

## **Terms and Conditions (AGB) & Withdrawal Policy**

### **Obstland-Kellerei Allacher GmbH**

These Terms and Conditions are provided in German, English, and Slovak. In case of discrepancies, the German version shall prevail.

## **1. SCOPE OF APPLICATION**

### **For consumers (B2C):**

- For all contracts between Obstland-Kellerei Allacher GmbH and consumers, only these Terms and Conditions in the version valid at the time of the order shall apply. Any conflicting or deviating terms of the customer shall not become part of the contract unless we expressly agree to their validity.

### **For business customers & associations (B2B):**

- For all current and future contracts with business customers and associations, only these Terms and Conditions shall apply. Any conflicting or supplementary terms of the business customer shall not become part of the contract unless we expressly agree in writing to their validity.
- Oral side agreements or statements by our employees shall only be binding if expressly confirmed by us in writing.
- Legally relevant declarations by the business customer after conclusion of the contract, in particular notices of defects, deadlines, and other notifications with legal effect, must be made in text form to be effective, for example by e-mail or letter.

## **2. CONCLUSION OF CONTRACT**

### **For private customers (B2C):**

- The product presentation in the online shop does not constitute a binding offer, but rather an invitation to place an order without obligation. By clicking the button “Order with obligation to pay,” the customer submits a binding offer. The automatic order confirmation does not yet constitute acceptance of the purchase contract.
- A purchase contract is concluded only when we accept the order within three working days, either by a separate order confirmation or invoice by e-mail, or by shipping the goods, confirmed by a shipping e-mail.
- For instant payment methods such as PayPal or credit card, the charge is processed during the ordering process; however, this does not yet constitute acceptance of the order.

- If the goods are unavailable, we may reject the order. In this case, we will inform the customer without undue delay and refund any payments already made promptly.

**For business customers & associations (B2B):**

- Offers in the online shop are non-binding. The customer's order constitutes a binding offer. The automatic order confirmation does not constitute acceptance. The contract is concluded only through our order confirmation by e-mail or by delivery of the goods.
- Orders by e-mail or telephone are deemed non-binding inquiries. A contract is concluded only when we expressly confirm the order or deliver the goods. In the case of advance payment, the contract is concluded upon receipt of payment and our acceptance.

**3. CONTRACT LANGUAGE AND STORAGE**

- The contractual, ordering, and business language shall be German.
- We store the contract text as part of the ordering process. Registered customers can view their past orders in their personal customer account. For guest orders, subsequent online access is not possible.
- The currently valid Terms and Conditions are attached to the order confirmation by e-mail as a PDF file and may be saved or printed.

**4. PRICES AND SHIPPING COSTS**

**For consumers (B2C):**

- The prices stated in the online shop are final prices in euros (€) and include statutory VAT. Shipping costs are not included in the product price. They are calculated during the ordering process and shown separately.
- In the event of obvious pricing errors, in particular typing, printing, or calculation errors in the online shop, we may reject the order. Any payments already made will be refunded without undue delay.

**For business customers & associations (B2B):**

- All prices are net prices in euros (€) exclusive of statutory VAT. Unless otherwise agreed in writing, prices are ex works (EXW according to Incoterms 2020). Transport, packaging, and shipping costs as well as any customs duties and other official charges shall be charged separately.
- In the event of obvious errors in our offers, price lists, or online shop, we are entitled to reject the order or, if the contract has already been concluded, withdraw from the contract.

## 5. PAYMENT TERMS

### For consumers (B2C):

- The purchase price including shipping costs is due upon conclusion of the contract unless otherwise provided by the chosen payment method.
- The following payment methods are available in the online shop:
  - **PayPal / credit card:** The charge is processed directly during the ordering process.
  - **Advance payment / bank transfer:** Shipping takes place only after full receipt of payment. If payment is not received by us within 14 days after the order has been placed, we are entitled to reject the order; the offer then expires.

### For business customers & associations (B2B):

- Purchase on account is not offered. Unless otherwise agreed in writing, delivery takes place only after full payment has been received. There is no entitlement to reservation of goods before full payment is received.
- The following payment methods are available:
  - **PayPal / credit card / advance payment:** Payment and shipping are handled in the same manner as for B2C.
  - **Self-collection:** Payment is made in advance by online payment or advance transfer, or in cash upon handover on site in Gols, subject to the statutory cash payment limits.

