

1. Validity; written form requirement

1.1 These Terms and Conditions shall apply to all services and deliveries as well as the rental of goods (hereinafter referred to as "Delivery"), ordered at MOLL-MOTOR presently **or in the future**, by natural and legal persons (hereinafter referred to as "Customer"), even if their validity is no longer separately agreed.

1.2. We exclusively contract based on our GTC.

1.3. **The customer's terms and conditions** or amendments or supplements to our GTC **require our express written consent to be valid**, as does the waiver of this written requirement. Stating a customer's ordering number on our documents does not constitute written consent to deviating terms and conditions.

1.4. The customer's terms and conditions of business shall not be recognised even if we do not expressly **object to them** after receipt by us.

2. Non-binding nature of offers, conclusion of contract

2.1. Our **offers and cost estimates are non-binding** and may be withdrawn irrespective of a stated period of validity.

2.2. **Cost estimates are chargeable.**

2.3. **Promises, assurances and guarantees** on our part or agreements deviating from these GTC in connection with the conclusion of the contract shall only become binding upon our written confirmation.

2.4. If a customer decision for our products and services is based on **information material** (e.g. catalogues, price lists, brochures, advertisements on trade fair stands, circulars, advertising mailings), this information material must be presented to us by the customer so we can comment on their accuracy. Otherwise, this information shall be non-binding unless it has been expressly declared in writing to be part of the contract.

2.5. Clerical errors, information errors and miscalculation in MOLL-MOTOR offers, order confirmations or invoices can be corrected at any time if they become apparent.

3. Prices incoterms; price change in the event of a change in the EPI (producer price index); rounding up of working hours

3.1. Price quotations are **not** to be construed as a fixed lump sum in any circumstance.

3.2. Services ordered by the client **which are not covered by the original order**, are entitled to appropriate remuneration in the absence of an agreement on remuneration for work.

3.3. Prices are quoted exclusive of the applicable statutory value added tax (net) and - unless expressly agreed otherwise - EXW in accordance with Incoterms 2020.

3.4. The customer shall arrange for the professional and environmentally sound disposal of **scrap/waste**. If we are separately commissioned to take care of disposal, the customer shall additionally pay for it to the extent agreed for this purpose, in the absence of an agreement on appropriate remuneration.

3.5. If there are more than 2 months between the conclusion of the contract and the agreed provision of the service, we are entitled, as well as obliged at the customer's request, to **adjust the contractually agreed fees** in the amount by which the producer price index for the manufacturing sector (EPI) published by Statistics Austria has changed between the conclusion of the contract and the end of the provision of the service, whereby changes up to 4% are not taken into account and if the threshold is exceeded, the fee changes to the full extent of the index increase since the conclusion of the contract.

3.6. A surcharge of € 15,- will be applied for order values below € 150,-.

3.7. Costs for **travel, daily and overnight allowances** are charged separately. Travelling time is considered working time, whereby **every commenced quarter of an hour of working time is rounded up to 15 minutes.**

4. Provided goods and manipulation surcharge; exclusion of warning and inspection obligations

4.1 If equipment or other materials are provided by the customer, the value of the goods must be notified to us in writing, and we are entitled to charge 15% of the value of the equipment or material provided as a **manipulation surcharge** to the customer.

4.2. Any **warning and inspection obligations** incumbent on us are **expressly excluded** and shall only be carried out against separate remuneration expressly agreed in writing. We therefore retain our full claim to payment, even if the work fails because the equipment or materials provided do not have the properties required for success, and any liability on our part is excluded. Unless otherwise agreed in writing in advance, MOLL-MOTOR does not owe the achievement of a specific performance target or a specific usability or usability of the object of performance by the customer.

5. (Advance) payment; security and cancellation in the event of default in performance

5.1. Unless otherwise agreed in writing, 100% **advance payment** (clear of any expenses and deductions) is agreed.

5.2. **Payment dedications** made by the customer on transfer vouchers are not binding for us.

5.3. We are not obliged to accept **bills of exchange or cheques**. Any acceptance shall always be on account of payment only.

