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# GENERAL SALES AND DELIVERY TERMS

SEBRING Technology GmbH.

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## ***I. Realm of application***

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These general sales and delivery terms of SEBRING are an integrated part of every business relationship, particularly of every offer and every contract. They apply insofar as the parties to the contract have not specifically agreed otherwise in writing, including to all further orders, even if reference is not made to such orders. Purchasing terms respective to other general terms of customers that read differently do not oblige us, even if the customer has informed us of them and we have not refuted them.

All orders that we receive are accepted only conditionally with respect to the recognition of these sales and delivery terms.

Special agreements with our representatives that differ considerably from normal business practice and/or the General Terms also require the written authorisation of our management.

## ***II. Offer, order confirmation and trademark rights***

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All specifications in our offers are non-binding. In particular price changes stipulated by pre-suppliers, changes in law, administrative regulations and new collective contractual wages as well as basically all circumstances imposed upon us from outside and that take effect between the time when an offer is made and the time when work is performed shall be passed on. This stipulation applies correspondingly for exchange rate fluctuations, changes in material costs or on the basis of changes in the world market price for raw materials that have an effect upon the materials that we use.

Also non-binding are data specified in catalogues, brochures, advertisements, circulars, price lists and our cost proposals.

All orders only become legally valid by way of our written order confirmation or our unconditional and unlimited delivery. Similarly, changes made pursuant to the establishment of a contract or cancellations of parts of already confirmed orders also require our explicit written authorisation. The client continues to be bound to an order until it is rejected or executed by us, maximum however for 10 working days after the order date.

If an offer comprises contract objects that must be executed according to drawings, models, or samples provided by the client, the client must see to it that no rights of third parties are infringed upon as a result of the use of these drawings, models or samples. The client is obliged to indemnify us against all claims or demands for damages that may be imposed upon us as a result of such an infringement. We are not obliged to verify accuracy, technical suitability and feasibility, legality and completeness of documents transferred by the client to us. Our own drawings, samples, models, plans, sketches and other technical documents remain our intellectual property even after the purchase has been concluded, as well as being covered by all legal stipulations with respect to adaptation reproduction, copying, competition and amongst others. These items may not be made available to third parties under penalty of the payment of full damages. They must be returned upon our request.

Our brands respectively our product- and company-attributes are protected by patent rights and copyrights, so that every unauthorised usage respectively any type of imitation, illegal usage and/or reproduction is an infringement upon the protection of commercial law, patent and copyright, which will cause claim for damages and respectively criminal prosecution.

If in the course of execution of an order it should prove that for technical or economic reasons the order must be changed (enlarged upon), SEBRING is authorised to execute the order in that scope that he may assume according to his professional judgement is in the interest of the client. The written authorisation of the client is required for an order scope that goes beyond this. If the client does not agree with such a change in the order, the contractor is authorised to issue an invoice for the work carried out up to that point and to refuse any further execution of the order.

### ***III. Prices***

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The prices listed in the price lists and brochures are non-binding and, if nothing is specifically agreed to the contrary, net prices ex factory without packaging, assembly and transport costs.

With respect to general price changes that occur after an order has been established, the above specifications under point II apply correspondingly.

If - after an order has been established - the client specifically requests that the order has to be executed urgently, so that we are forced to have our employees work also during the weekend or during the evening, the client must pay the extra costs incurred for the necessary overtime and therefore the prices in the order shall be increased correspondingly.

### ***IV. Payment terms***

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Insofar as nothing is agreed to otherwise, a payment deadline of 14 days from the date of invoice applies. Invoices are considered to have been approved if they are not disputed in writing within 8 days of the date of invoice. Any complaints of defects have no effect upon the payment deadlines.

Incoming payments are first applied to interest and secondary costs and then on the oldest debt, even if this should not match the payment requests of the client.

