

# CONDITIONS OF SALE FOR BUSINESS



## GENERAL TERMS AND CONDITIONS OF SALE FOR BUSINESS TRANSACTIONS WITH BACKWELT PILZ GMBH (below: Pilz)

Pilz will contract within the scope of sale of goods exclusively on the basis of these General Terms and Conditions. The customer hereby confirms, that the validity of his/her own opposing or differing General Terms and Conditions (of Sale or Order) is explicitly excluded. If Pilz remains silent after receiving opposing or differing General Terms and Conditions, this must not be seen as an acknowledgement of these General Terms and Conditions.

### 1. ORDERS AND ENTITLEMENT TO CONTRACT

Any offer of Pilz is nonbinding. Orders from customers shall be submitted in written form. They will be confirmed only in writing by Pilz or by delivery of the ordered goods. By reason of adequate acceptance a contractual relationship to Pilz will arise. A continuing obligation may not arise from acceptance of an offer, unless otherwise agreed. The employees of Pilz will act solely as (non representing) agents, unless they are explicitly and in writing empowered by Pilz to conclude a contract. Pilz is entitled to demand every time a written confirmation of an order because of security reasons.

### 2. PICKUP OF GOODS

All goods ordered by Pilz shall be picked up by the customer during the working hours of Pilz (Mondays to Thursdays between 8:00 and 16:00 and Fridays between 8:00 and 12:00). Pilz will announce the earliest possible term of pickup in the confirmation of the order. A pickup by the customer shall be carried out not later than one week after the earliest possible term of pickup. Pilz will not carry out any loading or transport of goods. If a loading or a transport of goods is agreed on in written form, the customer will bear the risk "ex works". The transport will be carried out uninsured and at customer's own risk ex works.

Pilz will be entitled to change the ordered amounts and charges because of production or package reasons. Pilz has to inform the customer duly. The terms and periods of pickup announced by Pilz exceptionally (see above), will be basically nonbinding, unless otherwise explicit agreed on in a contract.

### 3. DEFAULT IN ACCEPTANCE

In case of a default in acceptance (default of pickup of the goods, see point 3), Pilz may, after having set a time limit of 14 days, withdraw from the contract.

In case of a default in acceptance the customer will be bound to compensate all damages which Pilz suffered because of the default, particularly the costs of storage and removal, this independent from a possible withdrawal from the contract by Pilz. Furthermore the customer will be obliged, regardless of his individual agreement, to pay the higher catalogue price which was valid on the day of the actual pickup of goods.

### 4. PRICES

The customer will be obliged to pay the price for the ordered goods according to the tariff of Pilz valid on the day of the order plus VAT, unless another price is explicitly agreed on with the customer.

Changes of the mentioned tariff – especially because of changes of conveyance or labour costs or because of change of the economic basic conditions – are reserved. All prices are without VAT ex works and exclusive costs of package, storage, transport or removal of the goods. Standard European pallets will be provided by Pilz on loan. If the pallets are not returned within three months after a pickup of the goods in a flawless condition, Pilz will be entitled to invoice € 10,- for each pallet.

### 5. PAYMENT

The payment of goods delivered by Pilz shall be carried out 14 days after the date of invoice without any deduction. In case of a default in payment the customer will be obliged to pay default interest in the amount valid for business transactions (§ 352 UGB).

The customer will not be entitled to offset any counterclaims against claims for payment of Pilz or retain any payment (regardless of which reason), unless the counterclaims are acknowledged by Pilz or legally established by a court.

## 6. RETENTION OF OWNERSHIP

Pilz will retain ownership of all goods delivered until the whole price is paid by the customer / until any and all obligations arising from a contractual relationship are fulfilled/ (retention of ownership).

In case of a resale of the goods the customer will be obliged to assign all resulting requires to Pilz in order to protect the retention of ownership of Pilz. The customer is furthermore obliged to inform his contractual partner unmistakably, that the object of resale stays in the ownership of Pilz and to exert influence on the partner in order to uncover the assignation in his books of account by applying an appropriate notation. The customer is obliged to store the bought goods with the diligence of a prudent businessman and to assign this obligation also to his contractual partner

## 7. LETTER OF COMPLAINT, PRESCRIPTION

complaint according to § 377 UGB). If he fails to complain duly, the customer may not arise any claims for warranty, damages because of the defects or error as to the freedom of defects any more.

In the case of complaint about defects the customer will have to prove that he kept the cooling- chain consistently and properly. Differing from sect. 933 subsect. 1 ABGB it is agreed that all claims resulting from defects for which Pilz is liable (especially warranty and compensation for damages) shall prescribe one year after the earliest possible term of pick up announced to the customer.

## 8. LIMIT OF LIABILITY TO INTENTION AND GROSS NEGLIGENCE

Any liability of Pilz shall be limited to intention and gross negligence. A compensation of pure financial losses and of profit losses is – irrespective of the level of a potential negligence of Pilz – excluded in any case.

## 9. THE RIGHTS OF THIRD PARTIES

If the production is carried out according to the instruction of the customer and any copyrights, patent, models or trademarks of third parties should be violated, the customer will compensate Pilz all resulting damages and for a possible loss of profit.

### **Non-disclosure:**

The customer will be obliged nor to discuss with others nor to disclose any company secrets or other confidential data, details of products and services and methods of production of Pilz. He also may not inform about it anybody in any way. He will be bound to obligate all his employees to keep the nondisclosure obligation. The obligation of nondisclosure stays valid in case of an ending of the contractual relationship between Pilz and the customer.

### **Place of fulfilment, place of jurisdiction, applicable law:**

The place of fulfilment of all liabilities/obligations between Pilz and the customer will be Schrems in Niederösterreich. The only place of jurisdiction for disputes between Pilz and the customer will be in the subject matter and locally for Schrems/Niederösterreich competent court.

Only Austrian law shall be applicable for any requirements resulting from the contractual relationship with Pilz or connected with it. The conflict of law provisions will be excluded.

### **Additionally:**

Verbal additional agreements, additions and amendments of this General Terms and Conditions or other provisions of orders shall be composed in writing to become binding. An agreement of the demand of the writing form is also included.

## 10. SALVADORIAN CLAUSE

Shall a single provision of these General Terms and Conditions be or become ineffective, the other provisions shall be not influenced by that. The contracting parties agree for that case to replace the ineffective provision with another one which is possibly similar to it in content. The customer allows to save and process the data given to Pilz in order to fulfil the contractual relationship.