

Standard Terms of Business

The Standard Terms of Business (STB) set out below apply exclusively to all the business we conduct. Any Standard Terms of Business used by the Customer are non-binding, even when we do not explicitly object to them, or when they do not conflict with the contents of the following Standard Terms of Business.

1. Conclusion of contract

1.1. Our offers are non-binding. All contracts and supplementary agreements, including those made with our representatives, require our written confirmation to obtain validity. Even when conclusion of a contract has already been confirmed in writing, we are not bound to such a contract until we have received all the information and documents we require in order to fulfil the transaction.

1.2. A company affiliated with us may enter into a concluded contract in our place, without having to obtain the consent of the Customer. Once the Customer has been informed of such accession to the contract, the affiliated company shall become the sole contractual partner of the Customer, with all rights and duties.

2. Prices, terms of payment

2.1. The stated prices do not include value added tax, and in cases of doubt are for delivery ex works (EXW), unless explicitly stipulated otherwise in a particular case.

2.2. The prices in our offers are calculated on the basis of current costs. If production and delivery costs (especially costs for personnel, raw materials and energy) increase for reasons beyond our control, we have the right to correct our prices accordingly. In such cases, the Customer does not have a right of withdrawal.

2.3. If the purchase price is denominated in a foreign currency, the Customer bears the foreign exchange risk, i.e. the risk of any worsening of the exchange rate relative to the Euro for the period between conclusion of contract and receipt of payment. If the Customer defaults on a foreign currency debt, we may also demand payment in Euro, at our discretion; in such a case, we have the right to choose between the exchange rate on the due date and the exchange rate on the date of payment.

2.4. Invoices must be paid in accordance with the agreed terms of payment. Our representatives are not authorised to receive payments. If the Customer defaults on payment, it shall owe us default interest to the extent permitted by law, but at a rate no less than 12% per annum. The Customer shall also pay reminder fees amounting to € 10.00 per reminder, and to reimburse us the standard fees for any reminders sent by our lawyers. Payments discharge debts only if they are credited to a bank account as specified in the respective invoice.

2.5. In the event of default or partial default on a payment, all outstanding debts from all business transactions with the Customer shall become immediately payable, regardless of any agreed terms of payment. In such cases, we also have the right, at our discretion, to withdraw wholly or partially from contracts concluded with the Customer. In circumstances which cast doubt on the creditworthiness of the Customer and which we do not obtain knowledge of until after conclusion of contract, we have the right to withhold any goods which we owe to the Customer, and to render payable all amounts which are owed to us by the Customer; we may, at our discretion, withdraw from any contracts that have been concluded.

2.6. The Customer does not have the right to withhold payments due to counterclaims or to set-off payments against counterclaims. This principle does not apply to counterclaims we have acknowledged, or which have been established by a final court decision, or which are based on the same contractual relationship.

3. Deliveries

3.1. Unless otherwise agreed in a particular case, deliveries are ex works ("EXW"), i.e. at the Customer's risk and expense. Transport insurance shall be taken out only on the Customer's written instructions and at the Customer's expense. If we bear the transportation costs on the basis of an express agreement to that effect, we may choose the means of transport to be used. Additional costs for a different type of transportation chosen by the Customer shall be borne by the latter.

3.2. Delivery periods commence when we have confirmed the order, but not before the Customer has provided all the requisite documents and information and has clarified all details regarding execution of the order. Deadlines shall be extended by the duration that the Customer defaults on its duties under this or another transaction.

3.3. If delivery of the goods is delayed through no fault of our own, the goods shall be stored at the Customer's risk and expense. If we are prevented from fulfilling our duty to deliver by events beyond our control, we are released from said duty for the duration of such events and their immediate consequences, without the Customer being entitled to claim damages. Such events include, but are not limited to, scarcities of raw materials, labour, power or fuel, transport or operational disruptions and similar events in our company and our subcontractors, as well as any cases of force majeure.

In the event of delays in delivery, the Customer may withdraw from the contract, after setting a reasonable extension of at least 30 days, if the goods have not been delivered by expiry of the deadline.

All goods must be accepted by the agreed delivery date. In the case of framework agreements, deliveries must be called off within the agreed periods. If the Customer defaults on acceptance or does not call off deliveries as agreed, we have the right to bill the storage costs to the Customer or to deliver the goods; in either case, we have the right to make the purchase price due for payment.

3.4. Partial deliveries are permitted. We reserve the right to deliver up to 10 % excess or shortage on the ordered amount.

3.5. Claims to damages based on delayed fulfilment or non-fulfilment will not be accepted if the delay is due to mere negligence.

