



General Terms and Conditions (GTC)

Version 3.00 valid from 18 January 2019 until revoked

1. Applicability, clientele, language

1.1. All offers, purchase contracts, deliveries and services based on orders placed by our customers (hereinafter referred to as „Purchaser“) via our electronic communication channels (telephone, fax, B2B online platform, e-mail and other electronic means of communication) are subject to the following General Terms and Conditions (GTC).

1.2. The range of products offered on our B2B platform or in our paper catalogue is aimed exclusively at companies. The appropriate Value-Added Tax number (VAT; usually corresponds to the UID according to the commercial register entry) is mandatory when registering as a user of the B2B online platform. Organisations without a VAT number must enter “CHE-000.000.000” in the required place instead. In this case, Georg Utz AG reserves the right to check the status of such an organisation as a B2B platform user and, if necessary, to refuse delivery. Private parties (consumers) are not served.

1.3. The Purchaser’s general terms and conditions shall not apply, even if we do not contradict them separately in individual cases.

1.4. Contracts with the Purchaser are only concluded in our national languages (German, French, Italian) or English, depending on whether the Purchaser places the order via the German, French, Italian or English website of the B2B platform or via other electronic communication channels. If, for example, an order is placed via our German website, only the German version of these General Terms and Conditions shall apply accordingly. If the order is placed via our other website languages, only their language version of the General Terms and Conditions shall apply accordingly. For orders placed via other electronic communication channels, the contract is concluded on the basis of the GTC in the language in which communication with the Purchaser follows (fax, e-mail, written order confirmation). In such cases, the corresponding terms and conditions shall be sent to the Purchaser in electronic or paper form.

2. Conclusion of contract, assurance of properties, projects and preliminary studies, accessories, tools

2.1. Our offers in the paper catalogue or on the B2B platform are non-binding. Specimens and samples are subject to change without notice. All specifications or properties specified in the paper catalogue or on the B2B platform are subject to possible technical tolerances. All verbal and written information on the suitability and application of our goods is given to the best of our knowledge. They represent our experience values which are generally **not** guaranteed. The Purchaser has to convince himself/herself of the suitability of the goods for the intended purpose of use. Insofar as an order is not placed with us or is not executed, the data, samples and prototypes provided shall be returned to us without delay. By submitting an order (the “Purchase” order button) on the B2B platform, the Purchaser makes us a binding offer to purchase the products contained in the shopping cart.

2.2. Immediately after receipt of the electronic order, the Purchaser shall receive an electronic **acknowledgement of receipt** automatically generated by the system. This does however, not yet represent a binding acceptance of the offer to purchase the goods in the shopping cart. We can review and accept the offer until the end of the third working day following the day of the offer. We declare our binding acceptance by sending an electronic or written order confirmation e-mail to the delivery e-mail or postal address deposited by the Purchaser. With the receipt of this **order confirmation e-mail** in the electronic mailbox or at the delivery address

of the customer, the concluded contract of sale is binding for both contractual parties.

2.3. Projects and preliminary studies (e.g. for customised plastic articles), including the production of specimens and samples we prepare on behalf of the Purchaser, shall remain our property and may not be handed over to third parties or made available to them without our written consent. We reserve the right to invoice for projects and preliminary studies, provided that we do not receive the underlying order based after submitting our proposals.

2.4. The Purchaser must deliver accessories for pressing or overmoulding with a surplus of 5 to 10 % in order to cover any rejects during processing. Failure to deliver the accessories on time or incorrect delivery shall release us from adherence to the agreed delivery period.

2.5. Tools of all kinds which are not provided by the Purchaser shall remain our property. The tools that have been exclusively developed for and ordered by the Purchaser are used solely for the Purchaser. Any other use requires an explicit agreement between the Purchaser and Georg Utz AG. We keep the tools for repeat orders or reordering and store them for 3 years from the last date of delivery. At the Purchaser’s request, they can be stored at the Purchaser’s expense for an additional 2 years. Any obligation to store and maintain the goods lapses after a period of 5 years from the date of the last delivery.

