

**GENERAL TERMS AND CONDITIONS OF BUSINESS OF  
TRODAT GMBH, Linzer Strasse 156, A-4600 Wels**

**1. Preamble**

The general terms and conditions of business of TRODAT GMBH hereinafter called „Trodat“, constitute an integral part of every offer and contract unless something to the contrary is agreed in a particular case expressly and in writing. Any contrary purchasing terms and conditions from the customer will be ineffective.

**2. Terms and conditions of sale:**

- 2.1. Offer and Price:  
The prices are net prices, unless otherwise agreed, ex factory of the supplier in A-4600 Wels, Linzer Strasse 156, without freight and excluding any discounts. The prices which correspond to the last offer sent by Trodat will be valid. Offers of Trodat are, in whichever manner they are submitted, subject to confirmation and without obligation on behalf of Trodat.
- 2.2. Order and confirmation of order:  
2.2.1. Unless otherwise agreed, the minimum value for an order will apply in accordance with the current price list.  
2.2.2. Orders from the customer must be sent to Trodat in written form and will only be considered as recognized in the event that they are likewise confirmed in writing by Trodat or upon its dispatch of a delivery. Any special agreements, including agreements concluded with any agent or representative of Trodat, require written confirmation by Trodat to be valid.
- 2.3. Terms of delivery:  
Unless otherwise agreed, the terms of delivery will apply in accordance with the current price list.
- 2.4. Scope of delivery:  
Written confirmation of the order from Trodat shall be authoritative for the scope of supply. A margin of tolerance of +/- 10 % of the total amount ordered shall apply.
- 2.5. Call orders:  
With respect to call orders, Trodat will be entitled to procure the material for the entire order and immediately manufacture the entire quantity ordered. If the customer desires changes, these can, therefore, no longer be taken into consideration once the order has been placed unless this is still possible from the point of view of logistics. Furthermore, it will be incumbent on Trodat to make orders not called on within the agreed time limit immediately payable after observing the granting of a period of grace of 14 days.
- 2.6. Acts of God and other circumstances for which Trodat cannot be held responsible and which make it impossible to carry out orders accepted within the agreed period of time, entitle Trodat to withdraw from the contract or to postpone the delivery for the period of time in which these circumstances prevail, adding a adequate setting-up time, to the exclusion of any claims for damages on behalf of the customer.

**3. Period of delivery**

The agreed delivery period commences with the date of the written acknowledgement of the order by Trodat. In cases without acknowledgement it commences on the day of acceptance of the order by Trodat. The delivery period is nevertheless suspended until all details of the execution are clarified, respectively in the event that Trodat has to carry out finishing work, until reception of the faultless preliminary material. The delivery period is considered as observed if the notification of readiness to dispatch is timely. Goods ready for dispatch must be collected immediately. In the event that the merchandise cannot be dispatched in good time without any fault on the part of Trodat, the periods of delivery will be considered observed when readiness to dispatch has been notified.

- 3.1. Times and dates of delivery are always not binding due to possible bottlenecks in production capacity.
- 3.2. Trodat is entitled to make partial and advance deliveries. Any declaration of withdrawal from the contract on behalf of the customer, which is justified and follows the granting of a period of grace, will have no effect on the partial and advance deliveries already performed.

**4. Place of performance and passing of risk:**

- 4.1. The place of performance for all supplies is the Trodat production plant in A-4600 Wels, respectively the Trodat branch office in the appropriate selling market.
- 4.2. The passing of risk for the supply takes place, unless otherwise agreed, along with the handing over of the object of supply to the forwarding agent; this also applies to partial deliveries.
- 4.3. If nothing else is agreed in each individual case, dispatch and the mode of dispatch will be performed exclusively as Trodat sees fit. Trodat arranges transport and assumes the cost of packaging. Additional costs such as costs for special packaging costs for individual consignments, freight etc. will be borne exclusively by the customer. The customer will also assume the cost of any customs duties, turnover taxes, border taxes etc., even if the placing of the order for transportation is performed by Trodat in this individual case.
- 4.4. In the event of delays in delivery for reasons, for which the ordering party (customer) bears responsibility, all the risks will pass to the ordering party (customer), even the risk of loss by accident, as soon as Trodat notifies the readiness for collection. In the event of any delay in delivery for reasons for which the customer bears responsibility, the costs incurred for storage will be charged to the customer once Trodat has notified its readiness to dispatch the goods.

