



**General Delivery Terms and Conditions for Products and Services (hereafter “GTC”) of Pro Licht Werbung GmbH, Hildesheim**

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## **§ 1 Preamble – Scope**

- (1) Our General Delivery Terms and Conditions valid at the time a contract is signed apply exclusively for the provision of all supplies and services. Any Customer's General Terms and Conditions conflicting with or deviating from our General Delivery Terms and Conditions are not acknowledged, unless we have expressly agreed this in writing. Our General Delivery Terms and Conditions also apply if we supply the Customer without reservations even with knowledge of conflicting or deviating Customer's General Terms and Conditions.
- (2) Our General Delivery Terms and Conditions also apply for future business with the Customer in the version valid at the time a contract is signed.
- (3) Individual agreements made with the customer in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these GTCs. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.
- (4) Our General Terms and Conditions of Delivery shall only apply if the customer is an entity (§ 14 BGB), a legal person under public law or a special fund under public law.

## **§ 2 Offer and contract conclusion**

- (1) Our offers, including information on delivery dates, are subject to change without notice. If the customer's order is to be interpreted as an offer in accordance with § 145 German Civil Code, we may accept this within two weeks.
- (2) A contract is only concluded with our written order confirmation. The scope of our supplies and services is determined by our written order confirmation and its written appendices.
- (3) We retain the title to and copyright on figures, drawings, sketches, designs, calculations and other documents. This also applies to written documents marked as 'confidential'. The Customer must receive written permission before passing on to third parties, in particular competitors. If a contract is not concluded the above-named documents must be immediately handed back to us.
- (4) The agreed remuneration for samples, sketches, designs and other project planning services expressly requested by the customer must be paid, even if the order is not placed. Ownership of these documents is transferred to the Customer once the remuneration is paid.
- (5) We reserve the right to make alterations and improvements in terms of design, material use and execution, inasmuch as they are technically necessary and do not substantially alter the purpose of the contract and the alteration is not unreasonable from the Customer's perspective.
- (6) This contract remains valid regardless of any approvals necessary from government agencies or other third parties. These approvals must be acquired by the Customer alone. Inasmuch as we acquire the approvals, we are always operating as the Customer's representative. The costs and approval fees are always carried by the Customer.
- (7) Cancellation within 7 days after written order is free of charge for the client. If the cancellation is made later than 7 days after the written order but not later than 14 days before the agreed delivery date, the cancellation costs are 50% of the order amount. If the cancellation is made within 14 days before the agreed delivery date (including the 14<sup>th</sup> day before the delivery date), the cancellation fee is 80% of the order amount. The customer reserves the right to prove that Pro Licht has not suffered any damage or that the damage is significantly less than the aforementioned flat rate.

(8) The Customer may postpone the delivery date within 14 days after the written order has been placed free of charge. If the deadline is postponed later than 14 days after the written order but not later than 14 days before the agreed delivery date, the Customer shall be liable for the costs incurred. If the postponement takes place within the 14 days before the agreed delivery date (the 14<sup>th</sup> day before the delivery date being included here), the fees amount to 10% of the order value, but not more than € 1,500 net plus the costs incurred. If the customer is in default of acceptance, fails to cooperate or if the delivery of Pro Licht is delayed for other reasons for which the customer is responsible, we shall be entitled to demand compensation for the resulting damage, including additional expenses (e.g. storage costs). Proof of further statutory claims (in particular compensation for additional expenses, reasonable compensation, termination) shall remain unaffected.

### **§ 3 Prices and terms of payment**

(1) Provided that nothing else is stated in the order confirmation, our prices are 'ex works', exclusive of packaging, shipping and insurance; these costs are additionally invoiced separately.

(2) Our prices do not include statutory value added tax; it is entered in the invoice separately at the currently applicable level on the day of invoicing.

(3) Any discounts require separate written agreement.

(4) Where illuminated signage is offered with installation only, the following items are not included in the price:

- low-voltage electricity installation;
- scaffolding or any necessary lifting equipment;
- any third-party services (e.g. bricklaying, plastering or sealing works);
- the costs of any stability analyses;
- disposal costs.

(5) The purchase agreement is, if not agreed otherwise, fulfilled by us with the handover of the delivery items to the shipping company. Provided that nothing else is stated in the order confirmation, the Customer must pay the agreed net price (without deductions) within 14 days of the invoicing date. The statutory provisions apply in the case of default in payment.

(6) Installation and repair works, and other services, are invoiced at the respective current rates. Surcharges are raised on works outside of normal working hours. Travel and waiting times are counted as working hours. Remuneration for this is due upon acceptance.

