

General Terms & Conditions



Scope / Applicability

1. Prices given and offers made by Shape Obstacles e.U. are quoted ex works or warehouse plus freight and transfer costs.
2. Offers made by Shape Obstacles e.U. are subject to change without notice. Any oral agreements, promises, commitments or guarantees made by Shape Obstacles e.U. in connection with the contract shall not be binding upon us unless confirmed by us in writing.
3. All specifications Shape Obstacles e.U. provides such as dimensions, weights, illustrations images, descriptions, graphics and additional illustrations are approximate, to the best of our knowledge but in this respect non-binding. All models, designs, graphics and drawings remain the property of Shape Obstacles e.U..
4. For the purpose of these terms and conditions, the 'Buyer' shall also be the 'Orderer' in the case of specific-task contracts.

Prices

1. The general terms of delivery and payment apply to all current and future contracts entered into with customers and companies in respect of deliveries and other services including specific task-contracts, delivery, customer advice and service. The Buyer's purchasing conditions shall be deemed void notwithstanding the fact that we have not expressly refused to be bound by them upon receipt.
2. Shape Obstacles e.U. reserves its right to increase the agreed price in the event of any circumstances arising as a result of a change in the supply of raw materials or the general economic situation making production and/or acquisition of the products in question materially more expensive than was pre-established on the date on which the prices were determined.

Payment and Offsetting

1. In the absence of anything agreed to the contrary, the purchase price is due net immediately upon delivery.
2. The Buyer is obliged to pay the invoice amount into Shape Obstacles e.U. business account no later than the day on which payment is due.
3. If the Buyer fails to pay the invoice amount by the due date or is in default of payment, we shall charge interest at a rate of 8 percentage points above the base rate of the European Central Bank. This does not obstruct our right to take further actions on account of the Buyer's default.
4. The Buyer may only hold back or offset payment if his counterclaims are legitimate and have been upheld in a court of law.

Delivery dates and Periods

1. Shape Obstacles e.U. shall only be bound by its agreement to deliver provided that our own suppliers provide us with the required materials correctly and on time, except in instances in which a false or delayed distribution on the part of our suppliers is due to reasons for which we are accountable.
2. Delivery periods shall commence on the date on which Shape Obstacles e.U. confirms the order and shall only apply once the Buyer has fulfilled all his duties.
3. In circumstances and events beyond control, Shape Obstacles e.U. may delay shipment for the duration of such events plus will allow itself a reasonable startup time. Circumstances and events beyond our control shall also be deemed to include any disruptions to our production operations and obstructions due to transportation restrictions and impediments.

Retention of Title

1. The goods shall remain our property until all our claims against the Buyer under the contract have been satisfied.
2. Any treatment or processing of goods subject to retention of title shall take place with ourselves as manufacturers within the meaning of § 414ff ABGB, without any obligation on our part. Treated and processed goods shall be deemed goods subject to retention of title. If the Purchaser carries out any treatment, joining or mixing of the goods subject to retention of title with goods from another source to make a new item or mixed item respectively, Shape Obstacles e.U. is entitled to co-ownership in proportion to the invoice value of the goods subject to retention of title at the time of delivery as against the value of the other processed or mixed goods. If Shape Obstacles e.U. right of property expires due to joining or mixing, the Buyer shall already now grant Shape Obstacles e.U. his proprietary rights in the new asset or item in the amount of the invoice value of the goods subject to retention of title and keep them for Shape Obstacles e.U. free of charge. Shape Obstacles e.U. co-ownership in these goods shall be deemed as goods subject to retention of title in the sense of number 5.1.
3. In the event of an attachment or other intervention by a third party, the customer has the duty to inform Shape Obstacles e.U. immediately. The Buyer shall bear any costs necessary to suspend such attachment or intervention of goods subject to retention of title, if and in so far as such costs are not borne by a third party.
4. If the Buyer falls into arrears in payment or fails to honor a bill upon maturity, Shape Obstacles e.U. shall be entitled to take the goods subject to retention of title back, if applicable to have access to Buyer's premises and to remove the goods. The same shall apply should, after the conclusion of the contract, it becomes evident that payment resulting from this contract or from other contracts is jeopardized by the Buyer's lack of ability to pay. If Shape Obstacles e.U. takes back the goods subject to retention of title, this shall not be regarded as a withdrawal from the contract. The regulations of the Insolvency Code shall remain unaffected.