We are authorised to demand immediate cash payment and guarantees for open invoices at anytime, if the credit worthiness of the client declines or is no longer evident, in the absence of which payment we shall withdraw from the contract and may demand that goods already delivered but unpaid be returned to us.

In case of even only partial payment delays and in case of delays with regard to receiving goods, interest on late payments in the amount of 7.5% per year over the current interest base of the European Central Bank shall be charged. In addition to this we are authorised to immediately demand all open payments and to withhold deliveries still open as per § 1052 ABGB until the amount of the invoice is received. This also applies to one-time deliveries insofar as we were informed the uncertain financial situation of the client after the contract is established. Should the client default, the risk of possible decline or worsening in the quality of goods transfers to the client upon their default. Payments that will decrease the balance owed may only be paid into one of the accounts mentioned on the invoices or to a representative whom we have especially authorised in writing to receive them.

Only cash payments and unconditional credits into our accounts are considered to represent effective payment.

We reserve the right to accept drafts, but in any case only with respect to payments. Discount fees, exchange tax and interest on late payments must be paid immediately in cash. We are not responsible for timely notification, protests, notification or tracing back a draft if it is not cashed.

Set-offs because of alleged counterclaims or because of warranty claims or others which are not recognized by us and/or the retention of payments are excluded. Payment obligations, in particular established monetary values, are considered to have been agreed upon in Euros.

### ***V. Delivery***

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The delivery date is the day of shipment. The delivery date basically commences on the day on which we confirm an order, insofar as the order is clear and the client fulfils the agreed upon financial obligations. We are authorised to make partial deliveries. Delays that are not attributable to us, in particular in situations of force majeure or difficulties with our sub-suppliers, extend the delivery date by the duration of the events plus a suitable start-up time, without the client having any right to withdraw from the contract.

Specifically considered as force majeure are, in particular, interventions by the authorities, power supply and raw materials difficulties, labour conflicts, accidents, unforeseeable production difficulties and all other events that make delivery considerably more difficult or impossible, insofar as no gross negligence is attributable to us with regard to these events. The delivery date is also extended if the client defaults with respect to the fulfilment of the above-mentioned obligations, for example the presentation of documents or other types of cooperation for which the client is responsible. In case of the agreed upon changes in the order we are authorised to re-calculate the delivery date.

In any case claims for damages due to late delivery or non-delivery are ruled out if we cannot be accused of intent or gross negligence.

The client is obliged to accept goods delivered late and declares that he is also prepared to accept partial or advance deliveries.

Significant changes in the person of the client that occur and become known after the contract is established, in

particular with respect to the company circumstances and the financial situation, justify our immediate withdrawal from the contract or if we choose to the change of prepayment.

The client must immediately take receipt of goods that are delivered and must store them in dry rooms that can be locked. Should the client refuse to accept delivery he is subject to the consequences of § 1419 ABGB. The agreed upon ordered goods shall be stored at the expense of the client and we are authorised to invoice them for the goods as though they had been delivered, with the addition of all additional costs. In addition the client must pick up the agreed upon ordered goods.

This does not affect our rights to claim damages. The client may not withdraw with regard to already delivered partial deliveries upon the delivery of partial deliveries still open. The client must always pay any extra costs incurred due to a delay caused by the client.

## ***VI. Shipment***

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The time at which the risks transfer with respect to shipment is the time at which goods are given to the relevant forwarding company. In the absence of a written agreement with the client, we are obliged to effect the shipment in the manner that we consider to be the best, without being responsible for using the most economical forwarding method or forwarder. We are not liable with regard to damage and loss during transport; this must be immediately recorded on the freight documents. The client himself is responsible for obtaining and paying for the necessary insurance coverage. The transfer of the goods to the relevant transport company represents the fulfilment of delivery, at which time the agreed upon goods have transferred into the possession of the client in the context of production liability as per § 6 and thus placed into circulation.

