

GENERAL TERMS OF BUSINESS OF THE COMPANY AUSTRALPIN GMBH

1. General

Insofar as nothing expressly different has been agreed to, our General Terms of Business, as are already known to our business partners, are still valid and applicable for present and all future business relationships.

Our business partner agrees that when our General Terms of Business are adhered to by him, our conditions will be adhered to in case doubts arise, including when the terms of the business partner are not objected to.

Contract performance measures on our part are not considered to be an agreement with divergencies from our contractual terms. If unclarity with regard to contract interpretation persist nevertheless, they shall be resolved by considering those terms to be valid which in comparable cases are customarily agreed upon.

2. Price quotations

Our price quotations are valid for a maximum of 60 days from the day of offer. All price quotations are based on and subject to these present terms insofar as no distinctly different terms have been agreed upon. If price quotations are addressed to us, those quotations shall be valid for 60 days as of the day the quotation is received by us. In lieu of a different agreement, the quotations or cost estimates addressed to us are to be considered binding and without charge. As long as no other agreement has been made, we are entitled to submit an invoice at appropriate prices for alterations in the order or additional orders.

3. Protection of plans and written documents/Confidentiality

Plans, sketches, cost estimates and other written documents such as photos, videos, flyers and brochures, catalogs, patterns, presentations and similar items remain our intellectual property. Any and all use of such materials, in particular, passing them on to third parties, copying, publishing and making them available to others including even partial copying, requires our express written permission.

All written materials referred to above can be demanded back by us at any time. They are to be returned to us without delay under all circumstances if the contract is not concluded.

Our contractual partner is obligated and agrees to full and complete confidentiality of all knowledge resulting from the business relationship with regard to third parties.

If special custom models are manufactured, the customer agrees to check and verify the degree to which the items ordered are free from copyright laws in favour of third parties. Insofar as the rights of a third party are injured through carrying out the terms of contract agreed to by the customer, the customer agrees to keep us free and without damage for any and all claims which might be asserted by a third party.

4. Prices

All prices quoted by us, unless otherwise specified, exclude the sales tax. When an invoice is submitted, the legally mandatory sales tax is added to these prices.

For deliveries outside the EU zone, the sales tax is invoiced as a security measure and subsequently refunded to the customer as soon as the properly filled out export documents which permit tax-free invoices are made available to us.

Unless otherwise specified, the prices quoted are to be paid in advance without any deductions. Even in the case of payment default not due to negligence of the purchaser/ordering customer, we are entitled to charge interest for default amounting to 10% annually above the base lending rate. Claims for obtaining proven higher interest are in no way impaired thereby. Payment is considered to have been made in due time if the amount has been received on the due date, i.e. if by that date our account has been credited with the correct sum.

If our invoice has not been objected to for reasonable cause in writing within 14 days, it is under all circumstances considered as valid and approved.

We have the express right to submit partial invoices for all partial deliveries.

Electronic submission of invoices

The customer agrees to accept invoices which have been generated and sent electronically.

5. Product

Our products and components were not designed to be fashion pieces, but are primarily made for mountain sports, air sports, tactical and safety applications, which makes function a top priority. Due to technical reasons, slight color variations and small blemishes on the surface can occasionally occur and do not justify any complaints or reclamations. Due to color variations, color shades shown on our photos are non-binding. Samples only show the approximate color result.

6. Delivery

Unless otherwise specified, delivery is ex factory.

If we are requested by the customer to organize transport, all risk and liability for such transport lies with the customer.

The indicated dates of delivery are intended as guidelines. No liability is assumed for deviations from these delivery dates.

Due to production factors, underdelivery or overdelivery of up to 10% concerning special productions are possible. Overdeliveries will be charged. In case of underdelivery, there is no obligation on behalf of AUSTRALPIN to deliver the difference subsequently.

7. Reservation of property rights

The merchandise remains our property until full and complete payment of purchase price and all ancillary costs and fees. In case of partial payment default, we are entitled to reclaim and retrieve the merchandise from the customer without obtaining his express permission. A resale of the merchandise is permissible only if this has been expressly made known to us, including the precise business address of the purchaser, and we have agreed to such resale. In the case of our agreement, the purchase price demand is considered to be relinquished, i.e. assigned in our favour. We are entitled at any time to communicate this relinquishment/assignment to the third party. In case of numerous price demands by us, the payments of the debtor will first be allocated to those of our claims which are not (or no longer) attached to a reservation of property rights or safeguarded by other means of security. Above and beyond that, the resale is permissible only in customary business operations and only with the provision that the customer receives payment from the end user or specifies that the merchandise only becomes the property of the purchaser after full payment has been made.

8. Non-observance/Default in delivery or performance

Minor transgressions of delivery deadlines are to be accepted by the purchaser/ordering customer under all circumstances without any claim for restitution or right of withdrawal from the contract.

The delivery date communicated to us is agreed as fixed if we are permitted to withdraw from the contract, permitting a 7-day period of grace, in case of default of the contractual partner. We are entitled to claim all damages which result from the delay/default.

9. Default of acceptance / Default of payment

If our contractual partner is in default of acceptance, we are entitled to store the merchandise in our headquarters, charge and invoice a storage fee of €10. for each initiated day of the calendar.

We are entitled to withdraw from the contract, allowing a period of grace of 7 days, if the customer has not made payment within two months from the day of contract confirmation. We are entitled to assert a claim for any and all damages resulting from the reasonable withdrawal from the contract.

10. Warranty

Apart from those cases in which the laws permit the right of redhibition, we retain the optional right to fulfil claims of warranty through improvements, exchange or price reduction.

The party which receives the merchandise is obligated to prove that a given fault or deficit existed at the time the merchandise was received.

The merchandise must be examined, checked and verified as soon as it is delivered. Any and all defects which are discovered must be communicated to the seller without delay, at very latest within 14 days after delivery, including the type and extent of defect.

Latent defects must be communicated as soon as they are discovered. If the report of such defect is not made, or is repaired in timely manner, the merchandise is considered to be approved. Any and all claims with regard to the warranty or damages, as well as the right to avoidance for mistake due to defects are ruled out in such a case.

11. Indemnity

Possible claims for damages addressed to us which are caused by minor negligence are excluded, i.e. ruled out, and will not be replaced by us. Above and beyond that, the indemnity furnished by us shall be limited to three times the amount on the invoice, the uppermost limit shall be €10,000.00. In case there is coverage for sums which exceed this amount included in our liability insurance in the framework of legal liability laws and payment results, the liability limit is inoperative to the amount of the insurance payment.

12. Place of performance and applicable law

Place of performance is Fulpmes. Austrian laws form the applicable body of law, excluding conflict rules, i.e. tie-breaker rules. The applicability of UN purchase laws is ruled out. The contract language is German.

13. Data protection

Our data protection declaration, attached as an enclosure, forms an integral part of these terms of business.

14. Legal venue

The sole court of jurisdiction, i.e. legal venue, for any and all disputes arising from this contractual relationship, either directly or indirectly, is the authoritative court in Innsbruck, Austria.

Innsbruck
October 2, 2019