4. Defective goods

4.1. Defects in the goods delivered must be notified in writing within five

working days of the receipt of goods, otherwise all warranty claims shall be forfeited. In the case of hidden defects, notification must be made immediately after discovery. The goods shall be deemed to be accepted free of defects once they are subjected to further processing. We have the right to check the alleged defects in the goods. To that end, the Customer shall keep the goods complained about available for us to inspect, or shall send the goods to us at our request. Should it transpire that the alleged defect does not exist, or does not give rise to warranty claims, the Customer shall bear the costs for checking the defect.

4.2. Warranty claims by the Customer will not be accepted if the volume of defective goods does not exceed 1% of the total order volume. In the case of quality defects, we may choose between improvement, replacement of the goods and granting a reasonable price reduction. If we choose to remedy the defect or to replace the goods, and fail to do so within a reasonable period, the Customer may demand a reduction in price. We will not accept any warranty claims beyond the aforesaid, and in particular will not accept any damages claims based on mere negligence.

4.3. If we deliver non-defective goods in exchange for defective goods, the Customer shall return the defective goods to us. If the Customer fails to honour this obligation, we have the right to invoice the defective goods at a reasonable price, but at no less than 50% of the original price.

4.4. The warranty period is six months. It is not extended if the Customer grants a warranty to a consumer due to defects in the goods, or becomes liable to recourse towards a Customer on the grounds that one of his downstream suppliers has granted a warranty to a consumer.

4.5. The use and storage of our packaging must be checked beforehand by the Customer for compliance with technical standards. This applies in particular to the physical and chemical properties of the respective bulk material in contact with the inner surface of the packaging. We will not accept any liability for packages that are wrongly or inappropriately filled, including damage which results from defective filling and closure and which is not causally linked to our packaging.

5. Compensation

We do not accept liability for losses incurred by the Customer unless we caused such losses wilfully or through gross negligence.

6. Retention of title, assignment as security

6.1. Delivered goods shall remain our property until the purchase price has been paid in full. If the goods are processed, in particular if delivered containers are filled, we acquire co-ownership of the processed goods according to the ratio of the value of the goods to the value of the work performed and of any other materials used.

6.2. As long as the Buyer is not in default with any payments, it may resell the goods in the normal course of business. It assigns to us as security the trade receivable (or the proportion of the receivable if the goods have been processed) arising from resale of the goods. At our request, it shall note the assignment as security collateral in its business records and shall inform us of the name and address of the third-party debtor.

7. Production aids, specimens and packaging

7.1. We have the right to avail of assistance from subcontractors in order to fulfil our contractual obligations to the Customer. This is without prejudice to our status as contractual partner.

7.2. Sketches, designs, lithographs, embossing stamps and tools shall be set-off at a proportionate rate only and shall remain our property even after the costs have been paid. They shall be kept for follow-up orders for a period of three years. The Customer bears liability for any infringements of copyright or industrial property rights, and for any violations of competition law.

7.3. We shall comply as far as possible with prescribed weights, thicknesses and dimensions; however, we provide no guarantee against slight variances. For technical reasons, we are unable to provide any warranty for compliance with colour tones. Delivery costs for production aids shall be borne by the Customer.

7.4. The pallets on which the goods are delivered are invoiced by us at cost price. They become the property of the Customer when payment has been rendered in full. Mesh boxes, stacking frames for mesh boxes, and returnable cartons remain our property and must be returned to us in a reusable state and carriage free within eight weeks after the invoice date, otherwise such packaging materials will be invoiced at cost price. Non-returnable cartons will not be taken back.

8. Governing law and place of jurisdiction, severability

8.1. The contractual relationship is governed by the laws of Austria, under exclusion of the UNCITRAL conventions on the international sale of goods. The place of jurisdiction for any contractual disputes is the domicile of the Seller.

8.2. If a provision in these contractual and delivery terms is invalid, this shall have no effect on the validity of the remaining provisions. The invalid provision shall be replaced by a permissible arrangement that comes closest to the invalid provision.



Österreichische Blechwarenfabrik
Pirlo GmbH & Co KG
Hugo-Petters-Straße 8-14
6330 Kufstein Austria
fon +43 5372 649 23 0
office@pirlo.com
pirlo.com

Pirlo Industrial GmbH & Co OG
Industriezeile 8
2100 Korneuburg Austria
fon +43 2262 727 12
office.industrial@pirlo.com
pirlo.com

Pirlo Tubes GmbH
Trautweinstraße 2
6330 Kufstein Austria
fon +43 5372 649 23 0
office@pirlo-tubes.com
pirlo.com



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