



# MANDULIS ART

## **General Business Terms and Conditions**

### **For orders from the company**

**Mandulis GmbH**

**Eichenweg 15**

**9520 Annenheim**

**Austria**

**Tel: +43 (0) 4248 20195**

**Email: office@mandulis.at**

Commercial register: FN 415362 b

Place of jurisdiction: Landesgericht Klagenfurt

Value added tax identification number: ATU68692408

Line of business: Design and sale of furniture

### **§ 1 Domain**

(1) These general terms and conditions of business apply to all business transactions between our company and the contracting partner. These terms and conditions of business are an integral part of every offer and every purchase agreement entered into with the contract partner. Unless expressly agreed otherwise, the stated general business terms and conditions apply.

(2) Our contractual partner agrees that in case of his usage of the GTC (general business terms and conditions), one is to assume our conditions when in doubt, even if the conditions of the contractual partner are not contradicted.

(3) Contractual performance actions on our part do not apply as an agreement to conditions that differ from our terms and conditions. If ambiguities remain in the interpretation of the contract, those are to be cleared in such a manner that such contents apply that are agreed upon which are typical in comparable cases.

### **§ 2 Offers and Prices**

(1) Our offers are non-binding. The contract is only concluded with our submission of an order confirmation. All agreements, subsequent changes, additions, special agreements, etc., obtain validity only in writing, therefore, with the original, authentic signature or the secure electronic signature. All prices, unless otherwise expressly agreed upon, include Austrian statutory value added tax.

(2) Any delivery charges are excluded from the price and are charged separately.

### **§ 3 Conditions of Payment**

(1) Unless otherwise agreed, payments on outstanding monetary claims are to be made within 14 days from the receipt of invoice.

(2) Upon payment of the purchase price via bank transfer, sufficient time must be allotted to enable the amount owed to be credited to our account via the bank transfer order.

(3) In the case of a default of payment from the contractual partner, we are entitled to a statutory default interest charge in the amount of 9% per annum; if the contracting party is a contractor according to § 1 Paragraph 2 KSchG, default interest will be charged as defined in § 352 UGB.

(4) In the case of the assistance from a collection agency, the contracting party is furthermore obliged to compensate for the costs that occur, insofar as they do not exceed the maximum rate of the collection agency's due allowances according to BMWA regulations.

(5) If the contracting party is a contractor according to § 1 Paragraph 2 KSchG, and the legal transaction belongs to the company's business, compensation against any of our claims whatsoever is excluded against counterclaims of any kind.

### **§ 4 Reservation of Proprietary Rights**

(1) The goods remain our property until full payment. Resale is only permitted if we have been notified well in advance with the name or company and the exact (business) address of the seller, and we agree to the sale. In the case of our consent, the claim of the purchase price already pertains to be transferred to us and we are entitled to notify at all times to the purchaser of this transfer.

### **§ 5 Delivery**

(1) As a matter of course, we endeavor to keep the delivery period as short as possible. We adhere to delivery dates and deadlines whenever possible. They are, if not expressly agreed otherwise, without obligation and remain the probable date(s) of delivery. If an agreed delivery exceeds more than 2 weeks, the contractor has to set a reasonable grace period for our company. The contracting party may only withdraw from the contract in writing after expiry of that period.

(2) If the contract partner is a consumer within the definition of the Austrian Consumer Protection Act (KSchG), he can resign from long-distance transactions contracts, in the context of § 11 FAGG, within 14 days, whereby Saturday does not count as a working day. The cancellation deadline begins on the date of receipt of goods by the contractor. The cancellation must contain no grounds and must be declared in writing. To meet the deadline, it is sufficient that the declaration of cancellation be sent within the designated time limit. In case of an effective cancellation, the mutually received benefits and, where applicable, any benefits are to be returned. If the contracting party is not able to return

to us the received output in whole or returns the output in part or in a deteriorated condition, the party is obliged to pay the appropriate compensation. The revocation must be sent to:

Mandulis GmbH  
Eichenweg 15  
9520 Annenheim  
Austria

Excluded from this right of cancellation are customized goods that have been manufactured due to the customers' specifications. The same applies also to special orders outside our standard range.

(3) In the case of force majeure, other unforeseeable, extraordinary, and no-fault circumstances (e.g., energy supply difficulties, strikes, etc.) the delivery time will be extended to a reasonable extent. The failure of delivery as a result of unforeseeable circumstances and force majeure shall not entitle the contractor to give our company a notice of default or rescind on the contract. Compensation claims of the contracting party due to a delivery delay, can only be claimed if there exists at least gross negligence on our company's part.

(4) Unless otherwise agreed, our contractual partner bears the costs of delivery and risk of transportation. Upon conclusion of the order, the contractual party may optionally conclude a transport guarantee for transport damage and transport losses. Covered is the actual damage incurred during shipping, to a maximum value of the goods at the time of ordering. Subsequent conclusion of the transport guarantee is not possible. In terms of return shipments, cost for the guarantee of transport will not be refunded. Repairs commissioned by the contracting party directly that have not been reported cannot retroactively be covered under the transport guarantee. Deliveries will be made only up to the curb and not to the home, up to the point where the shipping agent can drive his vehicle. The number of packages and packaging should be examined when first receiving the furniture. The customer is obliged to verify immediately upon receipt that the goods delivered/collected are correct, complete, and intact.