3. Prices and shipping costs

3.1. All prices are net, ex-works, duty unpaid and without taxes.

3.2. In addition to the stated prices, we charge shipping costs per order. Delivery within Switzerland and Liechtenstein is free of charge for orders over CHF 1,000.00 (one thousand francs). Shipping costs apply for the delivery of Pallets, PALOXE, KLAPA, stacking frames for pallets and pallet boxes, multi-purpose tub and thermoformed articles. For express deliveries and special handling we charge a surcharge of CHF 100.00 (one hundred francs). For orders below the minimum order value of CHF 500.00 (five hundred francs) within Switzerland and Liechtenstein we charge a small quantity surcharge of CHF 100.00 (one hundred francs). For online orders in our B2B online platform there is a minimum order value of CHF 300.00 (three hundred francs) and a small quantity surcharge of CHF 50.00 (fifty francs). For orders from other countries there is a surcharge of CHF 50.00 (fifty francs) in case of an order value below CHF 300.00 (three hundred francs).

4. Dispatch of goods, insurance, transfer of risk

4.1. Delivery dates and delivery periods regularly indicate the expected delivery date with which we endeavour to comply. Minor deviations in time are possible and do not entitle the Purchaser to withdraw from the contract or claim damages for late delivery. It is up to our discretion to deliver the entire order quantity at once or in partial quantities. The following shall apply regarding the beginning of the delivery period: All delivery periods specified by us in the order or otherwise agreed upon shall commence,

- (a) if delivery has been agreed upon against prepayment on the day of crediting the complete invoice amount (*including value added tax and shipping costs*) to our bank account (value date), or
- (b) if payment on invoice is agreed upon following delivery of the order confirmation (confirmation mail).

The commencement of the delivery period may presuppose the timely fulfilment of the Purchaser’s obligations to cooperate (*releases, documents,*



drawings). If these are not fulfilled by the Purchaser, the agreed delivery period shall be extended by the delay caused by the Purchaser, including a reasonable start-up time. If partial deliveries are not called off within the agreed period, we shall be entitled to invoice them and demand their acceptance within 14 (fourteen) days. After expiry of this period, the goods shall be stored at the expense and risk of the Purchaser. Claims based on delayed deliveries cannot be accepted.

4.2. Unless expressly agreed otherwise, we shall determine the appropriate mode of dispatch and the transport company at our discretion. All we owe is the punctual and proper delivery of the goods to the transport company and we are not responsible for delays or damages caused by the transport company. Our specified delivery time is therefore non-binding.

4.3. The risk of accidental destruction, accidental damage or accidental loss of the delivered goods shall pass to the Purchaser upon delivery of the goods to the transport company. In the case of drop-ship transactions – including *franking, fob or cif transactions* – the risk of accidental destruction shall pass to the Purchaser once the goods have left ex works or the warehouse of our supplier.

4.4. We will insure the goods against the usual transport risks at our expense. At the written request of the Purchaser, the goods shall be additionally insured against breakage and fire damage at the Purchaser's expense. Any transport damage must be reported to us immediately, but no later than within 48 hours, so that we can claim any insurance benefits from the transport insurance. The Purchaser must provide us with photographic documentation of any transport damages.

4.5. Circumstances for which we are not responsible, which make delivery impossible in the long term or make it unreasonably difficult (*force majeure such as, in particular, interruptions to operations for which we are not responsible, a shortage of raw materials or energy, supply bottlenecks, fire, floods, warlike events, natural disasters*) release us from our delivery obligation for the duration of the impediment and a reasonable start-up time, even if they occur with our suppliers. We will inform the Purchaser immediately if a case of force majeure occurs. If the impediment is expected to persist indefinitely, we shall be entitled to withdraw from the contract in whole or in part. The Purchaser's claims for damages are excluded in the event of force majeure. If the Purchaser rejects the delivery even after the expiry of a reasonable period of grace, we can make use of our statutory rights to withdraw from the contract and demand compensation for damages.