## 6. SALES AND DELIVERY TERMS

### For consumers (B2C):

- The minimum order quantity for bottles is 12 units. Larger quantities must, for logistical and transport safety reasons, be in multiples of 12 bottles, such as 12, 24, 36, or 48 units. A combination of bottles and canisters is not possible in the online shop.
- Delivery is made by parcel service or freight carrier within Austria and Germany only. Shipping costs for bottles are a flat rate of EUR 15 including VAT per full box of 12 bottles. Partial deliveries are permitted at no additional cost to the customer.
- Delivery times are binding only if expressly agreed in writing. The risk passes only upon handover of the goods to the customer or a third party designated by the customer.

#### **For business customers & associations (B2B):**

- For wholesale prices for canisters, a minimum order quantity of 20 canisters, corresponding to 200 litres, applies; smaller quantities must be ordered as a double pack. A combination of bottles and canisters is possible, but discounts or conditions for canisters are not applied to bottles.
- **Self-collection and shipping:** The business customer may choose to either collect the goods in person from us in Gols, Winzergasse 10–16, 7122 Gols, or have them shipped within Austria, to Germany, or to Slovakia; the desired option must be selected during the ordering process.
- **Place of performance and passing of risk:** Unless otherwise agreed, EXW Gols (Incoterms 2020) applies. The risk passes to the business customer as soon as the goods are handed over to the carrier, leave our warehouse, or are collected by the business customer or a third party authorized by them.
- Delivery times are binding only if expressly agreed in writing as a fixed date. Claims for damages due to delayed delivery are excluded to the extent permitted by law; in cases of intent or gross negligence, liability remains unaffected. Partial deliveries are permitted.
- **Freight costs – bottles:** For bottles, EUR 15 plus VAT per full box of 12 bottles applies for shipments within Austria, to Germany, and to Slovakia.
- **Freight costs – canisters:** For canister goods, freight costs are calculated in the shopping cart based on quantity and postal code on a current daily basis. For deliveries within Austria, shipping is free of charge from an order quantity of **30 canisters**.
- The business customer is solely responsible for customs duties, alcohol tax, and any other taxes or charges in the destination country.

## **7. RETENTION OF TITLE**

#### **For consumers (B2C):**

- The delivered goods remain our property until the purchase price and all shipping costs have been paid in full. Before title passes, pledging, transfer by way of security, or any other disposal of the goods is not permitted without our express written consent.

#### **For business customers & associations (B2B):**

- The goods remain our property until all claims arising from the ongoing business relationship have been paid in full (reserved goods). The business customer is entitled to resell or dispense the goods in the ordinary course of business. Pledging or transfer by way of security is not permitted.
- The business customer hereby assigns to us, by way of security, any claims arising from the resale or dispensing of the reserved goods in the amount of the

outstanding invoice amount; we accept this assignment. The business customer remains entitled to collect the claims until revoked.

- In the event of third-party access to the reserved goods, in particular through seizure or execution, the business customer must immediately refer to our ownership and inform us in writing.

## **8. TRANSPORT DAMAGE AND NOTICE OF DEFECTS**

### **For consumers (B2C):**

- The customer is requested to inspect the delivered goods immediately upon receipt for completeness and visible transport damage. Obvious damage should, if possible, be reported to the carrier immediately and communicated to us. Failure to do so has no consequences for the consumer's statutory warranty rights, but facilitates our assertion of claims against the transport company.

### **For business customers & associations (B2B):**

- The business customer is obliged to inspect the goods immediately upon delivery. Obvious defects, shortages, or transport damage must be reported to us in writing, for example by e-mail including meaningful photos, no later than 3 working days after delivery. Transport damage should additionally, where possible, be noted immediately upon acceptance on the carrier's freight documents and confirmed by the driver.
- Hidden defects that become apparent later must be reported in the same written form no later than 3 working days after discovery.
- If a complaint is not made or not made in time, the goods shall, to the extent permitted by law, be deemed approved. Rights arising from defects shall in this case exist only to the extent mandatory law provides otherwise.

## **9. UNDELIVERABLE SHIPMENTS AND RETURN COSTS**

### **For consumers (B2C):**

- If a shipment cannot be delivered directly and is held by the delivery service for pickup, the customer must collect the shipment within the period specified by the delivery service.
- If the shipment is not collected and is returned to us, we will process the matter after receipt of the goods. To the extent permitted by law, we are entitled to deduct from the refund the actual necessary costs incurred by us for the return transport, in particular any return and storage fees charged by the delivery service.
- This does not apply if the customer is not responsible for failing to collect the shipment, for example in the event of incorrect delivery by the parcel service, or if

the customer validly exercises the statutory right of withdrawal in due time. In withdrawal cases, only the provisions of our separate withdrawal policy shall apply.

