



General Terms and Conditions

1 Scope of application:

- 1.1 The General Terms and Conditions set out below (hereinafter referred to as "GTC") shall apply to all deliveries, services and offers effected between Gierlinger Holding GmbH and the customer (hereinafter referred to as "Customer" or "Buyer"). These GTC shall also apply in case Gierlinger Holding GmbH acts in the name of and/or for the account of natural and/or legal persons represented.
- 1.2 Furthermore, the GTC shall apply to repeat business and need not be furnished or agreed to again.
- 1.3 Any changes to and deviations from these GTC must be made in writing. Any and all oral agreements shall be without effect.
- 1.4 The Customer's GTC shall only become a part of this contract if Gierlinger Holding GmbH agrees to them expressly and in writing.

2 Offers and conclusion of contract:

- 2.1 All offers made by Gierlinger Holding GmbH, regardless of their form, are non-binding.
- 2.2 The written order of the Customer constitutes an offer to conclude a purchase contract.
- 2.3 The purchase contract will be concluded by sending an order confirmation to the Customer within 48 hours or, at the latest, by supplying the ordered goods.

3 Prices

- 3.1 If no fixed price was expressly agreed with the Buyer, Gierlinger Holding will be bound to the prices stated in the order confirmation for a maximum of 4 weeks from the issuing date. Gierlinger Holding GmbH thus reserves the right to adjust the prices to the particular market situation.
- 3.2 Any increase in prices will be communicated to the Buyer 30 days in advance.
- 3.3 Gierlinger Holding GmbH claims the right to take out insurance with a credit insurer for all new customers. Should, for any reason, the credit insurer refuse to insure the Buyer, all deliveries will, without exception, be made against advance payment.

Gierlinger Holding GmbH

Marktplatz 12, A-4100 Ottensheim, AUSTRIA, Tel +43 7234 83141

www.gierlinger-holding.com

Bank details: Raiffeisenbank Wels / BIC/SWIFT: RZOOAT2L680 / IBAN: AT90 3468 0000 0050 7020

VAT reg. no.: ATU49706402 / Company register court: Linz, FN 197807 v / Tax number: 41 181/9600

GLN (Global Location Number): 9 099 999 127 813





- 3.4. The Customer is not entitled, for whatever reason, to withhold or offset payments, unless such claims have been ascertained by a court with final legal effect or recognised by Gierlinger Holding in writing. Any form of compensation shall be excluded from the outset and not recognised.

4. Delivery:

- 4.1. Deliveries are generally made as agreed upon according to Incoterms rules 2010. The delivery obligation of Gierlinger Holding GmbH will have been fulfilled the moment the goods are made available for unloading at the agreed delivery address.
- 4.2. In case Gierlinger Holding GmbH, for whatever reason, fails to deliver on time, the Buyer shall set a reasonable period of grace in writing. The Buyer shall only be entitled to withdraw from the contract should Gierlinger Holding GmbH fail to deliver the goods, or to inform the Buyer of the goods being ready for dispatch, within the period of grace.
- 4.3. The delivery period agreed upon shall begin only after the details of the order have been clarified. Any obstacles not attributable to Gierlinger Holding GmbH obstructing the fulfilment of the contract, particularly force majeure, strikes, sovereign measures, incorrect or delayed deliveries from sub-suppliers, bottlenecks in transport capacities and similar, shall lead to an extension of the delivery period which reflects the duration of the obstruction. If the obstruction persists for more than three weeks, both parties are entitled to withdraw from the contract after expiration of this period.
- 4.4. With regard to supplying refrigerated or frozen products, the Buyer undertakes to ensure that the cold- or deep-freeze chain is adhered to after delivery of the products. The Buyer must not refreeze defrosted products. As from delivery of the products, Gierlinger Holding GmbH does not warrant and does not assume liability for defects or loss or damage, which - even if only partially - occurred due to an interruption of the cold- or deep-freeze chain. This exclusion of liability also includes any and all consequential damage as well as possible loss of earnings.
- 4.5. Any deviating terms of delivery need to be laid down in separate written agreements between the Buyer and Gierlinger Holding GmbH.

5. Payment:

- 5.1. Invoices of Gierlinger Holding GmbH shall be paid by the Buyer "net/net", i.e., without making any deductions, within 30 days from the date of the invoice at the latest. In the event of default in payment, default interest as determined by company law shall become payable at the statutory interest rate applicable from time to time. Furthermore, the Buyer undertakes to pay dunning and debt recovery fees (first payment reminder: EUR 15.00, second reminder: EUR 20.00, third reminder: EUR 25.00, in each case plus VAT) as well as other pre-procedural costs (e.g. for the services of a collection agency) to Gierlinger Holding GmbH.