## ***VII. Complaints and guarantee***

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The guarantee period for each article commencing at the receipt of the goods applies in terms of properties that we specifically guarantee in writing, and with regard to the absence of faults in accordance with the state of technology at the time of order. The client must provide the following data for the handling of any complaints within the guarantee period: article number, description, units, reason for complaint, date on which the article was installed, repair date and complaint date.

Should the goods be used excessively or inappropriately, the guarantee deadline shall decrease to one-half in each instance.

Finishing and installation costs, travel time and travel expenses are the responsibility of the client. No rights to non-payment or discounts exist unless we are unable to correct a fault within an appropriate amount of time or replace defective goods. The guarantee becomes null and void if the delivery object is changed by being installed incorrectly or changed by the installation of parts of foreign origin, if installation and handling instructions are not followed, or if the results are not used according to their purpose.

In addition natural wear and tear and damage due to unprofessional handling are excluded from the guarantee. When parts are replaced, the guarantee is only granted with respect to replacement parts. Once payments become due, guarantee claims can only be made after those payments have been made. If, after a fault has been corrected, it should prove that no right to a claim had existed, the client must pay for the work that we have performed.

## ***VIII. Notice of defects and guarantee***

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After the goods are delivered the client must immediately inspect them. We specifically extend a guarantee with respect to defects already present at the time of delivery that are based on material and processing errors. We must be informed of such defects in writing immediately after individual deliveries are made, since otherwise the delivery shall be considered to have been unconditionally accepted and the client to have relinquished all claims in the context of the guarantee and with respect to damages. The nature and scope of the defect is to be delineated such that we can clearly determine the reason for the claim. The client is obliged to temporarily store the goods in question and to forward the goods in question on first call to us at his own expense, to double-check them.

Our guarantee specifically does not apply to defects that are based on unprofessional use, excessive use, or that are based on abrasion (the guarantee applies only to rusting through, nor to surface rust). Basically all guarantee rights

and rights to damages in connection with the relevant parts become null and void in case of unprofessional assembly or changes in the goods or their components. If defects occur, the client is obliged to immediately allow an improvement in the form of free replacement or improvement of the goods in question and must set a suitable deadline for this in writing. Only if we do not make the improvement within the established deadline can the client demand a proportionate price decrease. In any case a claim of defects cannot be made if special versions of any nature whatsoever requested in the order by the client do not meet his expectations upon delivery. SEBRING does not take over any guarantee or liability, especially not for the technical suitability, durability, permissibility, function or safety of a custom-made product which at least partly was constructed according to specifications, drawings, samples or constructions from the client. The client holds SEBRING harmless against any liabilities connected with defects of these kind of products. Minimal deviations in drawings, models and samples that do not lead to any change in the goods themselves do not represent defects. Further demands by the client for replacements of any type whatsoever are ruled out unless the contractor or his personnel can be accused of intent or gross negligence.

Defects in individual pieces only authorise a rejection of an entire shipment if the nature of a defect makes the entire shipment useless.

Return shipments require our prior authorisation in all cases. The guarantee period equals 24 months, calculated from the date of receipt, and applies to all parts which can be proven to be unusable before the transfer of risks, particularly due to incorrect design, poor materials or defective construction, or if their usefulness is considerably compromised. Replaced parts become our property when replacement shipments are sent or credit invoices issued and have to be returned to us upon request. The regulation on presumption of § 924 ABGB is ruled out. The client must give evidence of the presence of a defect at the time of transfer.

### ***IX. Reservation of ownership***

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All delivered goods remain our property until the complete payment of the purchase price and the secondary cost caused by any delay in payment, even if they have already been processed by the client or professionals hired by him. The client is forbidden to mortgage the goods, or give them as security, that are under reservation of ownership without our specific written permission, and such action is therefore invalid. Should said goods be illegally alienated, the purchase price claim that takes the place of the reservation of ownership against the third party shall be considered to have been relinquished to us and the purchase price paid to the client shall be viewed as having been entrusted to him or he must inform the debtors of said relinquishment immediately.