(7) The prices given in our offer only apply if the order is placed for the complete scope of supplies and services in the offer.

(8) The Customer only has a right to set-off if their counterclaims are recognized by declaratory judgement, are uncontested or have been recognized by us. Moreover, he shall be entitled to exercise a right of retention in so far as his counterclaim is based on the same contractual relationship.

## **§ 4 Delivery and delivery period**

(1) As a general rule the start of the delivery period stated by us presupposes that all technical issues have been clarified. The stipulated delivery period begins on the day the technical details of the order are definitively clarified. This includes any agreed down payment and the issue of approvals by government agencies or third parties.

(2) The fulfilment of our delivery conditions is subject to the prompt and orderly fulfilment of the Customer's obligations. The right of objection to nonperformance of contract shall be reserved.

(3) If the customer delays acceptance or otherwise culpably breaches duties of cooperation, we will be entitled to demand that the loss we incur to this extent, including additional expenditures, if applicable, be reimbursed. Any additional legal claims remain unaffected.

(4) Insofar as the preconditions of subsection (3) exist, the risk of an accidental loss or the accidental deterioration of the object of the purchase shall pass to the customer at the moment that he is in default of acceptance or payment.

(5) We shall be liable in accordance with the statutory provisions insofar as the fundamental contract is a fixed date purchase as defined in § 286, Para. 2, No 4 German Civil Code (BGB) or § 376 German Commercial Code (HGB). We shall also be liable in accordance with statutory provisions insofar as the customer is entitled to claim that he is no longer interested in the further fulfilment of the contract as a consequence of a delay in supplies and services for which we are responsible.

(6) We shall also be liable in accordance with statutory provisions insofar as the delayed supplies or services are based on an intentional or grossly negligent breach of contract for which we are responsible; faults of our representatives or agents shall be imputed to us. Insofar as the delayed delivery is not the result of an intentional breach of contract for which we are responsible, our liability for damages shall be limited to the foreseeable typically occurring damage.

(7) We shall also be liable in accordance with statutory provisions insofar as the delay in supplies and services caused by us was the result of the culpable breach of a material contractual obligation; in this case, however, our liability for damages shall be limited to the foreseeable typically occurring damage.

(8) Pro Licht is liable in the case of delays to supplies and services only insofar as this is expressly agreed in writing. In the individual option agreement to be concluded the upper bound is 0,5% of the value of the shipment per week of delay, if the delay compensation is expressly claimed by the Customer. The total value of the compensation for delays is limited to 3% of the value of the shipment.

(9) Pro Licht shall not be liable for impossibility of delivery or for delays in delivery insofar as these are caused by force majeure or other events unforeseeable at the time of conclusion of the contract (e.g. strikes, lawful lockouts, riots, war or terrorist conflicts) for which Pro Licht is not responsible. If such events make it substantially more difficult or impossible for the Contractor to provide the delivery or service and the hindrance is not only of temporary duration, the Contractor shall be entitled to withdraw from the contract. In the event of hindrances of temporary duration, the delivery or service periods shall be extended or the delivery or service dates shall be postponed by the period of the hindrance plus a reasonable start-up period. The costs incurred by a party due to an event of force majeure shall be borne by the party itself.

## **§ 5 Transfer of risk, shipment, packaging costs**

- (1) Unless otherwise shown in the order confirmation, delivery ex works is agreed.
- (2) Where illuminated signage and objects not requiring installation are supplied, the Customer accepts the costs and risks of shipping or transport. The Customer also carried the costs of any transport insurance he requires for the shipment. The haulier must be notified of any transport damage immediately after delivery of the goods.
- (3) In the case of *installation*, our supply/service is regarded as complete when the advertising elements/illuminated signage are provisionally commissioned in the presence of the Customer's representatives. They are regarded as accepted with the result that the risk of accidental loss and accidental deterioration is transferred to the Customer. If the Customer transports the goods from the point of manufacture or delivery to the point of use, he accepts the risks for the duration of the transport.
- (4) The transfer of risk arrangements also apply for partial services or if additional services still need to be performed by us.
- (5) If the delivery or acceptance or the commissioning of the service is delayed or not carried out as a result of the customer's default in acceptance, a failure on the part of the customer to cooperate or if our delivery or acceptance or the commissioning of the service is delayed for other reasons for which the customer is responsible, circumstances for which we are not responsible, the risk of accidental loss and accidental deterioration shall be transferred to the Customer from the day of notification of readiness for delivery or readiness for acceptance. We undertake to obtain insurance, including transport insurance, as demanded by the Customer, at the Customer's cost.

Special agreements shall apply for the return of packaging.