- 5.2. In case of unpaid invoices, Gierlinger Holding GmbH is not be obliged to make further deliveries, even in ongoing contractual relationships, until the outstanding payment has been made in full (including interest and dunning fees). Gierlinger Holding GmbH shall have the right to perform further deliveries exclusively against advance payment or the provision of security (e.g. a bank guarantee).
- 5.3. If the delay in payment exceeds 14 days, Gierlinger Holding GmbH shall also be entitled to withdraw from the contract or claim its reserved property.
- 5.4. In the event of Gierlinger Holding GmbH claiming its reserved property, the Buyer agrees to bear the costs of transportation, to surrender the goods without delay and to grant the carrier commissioned to collect the goods access to its premises to the extent necessary.

6. Reservation of title:

- 6.1. Gierlinger Holding GmbH reserves title to the goods until the purchase price has been paid in full. The Buyer is neither entitled to pledge the goods subject to reservation of title nor to assign them by way of security or to otherwise create third-party rights to them. In the event of third parties seizing the goods subject to retention of title, the Buyer shall refer to the retention of title of Gierlinger Holding GmbH and immediately notify Gierlinger Holding GmbH thereof.

7. Place of performance and passing of risk:

- 7.1. The place of performance shall be the registered office of Gierlinger Holding GmbH, A-4100 Ottensheim, Marktplatz 12.
- 7.2. Depending on the agreed term of delivery pursuant to Incoterms 2010, the costs and risks pass to the Buyer the moment the goods are placed at its disposal in case of delivery EXW, or, in case of delivery DAP, Gierlinger Holding bears the costs and risks until the moment the goods reach the named place of destination. If, without fault on the part of Gierlinger Holding, shipping the goods ready for dispatch is not possible or if shipping is not wanted by the Buyer, the goods may be stored at the premises of Gierlinger Holding at the expense of the Buyer - provided sufficient capacities are available. The contract shall be considered to have been fulfilled and the risk to have passed the moment the goods have been stored or placed at the Buyer's disposal.



8. Obligations to notify defects and warranty

8.1. The delivered goods shall be checked immediately upon receipt and stored properly. Defects with respect to type, quality, packaging and the external condition of goods shall be notified by the Buyer immediately upon delivery and shall be noted on the delivery note and the shipping documents. Notifications of defects which are made after delivery has been completed are too late without exception.

The goods shall be stored in accordance with the storage conditions specified by Gierlinger Holding. If the goods are not stored in accordance with these guidelines, any warranty shall become null and void.

8.2. Defects with respect to quality and to the date of minimum durability shall be notified by the Buyer in writing within forty-eight hours from delivery, stating the delivery note number. The Buyer shall also transfer free samples of the rejected goods to Gierlinger Holding. If this is not possible due to the condition of the goods, the Buyer shall keep the samples available for inspection and store them properly and professionally for this purpose in accordance with the requirements of the product (e.g. refrigerated or frozen products).

8.3. Hidden defects shall be adequately notified by the Buyer in writing within forty-eight hours upon discovery.

8.4. If the Buyer does not or not on time or not duly fulfil its obligation to notify defects, asserting warranty and compensation claims as well as recourse claims pursuant to section 933b Austrian Civil Code (*ABGB*) shall be excluded. In addition to the defect itself, the Buyer also has to evidence the time when the defect was identified and the timeliness of notification of the defect.

8.5. In cases of justified notifications of defects made in due time, Gierlinger Holding will fulfil its warranty obligations, within four weeks upon notification in writing, either by providing missing products or by exchanging defective products. If neither is possible without unreasonable effort on the part of Gierlinger Holding, the Buyer shall be entitled to an appropriate price reduction. Rescission of the contract as a warranty remedy shall be excluded.

8.6. The costs of returning goods shall be borne by Gierlinger only if a substantiated notification of a defect was transmitted beforehand and if Gierlinger has consented to the return of goods.

9. Limitation of liability

9.1. Outside the scope of the Austrian Product Liability Act (*Produkthaftungsgesetz*), Gierlinger Holding's liability shall be limited to intent and gross negligence. Gierlinger Holding shall be liable only for violations of obligations essential to the contract. Liability shall be limited to loss or damage typical of the contract and foreseeable at the time of conclusion of the contract.