5.4. If the customer is in default of payment within the scope of other contractual relationships existing with us, we shall be entitled to **suspend** fulfilment of our obligations under all existing contracts until fulfilment by the customer or provision of security for the full consideration due to us.

5.5. We are entitled to **withdraw** from the contract after granting a grace period of 8 days if security is not provided by the customer.

5.6. We shall then also be entitled to invoice and **declare due** all services already provided to the customer.

5.7. **At exceeding of payment deadline**, even if only in respect of a single partial service, **any benefits granted** (discounts, reductions, etc.) **shall be forfeited** and added to the invoice.

5.8. In the event of late payment, the customer undertakes to pay interest on arrears at a rate of 3 percentage points p.a. above the base interest rate, but at least 3%, as well as to pay the costs necessary for collection and to reimburse the appropriate **collection costs** (reminder costs, collection fees, costs for lawyer, etc.).

5.9. The customer shall only be entitled to **set-off** to the extent that counterclaims have been established by a court or recognised by us.

6. Credit assessment

We hereby disclose that we check the customer's creditworthiness with the state-authorised creditor protection associations Kreditschutzverband von 1870 (KSV); Alpenländischer Kreditorenverband (AKV); Österreichischer Verband Creditreform (ÖVC) and that the transfer of personal data is necessary for this purpose.

7. Cooperation obligations of the customer; acceptance times; provision of materials; prohibition of assignment

7.1. Our **obligation to perform begins** at the earliest as soon as

- a) all technical details have been clarified,
- b) the customer has created the technical and legal requirements (which we will be happy to provide on request),
- c) we have received agreed advance payments or security deposits, and
- d) the customer has fulfilled his contractual obligations to perform in advance and to cooperate,

particularly those listed in the following subsections.

7.2. If we are commissioned with the delivery of goods, **acceptance of the goods** must be guaranteed during the opening or acceptance times published by the customer. If no acceptance times have been agreed with us, acceptance of the goods must be ensured Mon-Fri 7:00-17:00. If the customer fails to notify us of any restrictions on the acceptance of goods, he shall be obliged to bear the additional costs for renewed delivery attempts, even if free delivery has been agreed - verbally or in writing.

7.3. In the case of assembly work to be carried out by us, the customer is obliged to ensure that work can begin immediately after the **arrival of our assembly personnel**. For this purpose, the customer must in particular keep the access and assembly area clear of objects. If objects are left in the access and assembly area contrary to the contract, this shall be at the customer's risk and we shall be entitled to wait with the execution of the work until the customer has fulfilled his obligation to co-operate in accordance with this point.

7.4. The customer must arrange the necessary third-party **authorisations** and notifications and approvals from the authorities at his own expense. These can be requested from us for a surcharge.

7.5. We are not obliged to check or wait for the existence of any authorisations or notifications necessary for the provision of our services or the operation of our services before we begin to provide our services.

7.6. The **energy** and water quantities required for the performance of the service, including the trial operation, shall be provided by the customer at the customer's expense.

7.7. The customer must provide us with **lockable rooms** that are inaccessible to third parties free of charge for the duration of the performance of the service for the stay of the workers and for the storage of tools and materials.

7.8. The customer shall be liable for ensuring that the necessary **structural, technical and legal requirements** for the work to be produced or the object of purchase are met, which were described in the contract or in information provided to the customer prior to conclusion of the contract or which the customer should have known on the basis of relevant specialist knowledge or experience.

7.9. The customer shall also be liable for ensuring that the technical installations, such as supply lines, cabling, networks and the like are in a technically flawless and operational condition and are **compatible** with the works or purchased items to be produced by us.

7.10. We are entitled, but not obliged, to **inspect** these **installations** for a separate fee.

7.11. In particular, the customer shall provide the necessary information on the location of **concealed electricity, gas and water lines** or similar installations, escape routes, other obstacles of structural nature, possible sources of danger as well as the necessary structural information without being asked to do so before the installation work begins.

