

**General terms and conditions effective from 1<sup>st</sup> January 2019**

**I. General**

- All supplies and services take place exclusively on the basis of the following terms of business, which are expressly recognised by the purchaser/customer. Other general terms of business of the purchaser/customer are also invalid even when the purchaser/customer draws attention to the validity of its general terms of business and only wishes to conclude contracts with the seller/contractor according to its conditions.
- In view of fluctuating raw material prices, the fact that immediate availability is not always given and the necessary production planning of all orders, the quotations of the seller/contractor are only valid for a term of three weeks from the date of submission of the quotation, after which they are subject to confirmation. Should an order be placed after the expiry of the three-week period from the date of quotation submission, then the purchaser/customer will be informed immediately of any alteration to the terms. Should the purchaser/customer not subsequently raise objections within a period of one week, it is assumed that the purchaser/customer agrees to the contract subject to the altered conditions as notified.
- Due to the special nature of production, quantity deviations customary to the trade of +/- 10 % are permitted.

**II. Privacy Statement**

- We regard the protection of your personal data as an important matter. Your data will be protected within the framework of the statutory regulations. More detailed information regarding our privacy statement as well as your rights can be found at [www.sibu.at/en/privacy-statement](http://www.sibu.at/en/privacy-statement)

**III. Delivery**

- Only those delivery dates given in writing by the seller/contractor are valid. These are effected to the best of personal knowledge.
- Where delivery dates given in writing cannot be upheld due to force majeure, breakdowns in operations or transport, disruptions to dispatch, official orders, strikes or a lack of self-deliveries, the seller/contractor is released from the delivery obligation for the duration of the impediment. In such cases, the purchaser/customer shall not withdraw from the contract or demand damages.
- Partial deliveries are permissible. The seller/contractor is entitled to provide separate invoices for the partial deliveries; the amounts of the invoices are to be settled in accordance with the terms of payment.
- Deliveries shall be performed on an ex works basis. Delivery costs and the risk during transportation shall be borne by the buyer, unless otherwise agreed. For exports, the "Incoterms" agreed in each case shall apply, which can be seen on the confirmation as well.

**IV. Damages in transit**

- For all shipments leaving the SIBU factory, the goods shall be photographed before and after loading onto the lorries to ensure they are loaded undamaged.
- Upon receipt of incoming goods, the buyer must check the packaged goods for damages without delay. Should any damage to the packaging be noticed, it must be noted on the forwarder's acceptance slip by all means. Even minor damages to the packaging material must be reported.
- The buyer is requested to photograph the damage to the delivery / goods both in packaged and unpackaged condition, to be able to present such documentation to the respective insurance company.

**V. Prices**

- Unless otherwise agreed in writing, all prices are ex-works plus the legally required Value Added Tax. Packaging costs will be invoiced separately.

**VI. Payment**

- Terms and conditions of payment are subject to special agreements.
- Sub-contracted orders are to be paid immediately following receipt of the invoice net and without discount.
- Should the financial circumstances of the purchaser/customer deteriorate sharply following the conclusion of the contract, or should such a deterioration become known after the conclusion of the contract, then the seller/contractor may choose from the right to demand payment in advance, or the provision of security, or to withdraw from the contract. In such cases, the seller/contractor is also entitled to withdraw from the contract to the extent still outstanding.

**VII. Delay in payment**

- Following the expiry of the term of payment (due date), as well as in the case of a delay in payment, the purchaser/customer shall pay interest after due date or default interest to an amount of 4% above the respective current interest rate of the Austrian National Bank. The right to claim higher interest subject to proof is retained.
- Prior to the complete payment of outstanding, invoiced amounts including interest, the seller/contractor is not obliged to make any further deliveries relating to any current order.
- Should the purchaser/customer be in arrears with a payment, payments received will be offset initially against costs, then interest and finally against the main account receivable.

**VIII. Reservation of ownership**

- Until all claims derived from the overall business relationship, including all accessory claims (bill financing costs, interest, etc.) have been paid in full, the goods sold remain the property of the seller/contractor. The purchaser/customer is empowered to use the goods in the course of proper business and is obliged to only complete sales subject to the reservation of ownership. The reservation of ownership also continues even when individual claims of the seller/contractor are included in a current account and the balance is struck and recognised.
- The reservation of ownership also extends to the products resulting from the processing, mixing or reworking of the goods delivered. The seller/contractor acquires a right to co-ownership of the product in ratio to the value of the goods delivered to the value of the new goods.
- The purchaser/customer assigns with immediate effect claims against third parties from the further sale of the goods subject to the reservation of ownership to the seller/contractor, including those relating to a current account balance claim. This also applies when the purchaser/customer agrees a factoring transaction with a third party. The purchaser/customer is obliged to waive the assertion of assigned claims, if the total sum of the factoring transaction exceeds that of the assigned claim. As long as the purchaser/customer meets the contractual obligations to the seller/contractor and does not go into payment arrears, the purchaser/customer is justified in calling in the claims from the customer. Where the purchaser/customer assigns claims to third parties in the course of factoring, an obligation exists to inform the seller/contractor. Furthermore, at the request of the seller/contractor, the purchaser/customer is also obliged to provide information to those customers to whom goods, whether processed or unprocessed, from the seller/contractor have been delivered. The seller/contractor is entitled to inform the customers of the purchaser/customer of the reservation of ownership and the assigning of claims. Should the goods have been processed, mixed or blended and here the seller/contractor has obtained coownership to the amount of the invoice value, an entitlement exists to the purchase price claim pro rata to the value of the rights to the goods.