5. Payments

5.1. All payments are to be made exclusively to Georg Utz AG, CH-5620 Bremgarten. Invoice amounts are payable net within 30 days of the invoice date, unless otherwise agreed and confirmed by us in writing. The timeliness of the payment depends on the receipt of the amount (value date on bank account) for our unconditional disposal.

5.2. If the Purchaser is in default of payment or if justified doubts arise about his ability to pay, we are entitled to demand securities before delivery or provision of services.

5.3. The offsetting of receivables as defined in Art. 120 ff. of the OR is excluded. This requires a mutual written agreement between the contracting parties.

6. Retention of ownership

6.1. The delivered goods remain our property until we have received all payments from the delivery contract. The delivered products are to be kept in a re-saleable condition by the Purchaser until paid in full. The Purchaser shall only be entitled to sell the goods subject to retention of title in the ordinary course of business if he has fulfilled his contractual obligations towards us. He is not permitted to pledge or transfer the goods

as security; he must notify us immediately of any encroachment on our property rights.

6.2. With the purchase of the reserved goods, the Purchaser assigns to us the claims against his customers, including all ancillary rights, to which he is entitled from their possible resale. Until revoked, he shall remain entitled to collect the claim ourselves. However, we undertake not to collect the claim as long as the Purchaser fulfils his payment obligations, does not fall into arrears of payment and, in particular, as long as no petition for the opening of insolvency proceedings or bankruptcy proceedings has been filed or payments have been suspended. If this is the case, however, we shall be entitled to demand that the Purchaser notifies us of the assigned claims and their debtors, provides us with all information necessary for collection, hands over the associated documents and informs the debtors (third parties) of the assignment of the claim to us.

6.3. In the event of processing the goods subject to retention of title, we shall be deemed to be the manufacturer and shall acquire ownership of the new item without any claims accruing to the Purchaser from this transfer of rights. If processing follows together with other materials, we shall acquire co-ownership of the manufactured item in the ratio of the gross invoice value of the reserved goods to that of the other materials. In the event of combination, mixing or commingling with another object, the resulting object is to be regarded as the main object, and co-ownership of the object is transferred to us to the extent of the gross invoice value of the reserved goods.

6.4. If the value of the securities transferred to us exceeds our total claims against the Purchaser by more than ten per cent, we are obliged at the request of the Purchaser to release the security rights at our discretion.

7. Warranty, technical specifications, special designs

7.1. The Purchaser must inspect the goods carefully immediately after they have been sent. The delivered goods shall be deemed to have been approved by the Purchaser if a defect is not notified to us in writing (i) within 7 (seven) working days after delivery in the event of obvious defects or (ii) otherwise within 5 (five) working days after discovery of the defect. Defects must be documented in writing and photographically.

7.2. Notification of defects must be reported to us immediately, at the latest within 10 days of receipt of the goods. If a notice of defects proves to be justified, we shall at our option provide replacement free of charge through repair or replacement, or credit the Purchaser with the invoice amount or the reduced value. Further claims of the Purchaser of any kind are excluded.

7.3. Any additional expenses for the purpose of subsequent delivery, in particular transport, travel, labour and material costs, shall in principle go to our expense. However, if these additional expenses arise as a result of the fact that the goods delivered by us must be subsequently moved to a place other than the originally agreed place of delivery, the Purchaser bears these additional expenses.

7.4. Claims due to the absence of a warranted or presumed characteristic can only be asserted if the Purchaser has been expressly assured of a specific characteristic in writing upon conclusion of the contract (cf. item 2.1 of the GTC).

7.5. Technical specifications: The dimensions and weights of the products offered are average values and subject to minor fluctuations. Our information on the B2B platform, in brochures and our information regarding the characteristics of our products is based on current technical knowledge and experience. Due to the abundance of possible influences beyond our control, they do not exempt the user of the products from carrying out their own tests and trials. A legally binding guarantee of certain



characteristics or the suitability for a specific purpose cannot be derived either explicitly or tacitly.