7.12. Order-related **details** of the necessary information can be requested from us.

7.13. The customer shall bear sole responsibility for the construction and functionality of **parts provided**. There is no obligation to check any documents, **information or instructions provided** by the customer with regard to the delivery item - beyond the creation of a technical construction dossier and the certification of compliance with the machinery guideline and any other applicable guidelines, and our liability in this respect is also excluded for the entire product. The obligation to issue the certificate can be contractually transferred to the customer who places the delivery item on the market.

7.14. The customer is not entitled to **assign claims and rights arising from the contractual relationship without our written consent**.

7.15. The customer must ensure that all users comply with the **operating, maintenance and assembly instructions** for the delivered goods and works. In particular, the customer must train and instruct its personnel and other persons that may come into contact with the goods or the work accordingly.

7.16. The customer must take out adequate **insurance for product liability claims** and indemnify and hold us harmless in this respect.

8. Performance and error

8.1. Minor changes to our performance, including deviations in dimensions, equipment, material, and colour that are customary in the trade or due to manufacturing technology and can be **reasonably and objectively justified**, shall be deemed approved in advance.

8.2. If, for whatever reason, the order is **amended** or supplemented after it has been placed, the delivery or performance period shall be extended by a reasonable period.

8.3. If, after conclusion of the contract, the customer requests performance within a **shorter period**, be this constitutes an amendment to the contract. As a result, overtime may become necessary and/or additional costs may be incurred due to the acceleration of material procurement, and the remuneration shall be increased appropriately in relation to the necessary additional work.

8.4. Objectively justified (e.g. size of plant, construction stage, etc.) **preliminary and partial deliveries** and services are permissible and can be invoiced separately.

8.5. If **delivery on call** has been agreed, the object of performance/purchase shall be deemed to be called up no later than six months after the order. The customer waives the right to contest and adjust the contract due to **error**.

9. Delivery and performance deadlines

9.1. Delivery/service deadlines and dates are only **binding** for us if they have been specified in writing. Any deviation from this formal requirement must also be in writing.

9.2. Deadlines and dates shall be **postponed** in the event of force majeure, strikes, unforeseeable delays caused by our suppliers for which we are not responsible or other comparable events beyond our control for the period of time that the relevant event lasts. This shall not affect the customer's right to withdraw from the contract in the event of delays that make it unreasonable to be bound by the contract.

9.3. If the start of the performance or the execution is **delayed** or interrupted due to circumstances that are not attributable to us, in particular due to a breach of the cooperation obligations pursuant to clause 7, performance deadlines shall be extended accordingly and completion dates shall be postponed accordingly.

9.4. We are entitled to make the delivery without setting a deadline or to **store** the goods at the customer's expense if the customer does not agree a delivery date within one week, and we are entitled to reasonable compensation for the resulting additional costs of € 40 per stored pallet.

9.5. We are entitled to charge 5% (plus VAT) of the invoice amount, but at least € 40 per month of delay in performance commenced, for the **storage** of materials and equipment and the like in our company that is necessary as a result, whereby the customer's obligation to pay and his obligation to accept shall remain unaffected by this.

9.6. If we are in default, the customer must set a **grace period** of 6 weeks by registered letter before any cancellation, simultaneously threatening to cancel the contract.

10. Risk assumption and dispatch

10.1. The risk shall pass to the customer from the **agreed collection date** on which we hold the object of purchase/the work ready for collection from the factory or warehouse. If we are

commissioned with the delivery of goods, the risk shall pass upon handover to a carrier or haulier, whereby loading and unloading, dispatch and transport shall always be at the customer's risk.

10.2. The customer shall approve any appropriate **mode of dispatch**. We undertake to take out transport insurance at the customer's written request and at the customer's expense.

10.3. We are entitled to collect the packaging and shipping costs as well as the **cash on delivery** fee from the customer if the customer is in arrears with a payment from the existing business relationship with us or if a credit limit agreed with us is exceeded.

10.4. The customer is responsible for the safety of the materials and equipment delivered by us and stored or assembled at the place of performance. **Loss and damage** shall be at the customer's expense.

10.5. If, at the customer's request, goods are parked in the publicly accessible part of our premises to enable collection **outside operating hours**, the risk shall pass to the customer at the end of the operating hours at the latest.

