

GENERAL TERMS AND CONDITIONS OF BUSINESS

I. Scope of application and validity

1. These General Terms and Conditions of Business (GTC) apply, insofar as they do not conflict with mandatory statutory provisions, to all legal relationships between **MOLTO LUCE GmbH** (Company Register of the Regional Court of Wels, Company Number 108421v, VAT No. ATU 25093706) including its affiliated companies on the one hand (hereinafter referred to as **ML**) and its **Customers** (purchaser, orderer, client, interested party, etc.) on the other hand and form an integral part of these legal relationships. This excludes individual agreements, which must be in written form and must be offered or accepted explicitly, i.e. expressly by ML.
2. The currently valid version of the GTC is available on ML's website at <https://www.moltoluce.com>. ML shall send the GTC to the Customer at the Customer's request.
3. When entering into a legal relationship with ML by placing an order or receiving the order confirmation and again by accepting the delivery, the Customers acknowledge these GTC as binding for them, also for all future transactions between these contracting parties.
4. Any objection by the Customer—in particular pertaining to its own general terms and conditions—even if only in form, is hereby expressly disregarded. All conflicting terms and conditions of the Customer and those contradicting these GTC of ML are hereby expressly rejected.
5. Subsequent amendments and supplements to the contractual agreements as well as ancillary agreements require written confirmation by ML in order to be valid or legally effective. Obvious spelling and calculation errors in quotations, order confirmations, invoices, price lists, product descriptions, brochures, plans etc. can be corrected by ML at any time.
6. ML generally concludes its contracts with companies. Insofar as ML concludes contracts with consumers, these GTC shall also apply insofar as they do not conflict with mandatory provisions of consumer law.

II. Offers

1. Offers from ML are always voluntary and non-binding. With the order, the Customer bindingly declares to place the order with ML on the basis of ML's offer (order quotation).
2. ML is entitled to reject the order quotation in writing within eight days of receipt of the order without stating reasons.
3. Acceptance of the order is effected by ML sending an order confirmation to the Customer, at the latest, however, with delivery (ex works) or notification of readiness for dispatch. The content of ML's order confirmation, should it deviate from the order, shall be deemed agreed if the Customer has not objected to it in writing within one week of receipt.
4. The information contained in catalogues, brochures and similar documents as well as other written or verbal statements by ML shall only be authoritative if they are expressly used as a basis for the contract. In the event of deviations, the offer and/or the order confirmation shall apply in case of doubt.
5. All information in catalogues, price lists and drawings of ML as well as weight and dimension specifications is prepared carefully. Errors and changes in design and dimensions can, nevertheless, not be excluded. ML assumes no liability for this.
6. Unless expressly agreed otherwise, planning, sampling, material testing and cost estimates shall be non-binding and subject to charge. Should costs increase by more than 15% after the order has been placed, ML shall inform the Customer immediately. In the case of unavoidable cost overruns of less than 15%, notification can be waived.
7. Penalty agreements at the expense of ML shall require the written consent of the persons authorised to represent ML.
8. Design documents such as plans, sketches and other technical documents, as well as samples, catalogues, brochures, illustrations and the like, shall always remain the intellectual property of ML and shall be subject to the relevant legal provisions with regard to reproduction, imitation, competition, etc. Any use thereof, in particular the passing on, reproduction or provision thereof, including copying, even of extracts, shall require the express consent of ML. Such documents must be returned to ML upon request, at the latest, however, upon termination of the business relationship.
9. The Customer shall indemnify and hold ML harmless for any infringements of property rights resulting from the manufacture of the subjects of performance according to its specifications.
10. Continuing obligations shall be valid for the duration stipulated in the contract and can be terminated by ML, unless expressly agreed otherwise, in writing at the end of a contractual year subject to a notice period of three months. If the Customer does not meet its payment obligations, ML may terminate the continuing obligation at any time without notice and without the obligation to pay compensation.
11. The provisions of Sections 9 and 10 of the Austrian E-Commerce Act, as amended, shall not apply.

