

General Terms and Conditions

1. General

- 1.1. These terms and conditions shall apply to all quotations, sales, deliveries and analogously to services unless agreed otherwise and confirmed by us in writing in our order confirmation. Verbal declarations or promises by our employees remain non-binding until their confirmation in writing.
- 1.2. Additionally, the ÖNORMEN [Austrian Standards] B 2110 and B 5320 in the version valid at the time of conclusion of the contract shall apply.
- 1.3. The contracting party agrees that personal data or company-related data disclosed to us within the scope of the business relationship are saved and automatically processed in our EDP systems.

2. Acceptance of Order

- 2.1. Orders of the buyer shall be in writing or in electronic form. The order confirmation subsequently issued by SILBER Fensterbau GmbH conclusively specifies all services agreed upon. Further services by SILBER Fensterbau GmbH shall require a separate order confirmation to be valid and will be charged separately.
- 2.2. The order confirmation must be examined by the buyer on content correctness, particularly regarding the type, dimensions, quantity, prices and delivery time of the items of purchase. Any deviations from the order must be notified in writing before signing the order confirmation, otherwise the deliveries and services contained therein shall be considered irrevocably approved by signing the order confirmation.
- 2.3. If, after signing the order confirmation, a written cancellation of the order by the ordering party is received, the ordering party undertakes to pay a cancellation fee of 30% of the agreed order sum without our company having to provide any concrete proof of damages. This shall only apply in the event that production has not been started, otherwise a cancellation of the order is not possible any more and the entire order sum shall be due.
- 2.4. SILBER FENSTERBAU GMBH shall be entitled to rescind the contract, if the buyer, in spite of a reminder and granting of a grace period, is in default with an advance payment or partial payment.
- 2.5. All drawings and technical documents handed over to the buyer by SILBER Fensterbau GmbH shall remain the property of SILBER Fensterbau GmbH. The buyer may only reproduce or pass on these documents to third parties with the written consent of SILBER Fensterbau GmbH. The right to retain such documents is excluded.
- 2.6. In accordance with technical progress, we reserve the right to deviations from all drawings or promotional materials published by SILBER Fensterbau GmbH.

3. Prices

- 3.1. All prices indicated exclude installation, insurance, packaging and ancillary costs, the value added tax is not included therein. If a contract is concluded without a price being set, the sales price valid on the day of delivery will be charged.
- 3.2. The prices indicated in the order confirmation are fixed prices and shall not be changed until the agreed date of delivery.
- 3.3. The installation shall be charged according to the actual working time spent, travel expenses, daily allowances, overnight allowances, material and transport costs. In case of doubt the prices of SILBER Fensterbau GmbH at the date of delivery and/or service shall apply.

4. Terms of Payment

- 4.1. Unless otherwise agreed in writing, upon receipt of the order confirmation a down-payment amounting to 50 % of the purchase price must be made. The outstanding balance shall become due and payable without deduction within 14 days of the date of invoice. Any terms of payment to the contrary shall require a written agreement in order to be valid. The maturity of the contractually fixed compensation shall not be postponed by the assertion of alleged claims for guarantee, warranty, damages, product liability or other claims.
- 4.2. In case of default in payment the buyer shall pay bank default interest from the due date, in any case at least 12 % p.a. Furthermore, in the event of default in payment all fees for reminders, collections and the court shall be reimbursed. Bills of exchange and cheques shall be accepted only pursuant to an explicit agreement. Discounting and bill charges shall be borne by the buyer. Payments shall be carried out in cash or via transfer to a bank account communicated by SILBER Fensterbau GmbH.
- 4.3. In the case of resellers SILBER Fensterbau GmbH may withhold deliveries, after setting an appropriate period of grace, until due debts are paid. SILBER Fensterbau GmbH shall also be entitled to call all outstanding receivables prematurely due vis-à-vis resellers if they are in default of payment despite setting a period of grace.
- 4.4. The ordering party agrees that all payments made by them shall first be settled against expenses and costs, then against interest and finally against the capital.
- 4.5. A right to refuse performance of the buyer shall be excluded. According to ONÖRM [Austrian Standard] B 2110 the buyer shall not be entitled to a right of retention.