## 5. Settling of accounts and conditions of payment:

- 5.1. The agreed prices are exclusive of turnover tax, ex factory of Trodat in A-4600 Wels. All payments will be performed, unless otherwise agreed, in cash, free of charges and without any deductions. The ordering party (customer) will not be entitled to enforce any counterclaims by way of set-off or the exercise of rights of retention.
- 5.2. Payments may only be made to the bank account of Trodat in full satisfaction of debt, unless something to the contrary is expressly agreed (e.g. payment by cheque).
- 5.3. Payments will be allowed as credit against costs, first of all (dunning charges, legal costs, etc.) then against interest and finally against capital, always against the oldest debt. Contrary forms of crediting by the customer shall not be effective. If payment by installment is agreed on, the whole remaining amount is due in the case of default in payment of even only one installment. Cheques and bills of exchange will be accepted in accordance with special agreements and for payment only, but not instead of payment. Cheques and bills of exchange will only be considered a form of payment once they have been cashed in as of the date on which they are valued to Trodat by the bank. Trodat will be entitled to decline payments offered in the form of cheques or bills of exchange without naming any reason for this.
- 5.4. Conditions of payment:  
Unless otherwise agreed, the conditions of payment indicated in the current price list shall apply.

## 6. Consequences of default/rejection of order:

- 6.1. Following the acceptance of an order, Trodat will be entitled at any time and without granting a period of grace to refuse its (partial) service or (partial) delivery in the event that the ordering party (customer) makes default in payment or in the event that circumstances regarding the economic situation of the ordering party come to the attention of Trodat according to which Trodat's claims would no longer appear, or no longer sufficiently appear to be covered.
- 6.2. In the event that a customer exceeds a period for payment, he will be guilty of default without it being necessary for Trodat to specifically notify the customer of this fact. In this case, Trodat will be entitled at all times to annul all the agreed credit periods – even with respect to current bills of exchange - and to immediately make this claim payable.
- 6.3. In the event of default of payment, the customer will be obliged to pay interest for default on any sums due amounting to the appropriate costs of refinancing, and at the least, however, 11 % plus the average base lending rate in force per annum (plus VAT). In addition, any extra-judicial default and collection expenses, including the involvement of a legal adviser or a collection agency, will be borne by the customer.
- 6.4. Discounts or bonuses are subject to complete payment in due time.

## 7. Supplies to third parties

In the event that the customer requests that the relevant supply or parts thereof are supplied and invoiced to a third party within the framework of an order placed by him (e.g. subsidiaries of customers, sales partners etc.), then the customer will continue to assume liability vis-à-vis third party in his role as contractual partner of the former. Moreover, Trodat will be entitled to separately invoice the customer for any additional costs for packaging and transport.

## 8. Warranty

- 8.1. In the event of a complaint, the customer will be obliged to store the disapproved merchandise in the appropriate fashion and to keep it available until such time as the matter has been settled. If necessary, the disapproved merchandise can be returned at the cost and risk of the customer by the customer following agreement with Trodat. In the event that the complaint is justified, the delivery expenses will be reimbursed by Trodat. Actions for warranty claims are time-barred one month after receipt of Trodat's written rejection.
- 8.2. Trodat will be entitled to relieve themselves of all relevant claims regarding a reasonable reduction in price by improving the faulty merchandise or supplying the missing parts within an appropriate period of time and in a manner acceptable to the customer. Defects in one part of the delivery (order) will not justify the making available of a complete consignment.
- 8.3. Trodat will not assume liability for defects and for missing product properties guaranteed to the customer wherever the reason for the former resides in the material supplied to us by the person ordering. In such cases, and whenever parts, which are not original parts from Trodat, are being used, claims for damages of all kinds are also excluded.
- 8.4. Obvious and hidden defects must be notified to Trodat immediately after they have been detected. Notifications of defects must always take place in written form. The warranty period ends – also for hidden defects – with the beginning of processing, however at the latest three months after receipt of the goods. The application of the legal presumption of defectiveness pursuant to Sec 924 2<sup>nd</sup> and 3<sup>rd</sup> sentence of the Austrian Civil Code ("*Allgemein Bürgerliches Gesetzbuch*") is excluded.
- 8.5. The elimination of a defect will not lead to the extension of the original warranty obligation unless it can be proven that the defect was not eliminated.