III. Delivery

1. If the agreement made with the Customer does not contain any specifications, EXW INCOTERMS 2020 (ex works/warehouse) shall be deemed agreed. Delivered goods shall be deemed to have been accepted upon delivery EXW. The risk of accidental loss and/or accidental deterioration shall pass to the Customer upon delivery EXW or in the event of default of acceptance by the Customer.
2. The delivery period shall commence no later than on the following dates:
 - Date of order confirmation;
 - Date of fulfilment of all technical, commercial and other prerequisites incumbent upon the Customer;
 - Date on which ML receives an advance payment or security to be paid prior to delivery of the goods.
3. If ML has not undertaken the dispatch, the notification of readiness for dispatch shall be decisive for the timely delivery.
4. The goods shall also be deemed to have been delivered if they are not collected immediately on the delivery date after notification by ML of readiness for dispatch.
5. Delivery periods stated by ML as well as any agreed delivery dates are always non-binding. In the event of any delay in delivery, the Customer is obliged to grant a reasonable period of grace. ML is entitled to effect partial deliveries.
6. The delivery periods shall be extended, in particular also in the event of unforeseen hindrances, irrespective of whether these occur in our operation or with our sub-suppliers, e.g. operational disruptions, strikes, lock-outs, transport disruptions, force majeure, etc.
7. ML is entitled to suspend or delay the performance of its own obligations at any time if it becomes apparent after the conclusion of the contract that the Customer is not going to perform a substantial part of its obligations, in particular for the following reasons: (i) due to a serious deficiency in its ability to perform the contract, (ii) due to a serious impairment of its creditworthiness, or (iii) due to its conduct in the preparation of the performance or in the performance of the contract or the preceding contracts.

8. Claims for damages due to delayed deliveries shall be excluded to the extent permitted by law. In addition, the Customer waives all further claims as a result of delayed delivery. Penalty claims are also expressly excluded.
9. Packaging shall be effected in accordance with professional and commercial standards. The disposal of packaging material shall be at the expense of the Customer.
10. Unforeseen costs arising during the delivery to the Customer, such as costs of interim storage, additional transport costs, etc., shall be borne by the Customer.
11. ML products are usually supplied as branded products with a brand mark. Changes to this agreement shall be made in writing.
12. For agreed deliveries to the Customer
 - ML shall determine the type of dispatch;
 - ML is entitled to deliver the goods in partial consignments;
 - the delivery shall be made at ground level or on a ramp;
 - the Customer shall provide the persons necessary for unloading at its own expense;
 - the signature of an employee of the Customer shall be deemed confirmation that the goods are complete and free from visible damage; and
 - the goods shall be transported at the risk of the Customer (damage, destruction, loss, etc.) and the time of transfer of risk is the handover to the forwarder, carrier or the person named by the Customer.

IV. Prices

1. All prices are understood to be exclusive of statutory VAT. Should a Customer, however, make a transfer to ML in a foreign currency, the amount to be transferred shall be that which corresponds to the invoice amount in euros plus any conversion charges or other costs incurred in connection with this.
2. The prices quoted by ML are EXW (ex works/warehouse) INCOTERMS 2020 and—unless otherwise agreed for individual special products—without assembly and including packaging.
3. In the case of deliveries charged in a foreign currency, ML is entitled to choose in every case on the due date whether to claim the receivable in euros or in the foreign currency originally taken as the basis.
4. Taxes, contract fees, export, import and transit fees, customs and duty charges, official commission fees and the like shall be borne by the Customer. In this respect, the Customer shall also be responsible for the provision of any necessary certifications, confirmations and/or import documents of whatever kind and shall bear the costs thereof.
5. ML's prices shall be based on the wage and material costs applicable at the time of the order confirmation. Should these costs subsequently increase, ML shall be entitled to make adjustments and to charge these to the Customer. This also applies to other changes due to taxes, customs duties or transport tariffs, over which ML has no control.
6. The final price calculation is based on the discounts valid or agreed on the day of delivery. The discount shall be granted only in the event that ML does not have to claim the agreed purchase price in court (lawsuit, execution, etc.). The calculations of the offer shall only be valid when ordering the total goods and/or quantity offered.
7. One-off rebates and discounts granted shall be valid only for the respective transaction and do not constitute a legal claim for subsequent transactions. Special conditions granted within the scope of an ongoing business relationship shall apply until revoked by ML.
8. In any case, the agreed prices shall be valid for a maximum of two months from the date of ML's offer.