(5) If the other party does not accept the goods on the agreed date for delivery or if the goods cannot be delivered to the contractor by post, the contractor is in default of acceptance. Goods not accepted to the agreed upon date of delivery will be stored at the risk and expense of the contracting partner, for which a storage fee amounting to EUR 7 inclusive VAT will be incurred per calendar day that has started. If this default of acceptance lasts longer than 6 weeks, we are entitled to continue to insist on the fulfillment of the contract or after a 14-day grace period, to withdraw from the contract, and utilize the goods otherwise. Should there, nonetheless, be a performance of the contract, the customer must assume the additional cost of a further delivery.

In the case of withdrawal of the contract, we shall be entitled to resell the goods by private contract without further notification to the customer, whereby the contract partner, in this case, has to pay a contractual penalty for the increased expense and a possible deficiency in proceeds of 30% of the net purchase price plus value added tax. This contractual penalty is due upon declaration of withdrawal for payment; already made payments can be credited to the contractual penalty. Our right to claim further

damages remains unaffected. If the contractual partner is a consumer, these provisions apply only if the customer is in default of subjective acceptance.

## **§ 6 Warranty / Defects**

(1) In principle, the workpieces are ordered without assembly. The company Mandulis GmbH assumes no responsibility for incorrect assembly or for consequential damage to property and persons that may be caused by improper placement of workpieces.

(2) Wood is a natural product, which may display growth-related irregularities as well as colour differences. Any discrepancies are reserved concerning the structure or colour between the various parts of the pieces of furniture or between other furniture pieces from the same material, where this is in the nature of the materials used and which are customary. Wood can change its volume, which may lead to distortions, imperfect fits, and cracking. Oiled surfaces can look uneven.

(3) In the case of metal surfaces it is to be noted that there may be colour differences in the burnished or patinated surfaces. These are not defects but a natural feature of this manual treatment. Subsequent aging or changes in the patina are principally possible.

All these variations do not represent defects and therefore no warranty claims or other claims from these can be deduced.

(4) Outside the Product Liability Act (PHG), as amended, our liability is limited to gross negligence and malice. The liability for slight negligence, the compensation of consequential damages, economic loss, loss of profit, and for damages resulting from claims by third parties against the contractor is excluded.

5) If the contractual partner is an entrepreneur as defined by § 1 Paragraph 2 KSchG, and the legal transaction is part of operating his business, the following is agreed:

Apart from those cases where we are entitled by law to reserve the right of change, we reserve to answer the warranty claims pertaining to our choice of repair, replacement, or price reduction. The contracting party always has to prove that the defect was already present at the time of delivery. The goods must be examined immediately after delivery. Occurring deficiencies are to be contested by the contracting party immediately, specified, and in writing. In a case of complaint, all parts of the original packaging must be kept. These must be disposed of only after written approval of the transport company or the dealer.

Latent defects must be contested immediately after their discovery. If a notice of defects is not reported or not reported in time, the goods are considered approved. In such cases, the enforcement of rights of warranty or compensation claims due to a defect itself and the right to contestation on grounds of error due to defects are excluded. The warranty period for movable objects are two years from delivery.

## **§ 7 Place of Jurisdiction and Applicable Law**

(1) Both parties undertake to seek, in the first instance, direct contact in the event of a complaint or damage. For all disputes directly or indirectly arising from this contract the court legally responsible for the seat of our business is the Landesgericht Klagenfurt. However, we have the right to sue at the general place of jurisdiction of the contracting party.

(2) If the contracting party is a consumer within the meaning of the Consumer Protection Act (KSchG), this place of jurisdiction shall only be considered as agreed if the customer has his residence, habitual abode, or place of employment and place of activity in the district of this court or if he lives abroad. We are entitled to sue the customer at his general jurisdiction.

(3) Austrian substantive law shall apply. The applicability of the provisions of the UN Convention on Contracts for the International Sale of Goods are excluded. The contract language is German.

## **§ 8 Severability Clause**

If any provision or provisions of these general terms and conditions shall be held to be invalid because it violates cogent law, the validity of the remaining provisions stays unaffected. The contracting parties shall replace the invalid agreement with a valid one which comes closest to the intention of the invalid provision.

## **§ 9 Data Protection**

(1) In the course of our business, Mandulis GmbH operates an electronic data processing system. We collect, process, and use the personal data of customers only in accordance with and in compliance with the relevant data protection of the Republic of Austria.

(2) By placing the order, the customer / buyer is confirming acceptance of the electronic storage and processing of data collected for the purpose of the ordinary course of business.

***DISCLAIMER: This document constitutes an unofficial English translation of the General Business Terms and Conditions for Orders from the company Mandulis GmbH. While every attempt has been made to make the above translation as accurate as possible, the document is solely for clarification. Only the authentic, official German document of this document must be used for legal purposes.***