5. Delivery Time & Delivery

- 5.1. Delivery shall be carried out free domicile unloaded, provided the value of goods amounts to at least EUR 3,500.-- (without VAT). Below this value a flat-rate transport fee of EUR 110.-- (plus VAT) shall be charged. The free-domicile service shall imply that the construction site can be reached on regular roads. We shall deliver up to the first, easily accessible, ground-level, adequate storage area which has to be prepared and made available by the ordering party. Deliveries on minor roads and in the

mountains cannot be carried out. In this case delivery is made as far as an unloading area, from which the goods shall be taken over by the buyer and transported at their own expense and risk. Carrying and installation of the elements shall be carried out only in case of written agreement against billing. The careful storage of the elements in particular with regard to theft, moisture damages and damage shall be the responsibility of the buyer. The buyer must ensure that they or a representative accept the delivery. Upon delivery the goods must be examined with regard to completeness, execution and damage and shall be accepted with the first action according to ÖNORM [Austrian Standard] B2110. Damaged packaging, scratches, dents, dints, abrasions, etc. in case of goods not fully packed must be notified immediately upon delivery as otherwise the claim shall be forfeited.

- 5.2. The specification and/or agreement of delivery times is not regarded as a binding conclusion of business. The presumable delivery time indicated in the order shall not be binding. The delivery period which shall always only be considered as approximate, shall commence not earlier than upon receipt of the order confirmation signed by the customer, but never before final clearance of all technical delivery details and financial conditions, e.g. advance payments.
- 5.3. Changes of an order shall be accepted by us provided they are practicable for us, but may cause adjustments of prices and delivery dates and shall be documented in a supplementary order confirmation.
- 5.4. Unless a complete delivery has been expressly agreed, we shall also be entitled to carry out partial deliveries. Compensation for non-performance or delay shall only be possible in case of gross negligence or intent. In case of express agreement of a contractual penalty, the same shall be limited to a maximum of 5 % of the net order sum in total. If our delivery dates stated are exceeded by three weeks, the customer shall be entitled – after being granted a grace period of three weeks that can only be set, however, by registered letter – to withdraw from the contract by written statement that must likewise be submitted by registered letter within three weeks. All other claims, with the exception of claims for damages on account of malicious intent or gross negligence, are excluded. If the indicated delivery times for a complete order are exceeded only for a part, the present agreement applies with the proviso that the withdrawal is permitted only with respect to that part delivery that was not effected within the grace period.
- 5.5. If the ordering party fails to accept the goods supplied under the contract at the contractually agreed time, we shall be entitled to request full payment and to store the goods and possibly deliver them again at the expense and risk of the ordering party.
- 5.6. If the customer fails to accept the goods supplied under the contract we shall have the right, at our option, to demand either the performance or, subject to a grace period of 14 days, to withdraw from the contract. In this case SILBER Fensterbau GmbH shall be entitled at its discretion to demand, instead of the compensation for loss and damage, an expressly agreed penalty for breach of contract at the rate of 30% of the agreed price according to § 1336 ABGB [General Civil Code] and/or § 348 HGB [Commercial Code]. The penalty for breach shall, in particular, be payable if the withdrawal from the contract to which it is entitled occurs before the preparation of the goods.
- 5.7. Unforeseen obstacles to delivery (strike, omission of material deliveries, machine and tool failure, blockages of transport routes or other cases of Force Majeure, etc.) shall entitle us, at our discretion,

to a reasonable extension of the delivery date or partial withdrawal from the contract. We are, in principle, entitled to make partial deliveries and to present the corresponding partial invoices.