V. Payment conditions

1. Invoices from ML shall be due for payment at the time of delivery, but no later than at the time of invoicing. In the case of date-related payment, the amount must have already been credited to the account specified by ML. For consumer transactions, the bank transfer order on the due date shall be sufficient.
2. 50% of the order sum shall be due as a deposit when the order is placed. In the event that the Customer wishes to withdraw from the contract before the ordered goods have been manufactured or in the event of non-fulfilment for other reasons not attributable to ML, the amount paid on account shall be deemed to have been forfeited in favour of ML.
3. In the event of default in payment, ML shall be entitled to charge default interest from the due date in the amount of 9.2 percentage points above the respective base interest rate of the Austrian National Bank, but at least 12% per annum.
4. Incoming payments shall be credited first against the oldest claims, first of all against costs already incurred (reminders, keeping of records, collections, etc.), then against interest already accrued and finally against the outstanding capital.
5. ML is not obliged to accept bills of exchange or cheques. However, if ML does accept such papers, this shall be only on account of payment and only against remuneration of the discount and collection charges incurred by the Customer. This is also not regarded by ML as cash payment, which is why cash discount cannot be granted. Acceptance of the papers by ML does not give rise to a postponement of the originally agreed due dates. ML is entitled at any time to demand the outstanding amount against return of these papers.
6. ML is not obliged to make any further deliveries from any current contract before full payment of due invoice amounts including interest on arrears, other expenses and costs. If the Customer is in arrears with a due payment or if there is a significant deterioration in its financial circumstances, ML can demand cash payment for outstanding deliveries from any ongoing contract before delivery of the goods, thereby cancelling the term of payment.
7. If ML becomes aware of circumstances indicating that the financial circumstances of the Customer have deteriorated or are at risk, ML shall be entitled to demand advance payments or securities of its own choice.
8. In the event of default on a due payment, all other claims not yet due shall become due immediately, e.g. also any current bills of exchange.
9. If the Customer does not comply with a request for payment, ML shall be entitled to retain the goods owned by ML without this being considered a withdrawal from the contract, or to withdraw from the contract in whole or in part while preserving ML's rights or claims, in particular for damages for non-performance.
10. The Customer is not entitled to withhold payments on the basis of warranty claims or other counterclaims not recognised by ML. Offsetting by the Customer with its counterclaims against claims of ML is excluded.
11. All objections to invoices must be made in writing within 14 calendar days of the invoice date; invoices shall otherwise be deemed accepted. If the Customer requests changes to the invoice text which differ from the order confirmation, the original payment due date shall remain in effect.
12. Prohibitions of assignment expressed in the „general terms and conditions“ of the Customers and all other contractual conditions concerning the assignment of claims are not recognised by ML and shall not be binding for ML.

13. ML reserves the right to assign the claims arising in connection with the order and/or delivery to third parties irrespective of the due date (e.g. factoring). The object of the assignment can be all claims from the delivery of goods and services provided by ML's business operations specified in the contract, including all ancillary rights and the objects subject to retained ownership. ML also reserves the right to pledge due purchase price claims to third parties.