## **10. DEFAULT OF ACCEPTANCE AND LEGAL CONSEQUENCES**

### **For business customers & associations (B2B):**

- If the business customer is in default of acceptance, the business customer shall reimburse us for the actual necessary costs incurred as a result, in particular for transport, return transport, and storage. The risk of accidental loss or accidental deterioration of the goods passes to the business customer upon commencement of default of acceptance.
- We are entitled to set the business customer an appropriate grace period for acceptance of the goods. If this grace period expires without result, we are entitled to withdraw from the contract and dispose of the goods otherwise.
- To the extent permitted by law, in the event of default of acceptance we may, instead of individually proving the costs and damage incurred, demand a lump sum of 15% of the net value of the goods. The business customer retains the right to prove that no damage or substantially less damage has occurred.

## **11. WARRANTY AND LIABILITY**

### **For consumers (B2C):**

- The statutory warranty provisions apply. The warranty period is 2 years from handover of the goods. Damage or changes in taste arising after handover due to improper storage, such as heat, frost, or opening of containers, or due to the natural expiry of shelf life, do not constitute warranty claims.
- We are liable for damages in accordance with statutory provisions. Liability for slight negligence is excluded to the extent permitted by law; this does not apply to personal injury, breach of essential contractual obligations, the performance of which is essential to the proper execution of the contract and on which the customer may regularly rely, or other claims that cannot be excluded by mandatory law.

### **For business customers & associations (B2B):**

- The warranty period is 6 months from handover. To the extent permitted by law, the business customer must prove that a defect existed at the time of handover.
- Warranty and damages claims do not exist for damage or changes in taste caused by improper storage, such as lack of protection against frost, heat, or sun, or after opening the seal or the container. The right to choose the type of remedial action lies, to the extent permitted by law, with us.

- We are liable only for intent and gross negligence. Liability for slight negligence, loss of profit, consequential damage, and pure pecuniary loss is excluded to the extent permitted by law.
- To the extent permitted by law, our liability for gross negligence in the core area of our duties is limited to the typically foreseeable damage, but in no event to more than the net value of the goods affected by the delivery.

## **12. RETURNS POLICY**

### **For consumers (B2C):**

- Sale on commission is excluded. Consumers are entitled to the statutory right of withdrawal in our online shop, as set out in our separate withdrawal policy. Returns or other return shipments beyond that are accepted only with our prior express consent.

### **For business customers & associations (B2B):**

- Sale on commission is excluded; the purchase price is due regardless of resale. There is no general right of return.
- The return of surplus canisters is only possible with our prior written consent. The canisters must be unopened, originally sealed, clean, and fully suitable for resale.
- All return transport costs shall be borne by the business customer. For restocking and quality control, we may charge a handling fee of 20% of the net value of the returned goods; it will be deducted from any credit note, unless the business customer proves that no or substantially less effort was incurred.
- If a return causes an originally granted quantity discount to fall below the threshold, the quantity discount for the affected order may be adjusted accordingly.

## **13. YOUTH PROTECTION AND AGE VERIFICATION**

### **For consumers (B2C):**

- Alcoholic beverages are delivered and shipped only to persons who have reached the age of 18.
- By submitting the order, the customer confirms that both the customer and the recipient of the goods are at least 18 years old.
- We are entitled to request suitable proof of age before shipment. If this is not provided within a reasonable period, we are entitled to withdraw from the contract or cancel the order; any payments already made will be refunded in this case.

**For business customers & associations (B2B):**

- The customer confirms that they are authorized to represent the company or association and are fully legally competent.
- The business customer or association bears sole responsibility from the handover of the goods for compliance with youth protection regulations in resale or serving. Any liability on our part for breaches by the business customer or association of youth protection regulations in further distribution or in handing goods over to third parties is excluded to the extent permitted by law.

**14. APPLICABLE LAW AND JURISDICTION****For consumers (B2C):**

- Austrian law shall apply excluding the UN Convention on Contracts for the International Sale of Goods. For consumers with habitual residence in the EU, the mandatory consumer protection rights of the state of their residence remain unaffected.
- The statutory rules on jurisdiction apply to disputes with consumers in accordance with mandatory consumer protection provisions.