- 5.8. SILBER Fensterbau GmbH have fulfilled their obligation and the risk shall pass on to the buyer in case of delivery ex works and with agreed collection with the notice of readiness for dispatch (EXW); in case of delivery of the agreed consignment with take-over of the goods at the agreed place of delivery (CIP); in case of delivery with agreed installation, with the termination of the installation work to be carried out according to the agreement by SILBER Fensterbau GmbH and after final inspection carried out according to ÖNORM [Austrian Standard] B2110.
- 5.9. In case of installations without an existing horizontal level, installation is carried out according to the existing wall apertures, without regard to their horizontal levelness, or the demolition of the building site is initiated and appropriate reimbursement of costs are charged.
- 5.10. We reserve the right to pass on installations to subcontractors.

6. Warranty and Damages

- 6.1. The products shall be delivered with the characteristics designed for normal use. The warranty period amounts to 12 months as from delivery or provision of service.
- 6.2. In case the object of the delivery or service is deficient, SILBER FENSTERBAU GmbH shall have the right either to remedy the defect or to provide a replacement delivery. Any further claims for damages beyond that shall be excluded, unless SILBER FENSTERBAU GmbH or their agents are charged with intent or blatantly gross negligence.
- 6.3. SILBER FENSTERBAU GmbH do not assume any warranty for defects which they are not liable for, in particular caused by improper handling, Force Majeure, natural hazards, water damage, fire, fall etc., non-compliance with the care and maintenance instructions.
- 6.4. The warranty shall be excluded for materials provided by the customer and SILBER FENSTERBAU GmbH do not assume any liability for them.

7. Reservation of Title

- 7.1. All goods delivered shall remain the property of SILBER FENSTERBAU GmbH until the payment of all claims arising from the business relationship.
- 7.2. SILBER FENSTERBAU GmbH must be immediately notified of an attachment or any other form of seizure by a third party.

8. Exclusion of Set-off

- 8.1. The buyer renounces the possibility of set-off. This does not apply to the consumer in the event of our insolvency and of counterclaims which are legally connected with our claim, which were established by the court or have been acknowledged by us. In such cases there is the possibility of set-off for consumers.

9. Handover/Acceptance

9.1. In case a formal handover must to be carried out, the handover is deemed to have been effected as soon as the buyer has assumed the service under his authority of control. In the event that parts of the service have already been completed in accordance with the agreement and the buyer makes adequate use of such parts prior to the agreed date of acceptance, this shall be deemed as acceptance unless another agreement according to ÖNORM [Austrian Standard] B2110 has been stipulated.

10. Jurisdiction & Place of Performance

10.1. For all claims resulting from or in connection with this contract, including its conclusion, contestation or nullity, Austrian law shall apply exclusively and excluding the application of the UN Convention on contracts for the international sale of goods (UNCISG). The application of the Austrian IPRG [International private law] and of other conflict-of-law-rules is thus expressly excluded. For legal actions of SILBER Fensterbau GmbH, particularly resulting from deliveries of goods or orders concluded or contracts, the exclusive competence of the materially competent court in A-4600 Wels shall be applicable without prejudice to the venues ensuing from the law. The materially competent court in A-4600 Wels is agreed as the exclusive place of jurisdiction for legal actions against SILBER Fensterbau GmbH .

10.2. The place of performance and payment shall be Mistelbacher Str. 19, 4613 Mistelbach. Austrian law shall apply.

11. Miscellaneous

11.1. If individual provisions of these conditions are ineffective or incomplete, either in whole or in part, the remaining provisions hereof shall remain effective. Instead, an ineffective provision is deemed to be agreed which comes economically as close as possible to the ineffective provision in a way permitted by the law.

11.2. The Consumer Rules within the meaning of § 1 KSchG [Consumer Protection Act] shall take precedence in the event of any discrepancies with respect to these provisions. In such a case only the rules concerning these General Terms and Conditions shall be withdrawn, but not the remaining ones.

11.3. I (We) confirm by my (our) signature that I (we) have been advised and made aware of the provisions contained in the above text of the contract and declare with my/our signatures that these provisions constitute a part of the contract.

Place, Date

Customer