

GENERAL TERMS AND CONDITIONS OF SALE, DELIVERY AND PAYMENT

1. General:

Unless expressly agreed otherwise, the following General Terms and Conditions of Sale, Delivery and Payment shall govern all offers, sales and deliveries of the The Cool Tool GmbH („The Cool Tool“). The Cool Tool is not bound by contradictory terms and conditions, in particular not by those of the buyer.

2. Orders, Prices:

Orders of the buyer shall only become binding on The Cool Tool once they have either been confirmed in writing or once delivery has been made. Unless expressly agreed otherwise, the sales prices of The Cool Tool applicable on the date of delivery shall be charged.

3. Delivery times:

The Cool Tool will endeavour to comply with delivery times stated. If the delivery times are delayed by circumstances not caused by fault of The Cool Tool, in particular by late delivery of The Cool Tool's supplier, by force majeure, by stoppage or delay of traffic or similar circumstances, then the term for delivery shall in any case be extended by the term of delay. The buyer may not cancel the contract due to a delay in delivery unless he has granted a reasonable grace period of at least four weeks in the case of domestic deliveries and a grace period of at least six weeks in the case of deliveries outside of Austria. The grace period begins with receipt of the notice by The Cool Tool. To the fullest extent permitted by law, damage claims arising from delayed delivery are excluded. The Cool Tool expressly reserves the right to make partial deliveries.

4. Transportation:

The transportation of the goods to the buyer is undertaken on account and at the risk of the buyer, also in case of partial delivery. The buyer agrees that The Cool Tool may select a forwarding agent or any other transportation enterprise for the transportation, such shall be considered neither the agent nor the representative of The Cool Tool. The buyer shall pay the transportation costs in advance.

5. Payment Conditions:

Unless expressly agreed otherwise, all invoices are payable immediately without deduction, at the latest however after receipt of the goods. In case of delay, The Cool Tool shall charge interest at a rate of 5% above the respective discount rate of the Austrian National Bank.

6. Warranty/Guarantee:

Any notice of defect must be submitted by the buyer in writing within 8 days after receipt of the delivery, with an exact description of the claimed deficiency. Any deficiencies or damages caused by transportation must be evidenced by a protocol of the postal or train system, otherwise by confirmation of the forwarding agent or other transportation company.

The legal warrantee guidelines apply. In case of transactions not governed by the consumer law the warranty period is shortened to 6 month. Warranty claims are disqualified at all events if the object of transaction has been modified or treated inappropriately, the supplier's manual or instructions have not been followed, resp. in case of modifications of the object by third parties those have not been approved by The Cool Tool.

Warranty- and guarantee claims may only be raised against The Cool Tool by the buyer. Any warranty/guarantee exceeding the above provisions is expressly excluded.

7. Liability:

The liability of The Cool Tool is limited to the repair/replacement of the purchased objects set forth in section 6. All further liability, in particular for damages which did not occur to the purchased object itself, including any liability for indirect or direct damages of whatever kind, is excluded to the fullest extent permitted by law. The Cool Tool's liability for damages is limited to deliberate intent and gross negligence.

8. Retention of Ownership:

The Cool Tool retains ownership in the purchased objects until complete payment of the purchase price and all ancillary costs. Customers may set off due and undisputed or legally established claims only.

9. Partial Invalidity:

If any provision of these General Terms and Conditions of Sale, Delivery and Payment should be or become invalid or unenforceable, then the validity of the other provisions shall not be affected thereby.

10. Distance selling clause:

Whenever The Cool Tool is employing a distribution or service system organized for distance selling, consumers can withdraw from a contract concluded or statement given via such systems and according to the regulations of the Austrian consumer law; within a period of 14 workdays, whereby Saturday does not count as workday. The period starts at the day of the arrival of goods at the consumer's place in case of contracts for goods; in case of contracts for services at the day of the contraction. Expenses caused by sending back goods are to be born by the consumer. Goods customized for, or designed according to specifications of the consumer, or those are not suitable for being sent back due to their character or kind are not subject to right of withdrawal. The regulations of § 5f KSchG (Austrian consumer law) are not limited anyhow by this clause.

11. Place of Fulfilment and Forum; Applicable Law:

The contract shall be fulfilled in Moedling. The competent court in Moedling or - at the option of The Cool Tool - the competent court at the seat of the buyer shall be exclusively competent for all disputes arising out of contracts which are based on these General Terms and Conditions of Sale, Delivery and Payment. All disputes arising out of such contracts shall be governed by Austrian substantive law, the applicability of the United Nations Convention of April 11, 1980 on Contracts for the International Sale of Goods („Vienna Sales Convention“) shall be excluded.

12. Modifications of the contract or the General Terms and Conditions require written form; as well as a possible waiving of this requirement.