- The powers of the purchaser to sell, process or install, the goods subject to the reservation of ownership in the course of proper business transactions, and to call in from customers claims of the purchaser/customer relating to the goods subject to the reservation of ownership, are terminated upon retraction by the seller following a sustained deterioration in the financial circumstances of the purchaser/customer, however, at the latest with the cessation of payments, or with an application for insolvency proceedings.
- Goods delivered by the seller/contractor and the products produced therefrom shall not be pledged or assigned to third parties as security, where payment to the seller has not been made in full. Claims relating to further sale shall not be pledged or assigned.
- Where creditors of the purchaser/customer take in execution goods delivered by the seller/contractor or products produced therefrom and the seller/contractor possesses a reservation of ownership pursuant to Clause 1, or co-ownership pursuant to Clause 2, the purchaser/customer is obliged to inform the seller/contractor forthwith. This obligation to provide information also exists when the creditors of the purchaser/customer attach claims, which have been assigned to the seller/contractor in accordance with Clause 3.
- The purchaser holds the goods subject to the reservation of ownership in safe keeping for the seller free of charge. They must be protected against standard dangers, e.g. fire, theft and water to the usual extent. Herewith the purchaser assigns claims to compensation upon insurance companies, or other obligations for replacement, resulting from damage of the aforementioned type to the seller to the invoiced value of the goods. The seller accepts this assignment.
- All claims, as well as rights derived from the reservation of ownership to all the special forms established in these conditions, remain valid until the full release from the contingent liabilities, which have been entered into by the seller in the interest of the purchaser.

**IX. Right of retention, offsetting**

- With the exception of warranty claims, a right of retention of the purchaser/customer can only be asserted when such a right of retention is uncontested or legally binding.
- The same applies to offsetting by the purchaser/customer.

**X. Warranty**

- SIBU DESIGN products are subject to the mandatory, two-year guarantee. This ensures that the article sold was defect-free at the time of handover. The guarantee also covers a repair, or a replacement delivery of identical value by SIBU Design. No guarantee claims can be asserted when the defect arises after the handover, as a result of, e.g.
  - Incorrect goods storage or processing
  - Incorrect use of the goods (e.g. outdoors)
  - Subsequent damage to the goods (through the use of chemical agents or mechanical harm)
 Slight product deviations, which have no influence upon usability, do not represent a basis for a claim (e.g. minimal, production-related colour and dimensional variations).
- Irrespective of whether the goods have been delivered directly to the purchaser/customer, or to a recipient named by the same, the purchaser/customer is obliged to examine the goods immediately upon receipt as to their completeness and freedom from defects and to take samples; otherwise all warranty is null and void. This also applies to defects arising during the course of processing.
- If during the examination or sampling made at the proper time, a defect is identified that cannot be traced back to faulty processing by the purchaser/customer, then the purchaser/customer is obliged to immediately cease sampling, where this has already commenced, and to inform the seller/contractor forthwith in writing.
- Should the material supplied by the seller/contractor be defective, following notification of the seller/contractor at the proper time, the purchaser/customer is obliged to store the defective material under orderly conditions ready for collection by the seller. Should the purchaser/customer have transferred the goods delivered by the seller/contractor to another location, any resulting expenses relating to their return are to be borne by the purchaser/customer. Following the return, the seller is obliged to choose between the remedy of the defect, or the supply of replacement goods. Should a remedy or a replacement delivery with a period of one month from the return of the defective goods not be possible, or be economically unreasonable, then the purchaser/customer is entitled to choose between a rescission of sale or a price reduction. In particular, a remedy of the defect or replacement delivery are seen as economically unreasonable when the cost of the remedy exceeds the invoiced value of the defective goods. Should the purchaser choose rescission, then a claim to repayment only exists upon those parts that are actually defect and that were returned to the seller/contractor.

**XI. Corporate Identity – use of SIBU logo/photos/documentation**

In order to abide by regulatory and statutory principles, as well as to ensure the actuality of both the logo and photographic material, the SIBU team must be informed of every use of the supplied pictures of the logo, applications, sheets or details.

Please send links/documents for examination to: [info@sibu.at](mailto:info@sibu.at)

It is strictly forbidden to publish an independent website bearing the name SIBU. However, linkage to the official homepage: [www.sibu.at](http://www.sibu.at) is possible.

**XII. Copyright notice**

Should photos be published in connection with editorial articles, the correct picture source must be quoted. This can be found in the file name. Should the picture source reference be incorrect or missing, this would constitute a breach of copyright and SIBU Design accepts no liability for possible legal consequence.

**XIII. Exclusivity**

SIBU Design does not allocate any exclusive sales rights. Therefore, presentation as an exclusive partner is not permitted. If, in the course of regular checks, a violation of this rule is identified, legal action will be initiated.

**XIV. Other clauses**

- The place of performance for the delivery is the place of dispatch, or, pursuant to Clause III/4, the established place of destination, for the payment, the address of the supplier company.
- The venue for all legal disputes arising from business relations is Steyr; it is taken as agreed that Austrian law shall govern.
- Divergent and supplementary agreements are only valid when made in writing
- This publication renders all other invalid.