## **§ 6 Liability for defects**

- (1) Defects in the supplies and services shall be reported in writing immediately, but at the latest within one week after receipt of the delivery at the final destination. Defects that cannot be noticed within this period, even following a very careful inspection, shall be reported in writing immediately, but at the latest within one week after discovery, and any work or use immediately ceased.
- (2) Normal deviations in color or material tolerances do not represent defects and do not entitle the Customer to a defect notice.
- (3) Insofar as the supplied item or installation displays a defect, we shall be entitled at our option to subsequent performance in the form of eliminating the defect or supplying a new item or performing installation free of defects. In case of the elimination of the defect, we shall be obliged to pay expenses required for the subsequent performance, in particular the costs of transport, freight, labour and materials insofar as these are not increased by the supplied item having been brought to a location other than the place of performance.
- (4) In the case of culpable responsibility for the defects on the part of the Customer, especially due to non-adherence to his obligations to avoid damage and deterioration, after we have effected the repair, we are entitled to claim compensation corresponding to the level of the Customer's joint responsibility in causing the defect.
- (5) If the subsequent performance is unsuccessful, the Customer shall be entitled to rescission from the contract, taking the statutory exceptions into account. If the defect is only minor, the

Customer shall only be entitled to a price reduction. The entitlement to a price reduction is otherwise excluded.

(6) We shall be liable in accordance with statutory provisions insofar as the customer claims damages that are based on intention or gross negligence, including intention or gross negligence on the part of our representatives or vicarious agents. Insofar as we are not accused of an intentional breach of contract, liability for damages shall be limited to the foreseeable typically occurring damage.

(7) We shall be liable in accordance with statutory provisions insofar as we culpably breach a material term of the contract; in this case, however, liability for damages shall be limited to the foreseeable typically occurring damage.

(8) This shall not affect liability for culpable injury to life and limb or health; this shall also apply to mandatory liability pursuant to the Product Liability Act.

Liability is excluded except where regulated otherwise above.

(9) The period of limitation for claims for defects shall be 12 months calculated from the date of the transfer of risk.

## **§ 7 Joint liability**

(1) Liability for damages further than provided for in Section VI is excluded, irrespective of the legal nature of the claim submitted. This shall apply in particular for claims for damages for negligence in contracting, for other breaches of obligations or for claims in tort for compensation for material damage pursuant to §823 German Civil Code (BGB).

(2) The delimitation in accordance with Para. (1) shall also apply insofar as the customer demands reimbursement of expenses disbursed to no avail instead of a claim for compensation for damage.

(3) Insofar as claims against us for damages are excluded or limited, this shall apply with regard to the personal liability for damages of our employees, associates, representatives and vicarious agents.

## **§ 8 Reservation of title**

(1) We reserve title to the supplied objects until receipt of all payments under the business relationship with the customer. Our reservation of title also applies to any acknowledged outstanding balance.

(2) The customer shall be entitled to sell and to use goods supplied in normal business operations. Other dispositions, in particular pledging or transfer of title are not permitted. The buyer is obliged to resell the reserved goods only under reservation of title and on the condition that the sale price charge from said further sale transfers to us: The Customer hereby already assigns its claims from the resale of the reserved goods to us, together with all subsidiary rights, regardless of whether the reserved goods are sold prior to or following processing. We hereby accept this assignment.

(3) The Customer is prohibited from entering into agreements with their customers which exclude or impair our rights. In particular, the Customer may not enter into agreements which annul or impair the prior assignment of the claims to the vendor. The Customer remains entitled to collect the assigned claims even after assignment; however, we expressly reserve the right

to collect the claims and receivables assigned on our own behalf, in particular in the event of delay in payment by the Customer. The Vendor may request from the Customer to notify them about the assigned claims and the relevant debtors, to provide all information necessary, to furnish all accompanying documents and to inform the debtors about such assignments.

(4) If the reserved goods are sold together with other goods or objects not provided by us, then the assignment of the receivables applies to the value of the respective reserved goods sold. If the Customer uses the reserved goods for fulfilment of a contract for work, the above conditions apply correspondingly to the claims from that contract.

(5) As the manufacturer, working and processing of the reserved goods is without obligation to us. If the reserved goods are combined or mixed with other items we acquire ownership or part ownership of the new items or the mixed stock. If our ownership expires due to the combining or mixing of the goods, the Customer shall transfer the rights of ownership of the new stock or the item to the level of the invoice value of the reserved goods and shall hold them in custody on our behalf at no charge. The resulting co-ownership rights shall be deemed as reserved goods within the sense of these General Terms and Conditions.