## **9. Retention of ownership:**

- 9.1. All the items delivered will remain the property of Trodat (reserved merchandise) until such time as all payments (including interest and charges) arising from the business relationship between the customer and Trodat have been paid in full. The customer herewith assigns his claims regarding the resale of the reserved merchandise, in the amount of the purchase price including interests and costs being owed to Trodat. If third parties seize or interfere reserved merchandise, the buyer has to declare that it is property of Trodat and must inform us immediately thereof. A pledging or a transfer by way of security of goods delivered by us or an assignment of claims deriving from the resale of such goods is not allowed.
- 9.2. Both parties agree that Trodat acquires a lien by implication of law regarding the material made available by the customer for processing and which, therefore, enters the direct or indirect possession of Trodat. This lien by implication of law applies to all claims on behalf of Trodat vis-à-vis the customer.  
The lien by implication of law also extends to future and conditional claims and expires as soon as the material moves from the indirect or direct possession of Trodat as a result of the activities of the latter. Legal regulations apply to the utilization of the lien by implication of law subject to the proviso that the value of the lien will be determined in a legally binding manner by an expert to be appointed by us.
- 9.3. In the event that our merchandise is processed, connected or mixed with other materials, Trodat will acquire co-ownership of the resultant product in proportion to the value of our merchandise compared to the value of the other materials. The retention of ownership extends onto the new product. In cases of such nature, the customer will act as safekeeper. As a protection, the customer shall transfer all claims arising from the sale of merchandise to which we have property rights to us at his stage – if necessary amounting to our co-ownership share.

## **10. Claims for damages**

Claims for damages on behalf of the customer due to an infringement of the contract by Trodat, for example as a result of the failure to perform or default, are excluded unless the customer can establish proof of damage caused by at least gross negligence on the part of Trodat. Trodat is neither liable for third parties nor for consequential damages.

## **11. Miscellaneous**

- 11.1. All the preliminary material supplied by the customer or by order of the customer to Trodat for processing respectively finishing, is to be furnished in accordance with the Incoterms 2000 „DDP Wels“ (delivered duty paid Trodat).
- 11.2. In the event of the transfer or the sale of merchandise supplied by Trodat to third parties, the customer is obliged to inform the purchaser of the appropriate use or handling of the merchandise.
- 11.3. The customer shall not be entitled to use the company name or a component part of the company name of Trodat or make any other reference to the company name of Trodat on his products, publication, advertising and business documentation without the express written authorization of Trodat. In no circumstances will the customer be entitled to assign this claim to third parties.
- 11.4. Austrian law will apply exclusively to every offer and contract and to these general terms and conditions of business as well as their existence or non existence with the following exceptions: The application of the provisions on referral of the Austrian international private law and the UN Convention on Contracts for the International Sale of Goods are excluded. In the event of any disputes arising from this contract, the customer and Trodat will both submit exclusively to the local competence of the Court in Wels, which is competent in the subject matter, and hereby renounce the use of any other ordinary jurisdiction.
- 11.5. Any additional agreements respectively information and complaints have to be performed in writing and can only be accepted as proper by Trodat if they are addressed to Trodat GmbH, Linzer Str. 156, A-4600 Wels, attention „Customer Services“. This is the only valid delivery address for Trodat with corresponding legal effect.
- 11.6. The present regulations also apply to any other supplies and services regarding merchandise not agreed upon in contracts.
- 11.7. Any previous terms and conditions of sales and delivery from Trodat are hereby annulled.
- 11.8. These general terms and conditions of business are also available in the German language.