7.6. Special designs: For special variants or colours or customer-specific productions, the Purchaser shall accept quantity deviations. Any resulting excess deliveries shall be taken over by the Purchaser. In the event of short delivery, there is no claim for the rest of the delivery. Minor colour nuances due to different production series are permitted. If parts are delivered according to the Purchaser's drafts or drawings, our warranty is limited to the fact that the delivered parts have been executed according to these documents.

8. Liability for damages

8.1. Liability is based on the applicable legal provisions. Claims for damages arising from impossibility of performance, breach of contract, culpa in contrahendo or tort are – as far as legally permissible – limited to intentional or grossly negligent acts.

8.2. Liability for slight negligence and indirect damages as well as consequential damages (particularly consequential damages and loss of profit from defects) is excluded – regardless of the legal reason and subject to mandatory statutory provisions.

9. Exchange / return of goods / revocation

9.1. Cancellations or revocation of orders for goods via electronic communication channels on the part of the Purchaser are expressly excluded. Any goodwill redemptions granted by Georg Utz AG voluntarily and without a legal claim remain reserved.

9.2. In the event of refusal to accept the ordered goods and of non-payment in advance, we reserve the right to withdraw from the contract without further notice and to demand any compensation for damages. We must notify the Purchaser of this withdrawal from the contract immediately in electronic form to the e-mail address he has deposited. In this case, the Purchaser shall be liable to pay compensation of 20 % of the total order value, but at least CHF 50.00 (fifty francs) plus any logistics and storage costs, irrespective of the damage that may have occurred. We reserve the right to claim further damage, whereby the compensation for expenses is deducted from this damage.

9.3. If we agree to an exchange request or a return of the Purchaser's goods by way of exception (voluntary goodwill return) without being legally obligated to do so, the Purchaser shall bear the resulting costs. Prerequisite for an exchange or return of goods is that the Purchaser returns the goods his own expense and risk and that the goods are in perfect condition upon receipt at our premises. For special designs, even voluntary goodwill withdrawal of the goods is always excluded. For agreed returns of the goods we issue a credit note. We reserve the right to deduct 10 % of the gross value of the goods, but not less than CHF 50.00 (fifty francs), in order to settle our processing costs.

10. Intellectual property

10.1. We reserve all rights for design, texts, images, audio or video sequences, word and image marks, sound marks, graphics, illustrations, drawings, calculations, documents, files and information embodied in any other way, as well as samples and prototypes and other works protected by copyright or trademark rights on our B2B platform, the paper catalogue or other electronic or paper-based documents (such as ownership rights, copyrights, rights of use and exploitation), especially ownership and copyrights to the B2B platform itself. They may also not be made accessible to third parties and may only be used for ordering via the B2B platform.

11. Data protection, data security, order data processing, use of cookies

11.1. We refer to the separate provisions in the document „Data protection regulations“, which are also published on the B2B platform or submit-

ted to the Purchaser in written form. They become applicable content of the concluded purchase contract through the acceptance of these terms and conditions and acceptance of the data protection regulations upon completion of the order process or upon dispatch of the content of the contract of sale to the Purchaser.

12. Assignment and transfer

12.1. Rights and obligations arising from this contractual relationship may not be assigned, transferred or pledged to third parties without the prior written consent of the contractual partner.

13. Place of performance, Applicable law and Place of jurisdiction

13.1. The place of performance for our deliveries and services is Bremgarten. The place of performance for all of the liabilities of the Purchaser is Bremgarten.

13.2. All purchasing contracts are exclusively subject to Swiss law. Application of the United Nations Convention on the International Sale of Goods for Switzerland and Liechtenstein of 11 April 1980 is excluded.

13.3. The place of jurisdiction for both contractual parties shall be Bremgarten or, at our discretion, the place of general jurisdiction at the domicile or place of performance of the Purchaser.

14. Final provisions

14.1. The legal invalidity of individual provisions of these General Terms and Conditions does not affect the validity of the remaining contract.