(6) In the event of behaviour by the Customer in breach of the contract, in particular in the case of delay in payment, we are entitled to take back the goods following a reminder. The Customer is obliged to hand over the goods. Neither our assertion of the retention of title nor our pledging of the delivered items shall be deemed cancellation of the contract.

(7) If the value of our entitled securities exceeds the total claim against the Customer by more than 10%, then we are obliged to release excess securities of our choice at the Customer's demand.

(8) If our delivered items are securely attached to the ground or integrated in a building, the attachment or integration are of a temporary nature only.

## **§ 9 Installation, repair and other services**

(1) The following supplementary conditions apply for installation, repair and other services:

(2) Preparatory work agreed upon and executed by the customer shall be performed on time and in the required quality. The customer shall be liable for non-professional execution and any resulting costs for waiting and/or downtime. If the work carried out by the customer obviously does not meet the agreed requirements, Pro Licht shall issue a notice to this effect. Beyond this, there will be no inspection of the preliminary work; flawless execution is assumed.

(3) Illuminated signage installed by us fulfils no physical function within a structure. All necessary measures shall be performed by the Customer, if necessary using the appropriate specialist companies. All preliminary works shall be completed before we begin any installation works.

(4) The installation prices do not include the costs arising from costs resulting from delays incurred through the fault of the Customer or when the work or services performed exceed those offered (e.g. waiting times resulting from non-observance of instructions, extra journeys if preliminary works are not completed). Any additional expenses for working hours and materials are charged to the Customer.

(5) Where installation is performed by us as agreed, our installers are obligated to thoroughly check the installed elements and illuminated signage once installation is complete, and to demonstrate their correct functioning. In the event of a hindrance the Customer shall perform commissioning within 10 working days. If the demonstration of functioning is delayed until a

later date for reasons for which we are not responsible, the additional costs accrued by sending an installer is remunerated separately.

(6) Both parties hereby acknowledge that the demonstration of functioning of the advertising elements/illuminated signage verifies its intended performance, such that any subsequently notified defects can in no way initiate retroactive entitlements.

(7) Supply and service items notified as ready for shipping or installation and not called forward by the Customer within five working days of the ready-for-delivery notice are stored at the Customer's cost and risk. They are simultaneously invoiced as agreed.

(8) The Customer shall inform our personnel at his own expense of existing safety regulations and hazards and shall undertake all actions necessary to protect all persons and property at the place of work. The Customer shall support our personnel at his own cost to the extent necessary for the execution of their work and provide the necessary assistance, for example preparing the construction site, providing tools and lifting equipment, providing water and electricity, etc. The Customer's assistance (e.g. preliminary works, preliminary on-site services) shall guarantee that our works can commence immediately upon the arrival of our personnel and can be performed without delays until acceptance.

(9) If the Customer does not meet his obligations we have the right, but are not obligated, to perform the duties incumbent on the Customer in his stead and at his expense.

(10) If performance is not possible for reasons beyond our control, any previous performance by us or costs accrued shall be compensated by the Customer.

(11) Parts replaced in a substitution procedure shall become our property.

(12) If the service is lost or deteriorated for reasons beyond our control prior to acceptance, the Customer shall pay us the price after deducting expenses saved.

(13) Only repair deadlines confirmed by us in writing are binding.

(14) In the case of installation works, repairs and other services, the Customer is entitled, within the limits of the statutory provisions, to demand reduction of the price, if – taking account of the statutory exceptions – a reasonable scheduled deadline for the fulfilment of the service has been set and not adhered to during the delay. The Customer's right to reduction of the price also applies in other cases of failure to remedy defects. The Customer is only entitled to withdraw if the installation,

repairs and other services are proven not to be in the Customer's interests in spite of the reduction.

## **§10 General terms**

(1) The Customer shall procure the permits, export and import documents required for his use of the supplied items and services at his own expense.

(2) The place of performance and payment for obligations arising from the legal relationship between us and the Customer is our registered office, inasmuch as nothing different is agreed in the order confirmation.



## **§11 Place of jurisdiction and applicable law**

(1) These General Terms and Conditions of Delivery and the contractual relationship between us and the customer shall be governed by the laws of the Federal Republic of Germany, excluding international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

(2) If the customer is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive - also international - place of jurisdiction for all disputes arising from the contractual relationship shall be our registered office in 31137 Hildesheim. The same shall apply if the customer is an entrepreneur within the meaning of § 14 BGB (German Civil Code). However, we shall also be entitled in all cases to bring an action in accordance with an overriding individual agreement or at the customer's general place of jurisdiction. Overriding statutory provisions, in particular regarding exclusive jurisdiction, shall remain unaffected.

***Date: 11.5.2021***