The client must suitably insure the goods that are under reservation of ownership against theft and fire at his own expense and indemnify us against their loss and respective damage. We hold the rights contained in this insurance contract and/or those insurance policies should be written in our favour.

The client must immediately inform us of any mortgaging, insolvency proceedings, or other legal events that could influence our rights, and he must indemnify us in terms of demands for payment of damages or claims. Should a bailiff wish to mortgage the delivered goods, that bailiff must be informed of our ownership rights with a specification of our company name and our address.

In addition the client is obliged to maintain the delivered goods in proper conditions for the duration of the reservation of ownership.

In case of bankruptcy or in case of non payment in spite of a demand note and an extension of time, we hold the right to immediately collect the goods under title retention. The client withdraws from any objections in particular from intrusion entitlements.

### ***X. Withdrawal***

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A withdrawal from an already established purchase contract by the client is only permissible due to impartial significant grounds and authorises us to make a financial adjustment by way of a re-endorsement of at least 25% of the order volume, as well as to remunerate further loss.

### ***XI. Damages and product guarantee***

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It is specifically agreed that we do not need to pay the client any damages for injuries to persons, damage to goods that are not an object of the contract and for other damages, insofar as gross negligence or intent cannot be attributed to us in individual cases. The liability for lost profit is generally excluded. All claims for damages must be legally claimed – if we do not specifically acknowledge the defect in writing – within one year after the termination of the contractually established guarantee deadline; otherwise rights to claims become null and void on its merits.

## ***XII. General stipulations***

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The client can only transfer rights from the contract at hand to third parties with our specific authorisation in writing. Place of fulfilment for delivery and payment is solely Voitsberg, even if it is agreed that these activities should take place elsewhere.

With respect to all disputes that may directly or indirectly arise from this contractual relationship, depending upon actual authority, the District Court Voitsberg or the Regional Court for ZRS Graz are specifically agreed upon. Insofar as this is not agreed otherwise by written agreements, for all contracts and disputes solely Austrian law applies, with UN purchase law respectively other international rules of conflict of laws will be ruled out.

To be legal, changes in this contract must specifically be in writing, including a change effecting a change in this form requirement. Oral agreements are invalid. Should individual stipulations in these sales and delivery terms be or become invalid, this does not effect the validity of the other stipulations, and the contract otherwise remains legally valid. Any non-functional stipulations should be replaced by stipulations of a type that comes as close as possible to the legal intentions of the parties to the contract or be reduced to the legal permitted degree (reduction with conservation of repute).

## **XIII. SPECIAL RULES FOR INTERNET SHOPPING:**

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1. The provisions listed below apply exclusively to transactions entered into with consumers via the homepage of SEBRING.
2. As a consumer (1 § 1 para. 2 Consumer Protection Act) applies a client for whom the individual transaction is not acting in the name and on behalf of a his company.
3. Possible payments by the consumer, within the timely exercise of the right to withdrawal, will be repaid within 14 days after the right of withdrawal and receipt of the returned goods to the consumer. Repayment shall be made by a transfer to a bank account nominated by the consumer. When paying by credit card SEBRING has the opportunity to repay by the instigation of the chargeback on the credit card used by the consumer(s) for the transaction.
4. When canceling the order SEBRING is only obliged to repay if the goods re-transmitted by the consumer goods arrived back properly. The costs for returning the goods shall be paid by the consumer, except SEBRING is willing after acceptance in written in individual cases to pay such costs.
5. The consumer shall be liable for a reduction in the loss of the value of the goods, if this is not due to an examination of the nature, properties and / or functioning of the goods to the extent necessary.
6. The right to cancel within the meaning of § 18 FAGG which is excluded in particular for contracts for goods that were produced according to customer specifications or tailored to the personal needs of the consumer (§ 18 para. 1 3 FAGG) or goods which after their delivery due to their texture were (was) inextricably linked with their own goods (§ 18 para. 1 6 FAGG).

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