11. Default of acceptance

11.1. If the customer is in default of acceptance (refusal of acceptance, default with advance performance, no call-off within a reasonable time in the case of an order on call, or other), we are entitled to store the goods at the customer's expense and risk.

11.2. If the customer is in default of acceptance, we are also entitled to **retain** the goods until the storage costs have been covered. Provided that it remains possible to continue the performance of the service within a period of time appropriate to the respective circumstances, we are also entitled to a **lien** on the goods.

11.3. If the agreed mode of dispatch is collection, we are entitled, in the event of default in acceptance, to arrange the dispatch at the customer's expense.

11.4. In the event of a justified withdrawal from the contract or in the event of impossibility of performance for which the customer is responsible, or in the event of cancellation of an order prior to dispatch, we may demand **lump-sum compensation** from the customer in the amount of 30% of the gross order value without proof of actual damages.

11.5. The assertion of a **higher damage** is permissible.

12. Retention of title

12.1. The goods delivered, assembled or otherwise handed over by us shall remain our **property** until full payment has been made. The retention of title applies to all claims in connection with the subject matter of the contract.

12.2. Until full payment of all our claims, the object of performance/purchase may not be pledged, transferred by way of security or otherwise encumbered with **third-party rights**. In the event of seizure or other claims, the customer is obliged to point out our right of ownership and to inform us immediately.

12.3. A **resale**, processing, mixing or other utilisation of the goods is only permitted until full payment has been made if we have been notified of this in good time in advance, stating the name and exact address of the purchaser, and we have given our consent. The customer assigns to us all claims and rights to which he is entitled from the resale, processing, mixing or other utilisation on account of payment.

12.4. The customer shall **note this assignment** in its books and on its invoices and inform its respective debtors of this until full payment of the remuneration. Upon request, the customer shall provide us with all documents and information required to assert the assigned receivables and claims.

12.5. The customer declares his express consent that we may enter the **location** of the reserved goods in order to assert the retention of title.

12.6. Necessary and reasonable **costs** for the appropriate prosecution shall be borne by the customer.

12.7. The assertion of the retention of title shall only constitute a **withdrawal from the contract** if this is expressly declared.

12.8. We are entitled to **dispose** of the returned goods subject to retention of title on the open market and in the best possible manner.

13. Third party property rights

13.1. For delivery items which we manufacture according to **customer documents** (design data, drawings, models or other specifications, etc.), the customer alone shall guarantee that the manufacture of these delivery items does not infringe the industrial property rights of third parties.

13.2. If industrial property rights of third parties are nevertheless asserted, we shall be entitled to **cease production** of the delivery items at the customer's risk until the rights of third parties have been clarified, unless the unjustified nature of the claims is evident.

13.3. The customer shall indemnify and hold us harmless, also with regard to necessary or useful defence costs incurred for the clarification of claims.

13.4. We are entitled to demand reasonable **advance payments** for any defence costs.

14. Our intellectual property

14.1. Delivery items and related execution documents, **plans**, sketches, cost estimates and other documents as well as software provided by us or created by our contribution shall remain our intellectual property.

14.2. Their use for purposes other than those expressly agreed, in particular their dissemination, reproduction, publication and making available, including copying in extracts, as well as their imitation, processing or utilisation, requires our express **consent**. This also applies in particular to the source code.

14.3. The customer further undertakes to keep **secret** from third parties any knowledge gained from the business relationship.

15. Software

15.1. If the subject matter of the contract also includes software components or computer programs, we shall grant the customer a non-transferable and non-exclusive **right of use** at the agreed installation site, subject to compliance with the contractual conditions and documents (e.g. operating instructions, etc.).

15.2. With regard to the software, a **warranty** shall only be given for conformity with the specifications agreed upon conclusion of the contract, provided that the software is used in accordance with the installation requirements and complies with the respectively applicable conditions of use. An uninterrupted and error-free function is not owed.

15.3. The selection and specification of the software offered by us is carried out by the customer. The customer must ensure **compatibility** with the technical conditions on site.