VI. Default of Acceptance

1. The Customer is obliged to accept the deliveries and services provided by ML.
2. If the Customer does not accept the goods in whole or in part without there being any fault on the part of ML, the latter shall still be entitled to demand the full order amount and the Customer shall be obliged to pay this in accordance with the contract concluded.
3. If the Customer is in default of acceptance, ML shall be entitled to store the goods either at ML's business premises or with at the premises of a third party at the expense and risk of the Customer. This shall not affect ML's rights within the meaning of Sections 373 et seqq. UGB (Austrian Commercial Code).
4. ML's liability for the deterioration or loss of goods stored at its premises shall be limited to intent or gross negligence.
5. The purchase price shall be due for payment in any case after expiry of the collection period.

VII. Retention of title

1. The delivered goods shall remain the property of ML until full payment of the purchase price including all ancillary charges (interest, costs, etc.).
2. The retention of title shall also apply to all claims that ML still has against the Customer from other deliveries.
3. The Customer may only resell the goods owned by ML in the ordinary course of business and only while maintaining ML's retention of title. Other disposals of the goods subject to retention of title, in particular transfers by way of security or pledges, shall be excluded and shall make the Customer liable for damages.
4. To secure all claims of ML arising from the order, the Customer hereby assigns all its claims arising from a resale of the goods subject to retention of title, even if these goods have been processed, transformed or mixed, to ML as security and settlement and undertakes, at the request of ML, to inform ML of the names of the debtors and the amounts of the claims against them and to provide all information and documents required for the collection of the claim and to notify the (third-party) debtors of the assignment. The Customer is obliged to make corresponding notes in its books and invoices as soon as the claims assigned to ML arise.
5. The Customer undertakes to notify the tax office of legal transactions subject to fees and to bear any legal transaction fees incurred.
6. If the Customer does not fulfil its payment obligations or the obligations resulting from ML's retention of title or does not fulfil these in due time, if it stops its payments or if judicial insolvency proceedings are opened against its assets, all claims against the Customer to which ML is entitled shall become due for payment, even if bills of exchange with a later due date are running. If the entire remaining debt is not paid immediately, ML shall be entitled to demand the immediate surrender of its goods while excluding any right of retention.
7. All costs arising from the repossession of the goods shall be borne by the Customer. ML shall be entitled, without prejudice to the Customer's payment obligation, to utilise the repossessed goods in the best possible way. The proceeds after deduction of the costs, including the costs of utilisation, shall be credited against the Customer's total debt; any excess proceeds shall be paid to the Customer.
8. If the goods are seized by a third party, the Customer is obliged to inform the enforcement agent of ML's retention of title and to notify ML of the seizure by registered letter. The Customer shall bear any costs for the intervention. Rights of retention and offsetting are excluded. The taking back of the goods shall not in itself be deemed to be a withdrawal from the contract; for this a separate declaration shall still be required.
9. The processing of goods subject to retention of title by the Customer shall always be carried out in the name and on behalf of ML. If the goods subject to retention of title are processed, ML shall acquire co-ownership of the new item in proportion to the value of the goods delivered by ML. The same shall apply if goods subject to retention of title are processed or mixed with other items not belonging to ML. The Customer shall safeguard ML's (co-)ownership free of charge.