Gierlinger Holding GmbH

Marktplatz 12, A-4100 Ottensheim, AUSTRIA, Tel +43 7234 83141

www.gierlinger-holding.com

Bank details: Raiffeisenbank Wels / BIC/SWIFT: RZOOAT2L680 / IBAN: AT90 3468 0000 0050 7020

VAT reg. no.: ATU49706402 / Company register court: Linz, FN 197807 v / Tax number: 41 181/9600

GLN (Global Location Number): 9 099 999 127 813





- 9.2. Gierlinger Holding does not warrant and does not assume liability for defects or loss or damage, which - even if only partially - occurred due to improper or negligent storage following delivery, improper or negligent unloading, or due to improper or negligent onward transport or any other improper or negligent treatment of whatever kind on the part of the Buyer or third parties. This exclusion of liability also includes any and all consequential loss or damage.
- 9.3. The Buyer shall transfer all information indicative of product defects (e.g. customer complaints) to Gierlinger Holding without delay and provide extensive support to Gierlinger Holding free of charge in the event of any recalls.
- 9.4. If goods are delivered with a European Global Trade Item Number (GTIN) and/or an EAN barcode, Gierlinger Holding shall be liable only for the correct assignment of the GTIN. Gierlinger Holding shall be liable for the readability of the EAN barcode only to the extent the common mean error rate according to the state-of-the-art production process in proportion to the amount of goods delivered to the Buyer is exceeded. The calculation of the mean error rate is based on the regulations published by GS1 Austria GmbH, Brahmplatz 3, 1040 Vienna.
- 9.5. If Gierlinger Holding has not, expressly and in writing, consented to the export of the goods by the Buyer or the Buyer's customers, any liability for resulting disadvantages or loss or damage of whatever kind is excluded. If claims of third parties are asserted directly vis-à-vis Gierlinger Holding, the Buyer shall indemnify and hold Gierlinger Holding harmless completely, also with respect to costs for legal representation.

10. Data protection

- 10.1. The Buyer expressly consents to the use of its company-related data for the purpose of performing the contract. The Buyer further agrees to being contacted by Gierlinger Holding in writing, by telephone, fax and e-mail for sales and marketing purposes and to receive information about the products of Gierlinger Holding.
- 10.2. The Buyer's consent to data use may be revoked at any time in writing with effect for the future.

Gierlinger Holding GmbH

Marktplatz 12, A-4100 Ottensheim, AUSTRIA, Tel +43 7234 83141

www.gierlinger-holding.com

Bank details: Raiffeisenbank Wels / BIC/SWIFT: RZOOAT2L680 / IBAN: AT90 3468 0000 0050 7020

VAT reg. no.: ATU49706402 / Company register court: Linz, FN 197807 v / Tax number: 41 181/9600

GLN (Global Location Number): 9 099 999 127 813





11. Non-disclosure obligation

- 11.1. The Buyer undertakes to keep confidential the entire content of the legal relationship between the Buyer and Gierlinger Holding as well as the content of individual contracts and orders and all confidential information which became known to the Buyer in the course of their execution as well as all internal activities, and to neither exploit them nor to make them accessible to third parties in any way (non-disclosure clause).
- 11.2. Confidential information shall mean all information which may be assumed to be not publicly known and not meant to be disclosed. This includes, in particular but not exclusively, information about the products of Gierlinger Holding, their formulas, calculation bases and prices of new products, as well as any other business and trade secrets.
- 11.3. This non-disclosure clause shall remain in effect even if individual contracts or deliveries have been completely fulfilled or if the legal relationship between Gierlinger Holding and the Buyer has been terminated for whatever reason. The same shall apply if information is no longer confidential due to a violation of the non-disclosure obligation.

12. Applicable law and venue

- 12.1. Unless otherwise agreed in individual cases, the entire legal relationship between the Customer and Gierlinger Holding shall be governed exclusively by Austrian law, excluding the provisions of the UN Sales Convention and the Austrian International Private Law Act (*Internationales Privatrecht-Gesetz, IPRG*).
- 12.2. The place of performance shall be Gierlinger Holding's registered office, 4100 Ottensheim. The exclusive venue for any and all disputes arising from this contract, further orders and the entire business relationship between the parties to the contract shall be the court competent in the subject matter in Linz.

13. Partial invalidity

- 13.1. If individual provisions of these terms and conditions are ineffective, the validity of the remaining provisions stated above, which are also part of the contract, shall not be affected thereby.
- 13.2. All declarations by the parties shall be made in writing, unless stricter form rules are imposed in individual cases based on a contract or by law.