportunity to remedy the defect within a reasonable period.

4.5 Notices of defects shall not confer entitlement to withhold the purchase price in whole or in part.

5. Compensation

5.1 Any liability on the part of DARBO shall be governed, both in terms of the merits and the amount, by the applicable statutory provisions, in particular by §§ 1293 ff. ABGB (Austrian Civil Code), unless otherwise stipulated in these GTCS.

5.2 There shall be no liability for consequential damages, in particular lost profit.

6. Product liability

Any recourse claims asserted against us by the buyer or third parties under the heading of "product liability" within the meaning of the Produkthaftungsgesetz (Austrian Product Liability Act) shall be excluded unless the party entitled to recourse proves that the defect was caused in our sphere and was due at least to gross negligence.

7. Final provisions

7.1 The place of performance both for our performance and for the consideration shall be 6135 Stans, Dornau 18, Austria.

7.2 All legal relations between us and the buyer shall be governed exclusively by Austrian law, excluding the rules on conflicts of laws and the United Nations Convention on Contracts for the International Sale of Goods (CISG).

7.3 The exclusive place of jurisdiction for disputes arising from or in connection with our deliveries and the underlying contracts shall be the court that has subject-matter jurisdiction for 6135 Stans. However, we shall also be entitled to sue the buyer at their general place of jurisdiction.

7.4 If any provision of these GTCS or of any additionally concluded agreements made are or become invalid, this shall not affect the validity of the remaining provisions contained in these GTCS. The contracting parties shall be required to replace the invalid provision with another regulation that reflects the economic outcome of that provision as closely as possible.

7.5 The present GTCS were written in German and translated into English. Only the German-language version is legally valid. The English version is for information purposes only.