VIII. Complaints, warranties and compensation

1. ML guarantees that the delivery will correspond to the quality specified in the agreement reached with the Customer.
2. If the agreement made with the Customer does not contain any information on the quality of the goods, an average, standard quality shall apply. No guarantee is given for deviations in colour nuances due to production and material.
3. **The goods must be checked immediately on receipt for obvious, externally visible transport damage.** Any possible transport damage found must be noted on the freight document / delivery note, confirmed in writing by the carrier and reported to MOLTO LUCE in writing without delay. Hidden transport damage must be reported in writing within seven days of the delivery date. Any breach of these obligations shall result in the loss of all claims for transport damage.
4. Notices of defects of a general nature must be given within eight calendar days from the date of delivery, notices of defects concerning manufacturing or material defects within one month of the date of delivery at the latest. Any later notice of defects shall result in the loss of all claims, in particular under the right to warranty, damages and the right to contest errors due to defects.
5. The reversal of the burden of proof of the provision of Section 924 ABGB (Austrian Civil Code), according to which ML is obliged to provide proof within the first six months from delivery, is excluded in business transactions with entrepreneurs. The warranty period shall be 24 months from handover/delivery. Should ML be obliged to rectify a defect, the warranty for the rectified defect shall be six months from rectification of the defect.
6. As long as it is possible for ML to improve the performance or add what is lacking, the Customer is only entitled to return the goods and withdraw from the contract with the express written consent of ML. The Customer shall pay a 20% processing fee for returned goods. The rejected items must be sent to ML for inspection at the Customer's expense
7. If the inspection reveals manufacturing defects or material faults, ML shall at its discretion either provide a replacement or issue a credit note. Even if the buyer would under the relevant legal provisions be entitled to demand a price reduction and/or modification, these warranty repairs can be undertaken by ML by means of improvement (repair or addition of what is missing) or replacement. Excluded from this are illuminants and electrical wearing parts. For these, the warranty is completely excluded. Any further claims for compensation, in particular those for compensation for consequential damage (such as loss of profit, loss of production, installation and removal, lifting equipment, scaffolding, etc.), are excluded and shall be borne by the Customer.
8. The warranty claim shall expire in the case of modification, processing, reassembly or improper handling of the delivered goods.
9. ML shall not be liable for any costs incurred by the Customer remedying defects itself.
10. A return of special offers, special designs and non-serial parts by ML is excluded.
11. The application of the special right of recourse according to Section 933b ABGB is excluded for transactions conducted with entrepreneurs.

12. Contestation of the contract between ML and the Customer on the grounds of reduction by more than half according to Section 934 ABGB (Austrian Civil Code) is excluded to the detriment of the Customer, insofar as the latter is an entrepreneur.
13. ML shall be liable to pay damages due to a breach of the contractually assumed obligation or an obligation existing according to the law only if ML is guilty of intent or gross negligence. Liability for personal injury is excluded from this exemption. Liability is excluded in any case if damage is due to actions or omissions by persons not attributable to ML, in particular work by other professionals.
14. Also excluded are claims for compensation for lost profit as well as claims for compensation for expenses for business interruption, loss of production or indirect damage due to the delivery of goods that are not in conformity with the contract. Liability for financial loss is excluded if ML is only slightly at fault.
15. The claim for damages shall expire in any case with the processing of the delivery or the resale thereof without ML having been given the opportunity to verify the lack of conformity with the contract. Any liability or recourse claims shall furthermore be limited to an amount of €20,000.00 and expire within six months from the time it was first possible to identify the damage and the person liable to pay compensation.
16. For damage claims of the Customer based on the defectiveness of the item itself (claims for compensation for consequential damage caused by a defect are expressly excluded), Section 1298 ABGB is waived.
17. In the event of any breach of assembly and/or operating instructions, all claims under guarantee, warranty and compensation shall expire and ML shall be released from any liability.

IX. Guarantee for LED Products of the "MOLTO LUCE" Brand

1. ML guarantees, in accordance to the prevailing version of our [guarantee conditions](#), that LED products of the "MOLTO LUCE" brand if properly used are free from manufacturing and material defects during the 5-year guarantee period from the date of delivery or the lifetime in operating hours shown in the product and use specifications (data sheet), whichever ends earlier.
2. The customer's warranty rights (section VIII.) remain unchanged and exist in addition to this guarantee. The guarantee is subsidiary to liability for other legal grounds and specifically does not apply to product failures already corrected under the warranty by replacement, repair or price reduction.