15.4. The client is responsible for the use of the software and the **results** obtained with it.

15.5. In the case of customised software, the performance features, special functions, hardware and software requirements, installation requirements, conditions of use and operation shall result exclusively from the **specifications** to be agreed in writing between the contracting parties. The customer must provide the information required for the production of customised software before the contract is concluded.

16. Limitation of the warranty; distribution of the burden of proof

16.1. The **warranty period** for our services is one year from handover. This shall also apply to goods and services that are firmly attached to buildings or the ground.

16.2. Unless otherwise agreed (e.g. formal acceptance), the date of **handover** shall be deemed

to be the date of notification of completion by MOLL-MOTOR, at the latest upon acceptance of the service by the Customer into his power of disposal or refusal of acceptance without giving reasons.

16.3. **Remedies** of a defect alleged by the customer do not constitute an acknowledgement of a defect.

16.4. The customer must always **prove** that the defect was already existing at the time of handover.

16.5. **Notices of defects** and complaints of any kind must be made **in writing** without delay at the registered office of our company, **describing the defect** as precisely as possible and stating the possible causes, otherwise warranty claims shall be forfeited. The goods or works complained about are to be handed over by the customer, insofar as this is feasible. If defects were recognisable at the time of acceptance, their later notification is excluded.

16.6. If the **customer's claims** of defects are **unjustified**, the customer shall be obliged to reimburse us for any expenses incurred in establishing the absence of defects or rectifying defects.

16.7. We are entitled to carry out or have carried out any **examination** we deem necessary, even if this renders the goods or workpieces unusable. In the event that this inspection reveals that we are not responsible for any defects, the customer shall bear the costs of this inspection for a reasonable **fee**.

16.8. Any **transport**, packaging, loading and travelling costs incurred in connection with the rectification of defects shall be borne by the customer. At our request, the customer shall provide the necessary labour, energy and premises free of charge and cooperate in accordance with clause 7.

16.9. The customer shall grant us at least **two attempts** to remedy the defect.

16.10. We can avert a **request for change** or claims for damages due to defects by improvement/replacement or a reasonable price reduction, provided that the defect is not significant and irreparable.

16.11. If the objects of performance are manufactured on the basis of **information**, drawings, plans, models or other specifications of the **customer**, we shall only provide a warranty for the execution in accordance with the conditions. A specific type of use or a performance target shall not be deemed to have been agreed.

16.12. The fact that the work is not fully suitable for the agreed use does not constitute a defect if this is based solely on **deviating** actual circumstances from the **information** available to us at the time of performance because the customer does not fulfil his obligations to cooperate in accordance with clause 7.

16.13. Similarly, this shall not constitute a defect if the customer's **technical systems**, such as supply lines, cabling, networks, etc., are not in a technically perfect and operational condition or are not compatible with the delivered items.

16.14. If **used goods** are the subject of the contract, they shall be accepted by the customer, waiving any warranty claims.

16.15. Parts that are subject to natural **wear and tear** (e.g. ball bearings, seals, etc.) are excluded from the warranty.

16.16. We reserve the right to **reject complaints** whose processing costs exceed the value of the goods complained about.

17. Limitation of liability

17.1. Our liability is limited to cases of intentional or grossly negligent damage, whereby compensation for purely financial losses is excluded from the outset.

17.2. It's always the customer who must prove our **culpability**.

17.3. Any liability on our part shall be limited to the amount of the agreed remuneration for the delivery / service.

17.4. The customer is obliged to indemnify and hold us and our representatives and vicarious

agents harmless against claims by third parties, in particular under the Product Liability Act (PHG) or on the basis of other provisions that enable direct claims to be made against MOLL-MOTOR by third parties.

17.5. Claims for damages must be asserted in court within six months of performance, otherwise they will **expire**.

17.6. The limitations or exclusions of liability also include claims against our **employees**, representatives and vicarious agents due to damage caused by them to the customer without reference to a contract between them and the customer.

17.7. Our liability is excluded for damage caused by **improper handling** or storage, overloading, non-compliance with operating and installation instructions, incorrect assembly, commissioning, maintenance, servicing by the customer or third parties not authorised by us, or natural wear and tear, insofar as this event was the cause of the damage. Liability is also excluded for failure to carry out necessary maintenance.