**For business customers & associations (B2B):**

- Austrian law shall apply exclusively, excluding the UN Convention on Contracts for the International Sale of Goods. Place of performance is 7122 Gols.
- The court with subject-matter jurisdiction in Neusiedl am See shall have exclusive jurisdiction for all disputes, to the extent legally permissible. However, we are entitled to sue the customer at their general place of jurisdiction as well.

**15. DISPUTE RESOLUTION (ONLY FOR PRIVATE CUSTOMERS)**

- We are neither obliged nor willing to participate in dispute resolution proceedings before a consumer arbitration board.

**16. AMENDMENT OF THE TERMS AND CONDITIONS****For consumers (B2C):**

- We are entitled to amend or adapt these Terms and Conditions for future legal transactions at any time. Such amendments do not apply to orders already placed or confirmed by us. With each new order in the online shop, the customer acknowledges the version of the Terms and Conditions that is valid and published at that time.

**For business customers & associations (B2B):**

- Changes to these Terms and Conditions will be communicated to the business customer or association by e-mail or by a clear notice on our website. Changes shall be deemed approved for ongoing contractual relationships if the B2B customer does not object in text form within 4 weeks of notification, provided that we have expressly pointed out this consequence and the deadline in the notice of amendment. For future orders, the version of the Terms and Conditions valid and published at the time of conclusion of the contract shall apply regardless.

## **WITHDRAWAL POLICY**

The following right of withdrawal applies only to consumers, i.e. natural persons who enter into a legal transaction for purposes that are predominantly neither commercial nor self-employed professional activities. No voluntary right of withdrawal is granted to business customers, tradespeople, associations, or public authorities.

### **Right of withdrawal**

You have the right to withdraw from this contract within fourteen days without giving any reason.

The withdrawal period is fourteen days from the day on which you or a third party named by you, who is not the carrier, took possession of the goods.

To exercise your right of withdrawal, you must inform us

**Obstland-Kellerei Allacher GmbH**

**Hans Allacher**

**Winzergasse 10–16**

**7122 Gols**

**Tel.: +43 2173 2609**

**E-mail: [allacher@fruchtwein.at](mailto:allacher@fruchtwein.at)**

by means of a clear statement, for example by a letter sent by post or by e-mail, of your decision to withdraw from this contract. You may also electronically fill in and submit the sample withdrawal form or any other clear statement on our website

<https://www.fruchtwein.at/de/widerruf>. If you make use of this option, we will promptly confirm receipt of such a withdrawal, for example by e-mail.

To meet the withdrawal deadline, it is sufficient that you send your notice exercising the right of withdrawal before the withdrawal period has expired.

### **Effects of withdrawal**

If you withdraw from this contract, we shall reimburse all payments received from you, including delivery costs, without undue delay and at the latest within fourteen days from the day on which we received notification of your withdrawal from this contract, except for additional costs resulting from your choice of a type of delivery other than the least expensive standard delivery offered by us. For this reimbursement, we will use the same means of payment that you used for the original transaction unless expressly agreed otherwise with you; in no event will you be charged any fees for this reimbursement.

We may withhold reimbursement until we have received the goods back or until you have supplied evidence that you have returned the goods, whichever is the earlier.

You must send back or hand over the goods to us without undue delay and in any event no later than fourteen days from the day on which you inform us of the withdrawal from

this contract. The deadline is met if you send the goods before the period of fourteen days has expired.

You bear the direct costs of returning the goods.

You are only liable for any diminished value of the goods if this loss in value is due to handling of the goods other than what is necessary to establish the nature, characteristics, and functioning of the goods.

## **Sample withdrawal form**

*(If you wish to withdraw from the contract, please fill out this form and return it to us.)*

**To**

**Obstland-Kellerei Allacher GmbH**

**Hans Allacher**

**Winzergasse 10–16**

**7122 Gols**

**E-mail: [allacher@fruchtwein.at](mailto:allacher@fruchtwein.at)**

I/We (\*) hereby withdraw from the contract concluded by me/us (\*) for the purchase of the following goods:

Order or invoice number: \_\_\_\_\_

Article description / quantity: \_\_\_\_\_

Ordered on / received on (\*): \_\_\_\_\_

Name of consumer(s): \_\_\_\_\_

Address of consumer(s): \_\_\_\_\_

Signature of consumer(s) *(only if notified on paper)*

Date

*(\*) Delete as appropriate.*