X. Product liability

In the event that the Customer is not an end consumer, recourse claims by the Customer against ML within the meaning of Section 12 PHG (Product Liability Act) shall be excluded, unless the party entitled to recourse proves that the defect was the responsibility of ML or was at least caused by gross negligence.

XI. Customer's right of withdrawal

1. If the Customer is a consumer, he/she has the right of withdrawal pursuant to Section 3 KSchG (Austrian Buyer's Protection Act), Section 3a KSchG and Section 11 FAGG (Austrian Remote and External Business Act).
2. Any other withdrawal, unless based on a legal claim, shall only be possible under special conditions and with ML's written consent.

XII. Documents (e.g. invoices, rejection of the contract etc.)

Documents sent to the Customer to the last address provided shall be deemed to have been received in all cases, unless the Customer has notified ML in writing of a change.

XIII. Cost estimates

Cost estimates shall be non-binding unless the opposite is expressly agreed in writing. For the preparation of binding cost estimates, the Customer shall pay the agreed fee, or in any event an appropriate fee.

XIV. Commercial agent, debt collection

1. ML's Customers are not commercial agents within the meaning of or analogous to the Austrian Commercial Agents Act (Austrian Federal Law Gazette [BGBl] No. 88/1993, as amended). ML does not entrust the Customer with the brokerage or conclusion of transactions, neither in its name nor on its account. ML expressly does not authorise the Customer to conclude transactions in the name and for the account of ML. Should such an agreement nevertheless be made, the Customer is obliged to notify ML of this transaction without delay. Between ML and the Customer neither prohibitions of competition, prohibitions on the management of third-party products, rights of instruction and/or control, compulsory regulations for pricing nor purchase obligations on the part of the customers exist in favour of ML. Customers are free in their business management and are not integrated into ML's operations.
2. Representatives of ML are not authorised to collect payment. Payments with debt-discharging effect for the Customer to ML can therefore only be made to the published bank accounts of ML or to organs of our company registered in the commercial register, unless the collector is able to identify him/herself by written power of attorney from the management of ML. Cash payments are only possible at ML's business premises against a receipt.

XV. Statutory law

1. Should these GTC contradict statutory provisions in individual points, the remaining agreements shall be deemed to continue to apply. The ineffective provision shall be replaced by an effective provision which enables the achievement of the economic purpose it pursued.
2. Unless separate agreements are made by these GTC, the provisions of the ABGB and the UGB shall apply.
3. ML reserves the right to amend these GTC at any time. Amendments shall apply as of their notification to the Customer for all legal relationships established thereafter between ML and the Customer.

XVI. Verbal agreements

Verbal agreements have no validity. Additions must be made in writing and confirmed by ML.

XVII. Place of performance, jurisdiction, applicable law

1. The place of performance shall be exclusively the registered office of ML in WELS, Austria. For all disputes arising from the contractual relationship, the competent court in WELS, Austria is deemed agreed. However, ML shall be free, alternatively, to call upon the competent court at the registered office and/or place of residence of the Customer.
2. All questions regarding the interpretation of these GTC as well as all contracts concluded by ML with the Customer and the fulfilment of the rights and obligations regulated therein shall be governed exclusively by formal and substantive Austrian law to the express exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and any other conflict-of-law rules.

XVIII. Data protection

The Customer agrees that its personal data (name, address, date of birth) may be processed by ML for the purpose of sending information about new products and services by e-mail. The Customer also agrees that its personal data may be processed by ML for the purpose of market and opinion research. This data and the results of the surveys will not be passed on to third parties. In this context, the Customer also expressly agrees to be contacted by ML by e-mail for this purpose. The Customer has the right to object to such use at any time by sending a letter to the registered office of ML, Europastraße 45, A-4600 Wels. This address also applies to all matters regarding the GDPR. Our data protection statement in compliance with the General Data Protection Regulation (EU) can be found on the ML website <https://www.moltoluce.com>.

Wels, Juni 2024