17.8. If and to the extent that the customer can claim **insurance benefits** for damages for which we are liable through its own insurance or insurance taken out in its favour (e.g. liability insurance, comprehensive insurance, transport, fire, business interruption and others), the customer undertakes to make use of the insurance benefits and our liability to the customer shall be limited to the disadvantages incurred by the customer as a result of making use of this insurance (e.g. higher insurance premium).

17.9. Those product characteristics are owed which can be expected from us, third-party manufacturers or importers with regard to the authorisation regulations, operating instructions and other product-related instructions and information (in particular also inspection and maintenance), taking into account the customer's knowledge and experience. The customer as reseller must take out adequate insurance for **product liability claims** and indemnify and hold us harmless with regard to recourse claims.

18. Special regulations for consumers

If the customer is a consumer within the meaning of the KschG, the following deviating conditions apply:

18.1. In deviation from section 2. a) we only prepare **cost estimates** and **offers** for a fee, but these are **binding**; b) Offers are **valid** for at least 10 days after submission; c) Corrections of errors are limited to the regulations according to ABGB § 871 ff.

18.2. In deviation from section 3. a) we do not provide any services that were not already included in the original order without express written agreement; b) we will inform the customer of any significant **cost overrun** as soon as it becomes apparent for the purpose of obtaining approval; c) we do not conclude contracts with consumers for recurring services, which is why prices are not index-adjusted.

18.3. In deviation from section 5. a) the customer shall reimburse us for **collection costs** in the amount regulated by the Collection Regulation, Federal Law Gazette II No. 103/2005; b) the **default interest** are 5% p.a.; c) the customer is entitled to **offset** claims of MOLL-MOTOR that are legally related to the customer's liability, have been established by a court of law or have been recognized by the company; d) the customer shall be entitled to the statutory **rights of retention** and the right to refuse performance under the conditions of § 1052 ABGB (Austrian Civil Code) until the counter-performance has been effected or secured.

18.4. In deviation from section 6. no credit checks are carried out on consumers.

18.5. Any deviation from section 7. a) if a joint determination of the measurements has been agreed and the customer fails to attend despite a timely invitation to the determination, we are entitled to claim a lump sum of € 96,- as

compensation for each frustrated visit and to withdraw from the contract after the third unsuccessful attempt; b) MOLL-MOTOR shall withhold the provision of its services until approvals have been received; c) **we do not check the supply systems** of consumers.

18.6. In deviation from section 9. a) **written form** is sufficient for notifications to MOLL-MOTOR.

18.7. In deviation from section 16. the customer shall not bear any **burden of proof** when asserting claims against us that is not imposed on him in accordance with the statutory provisions.

18.8. In deviation from section 17. we shall be **liable** in accordance with the statutory provisions.

18.9. If the customer withdraws from the contract, MOLL-MOTOR shall be entitled to compensation in accordance with the statutory provisions.

19. Severability clause

19.1. Should individual parts of these GTC be invalid, this shall not affect the validity of the remaining parts.

19.2. The parties hereby undertake to agree on a **replacement provision** - based on the horizon of honest contracting parties - which comes closest to the economic result, taking into account the customary industry practice of the invalid provision.

20. General information

20.1. **Austrian law** shall apply. The UN Convention on Contracts for the International Sale of Goods is excluded.

20.2. The **place of performance** shall be the premises of MOLL-MOTOR GmbH (2000 Stockerau, Austria).

20.3. The **place of jurisdiction** for all disputes arising from the contractual relationship or future contracts between us and the Customer shall be the court with local jurisdiction for MOLL-MOTOR.

20.4. The customer must notify us immediately in written form of any **changes** to his (company) name, address, legal form or other **relevant information**.

20.5. The customer agrees to the storage and processing of his **data** for the purposes of our accounting and customer records. The data will be used by us for the fulfilment of legal requirements, processing of payment transactions and for advertising purposes.

20.6. In case of inconsistencies in this translation, the **German** version shall prevail.

The up-to-dateness of this version can be verified on our **website** at

http://www.mollmotor.at/agb_de.pdf.