Dispatch, Transfer of Risk

1. Shape Obstacles e.U. shall determine the method and route of dispatch as well as the forwarder and carrier. However, the Buyer is entitled to express his desired way of delivery which is sought to be taken into consideration.
2. If, for reasons for which Shape Obstacles e.U. is not responsible, transportation of the goods on the planned route or to the planned destination in the planned period of time is rendered impossible or is materially impaired, Shape Obstacles e.U. may deliver the goods via a different route or to a different destination, it being understood that the Buyer shall bear any additional costs in this connection. The Buyer shall be given a prior opportunity to make any comments.

Warranty

1. Any defects in the goods shall be notified in writing immediately, however no less than seven days after receipt. Defects which cannot be detected within this period notwithstanding extremely careful examination shall be notified in writing promptly once being discovered, however no later than before the commencement of the contractual or statutory time bar – with all processing to be ceased forthwith. In the case of a minor fault or irregularity, the Buyer may only be entitled to a reduction of the purchase amount.
2. In the event that a prior inspection of the goods has been agreed upon, the Buyer shall not have any right of recourse with respect to any defects exhibited by the goods which could have been detected during such inspection.
3. If a complaint is justified and is made within the requisite period, Shape Obstacles e.U. may at its discretion either repair or replace the defective goods. All claims under this warranty are excluded, if the Buyer does not immediately give us an opportunity to verify the defect and, in particular, fails to furnish the defective goods or samples immediately upon our request.
4. Shape Obstacles e.U. shall bear the costs of subsequent performance only up to a reasonable amount in individual cases particularly in the light of the purchase price of the goods. We will not bear any further expenses such as for the mantling and dismantling of defective goods. We shall not assume any costs arising as a result of the fact that the goods sold have been transported to a location other than the Buyer's domicile except in cases in which this is normal practice.

Assembly and Maintenance of Goods

1. Shape Obstacles e.U. delivers the goods in an unassembled state for transportation reasons. Therefore the Buyer have to assemble it just as described in the provided assembly instruction otherwise Shape Obstacles e.U. cannot guarantee for safety use of the goods.
2. The anchorage of the goods has to be done by the Buyer due to the fact that the circumstances may require different anchor techniques from case to case Shape Obstacles e.U. can't be aware of.
3. The Buyer is responsible for checking and maintaining the goods each time before using it. This includes inspection of all screws and to be sure no part of the goods has misaligned.
4. Some goods have a driving direction. The Buyer has to ensure that these goods are used only in the desired driving direction otherwise severe injuries can occur.

General Restrictions of Liability

1. Shape Obstacles e.U. shall only be liable for the breach of contractual and noncontractual obligations, particularly impossibility, default, precontractual fault and tort, including on the part of our servants, in the event of willful misconduct and gross negligence, it being understood that such liability shall be confined to the typical loss or damage which could have reasonably been foreseen on the date on which the contract was entered into.
2. In the absence of any agreement to the contrary, contractual claims held by the Buyer against Shape Obstacles e.U. as a result of or in connection with the delivery of the goods shall be time-barred one year after delivery of the goods. This shall have no effect on our liability for willful misconduct and gross negligence or the expiry of statutory rights of recourse. The period of limitation shall not restart in the case of subsequent performance.

Legal Venue

1. The legal venue is the competent regional court Linz (Fadingerstraße 2, 4020 Linz, Austria). All legal relations between the Buyer and Shape Obstacles e.U. shall be subject to the laws of the Republic of Austria.

Written form

1. Changes or amendments to these conditions or other contractual agreements between the parties must be made in written form. The same applies to agreements designed to reduce or eliminate this requirement of form.

Severability Clause

1. If individual regulations of these general trading conditions should become ineffective, then the validity of the remaining regulations is not thereby affected. The invalid provision shall be replaced by a provision that comes closest to the invalid provision. The preceding regulations apply accordingly, if the delivery and payment terms stated here prove incomplete.