

**TYPS GMBH**  
**General terms and conditions**  
with customer information  
Status: 08/14/2018

**1. General**

1.1 These general terms and conditions (hereinafter "GTC") apply to all contracts concluded between the contractor, buyer or client (hereinafter "customer") and us, TYPS GMBH (hereinafter "TYPS GmbH") with regard to our goods and / or services, in particular, purchase contracts, contracts for work and services or other services commissioned (commissioning, assembly, servicing, etc.). The inclusion of the customer's own conditions is hereby rejected, unless otherwise agreed. If TYPS GmbH has a longer business relationship with the customer, these GTC apply even if their validity is not specifically pointed out. The GTC also apply to follow-up orders, even if they are not separately agreed, orally or in writing.

1.2 A consumer in the sense of these GTC is any natural person who concludes a legal transaction for purposes that can predominantly neither be attributed to their commercial nor their independent professional activity. An entrepreneur in the sense of these GTC is a natural or legal person or a legal partnership who, when concluding a legal transaction, is exercising their commercial or independent professional activity.

1.3 Employees of our company are prohibited from making commitments that differ from these conditions. Oral agreements are only effective if they are confirmed in writing by TYPS GmbH.

**2) Conclusion of a contract in the web shop / distance selling**

2.1 The product descriptions contained in the online shop of TYPS GmbH do not constitute binding offers, but serve to submit a binding offer by the customer.

2.2 The customer can submit the offer using the online order form integrated in our online shop. After placing the selected goods and / or services in the virtual shopping cart and going through the electronic ordering process, the customer submits a legally binding contract offer for the goods and / or services contained in the shopping cart by clicking the button that concludes the ordering process. Furthermore, the customer can also submit the offer to TYPS GmbH by post, email, fax or telephone.

2.3 TYPS GmbH can accept the customer's offer within five days

- by sending the customer a written order confirmation or an order confirmation in text form (fax or e-mail), whereby the receipt of the order confirmation by the customer is decisive, or
- by delivering the ordered goods to the customer, whereby the receipt of the goods by the customer is decisive, or
- by asking the customer to pay after placing his order.

If there are several of the aforementioned alternatives, the contract is concluded at the time at which one of the aforementioned alternatives occurs first. If TYPS GmbH does not accept the customer's offer within the aforementioned period, this is deemed to be a rejection of the offer with the result that the customer is no longer bound by his declaration of intent.

2.4 If the customer selects "PayPal" as the payment method during the online ordering process, he also issues a payment order to his payment service provider by clicking the button that concludes the ordering process. In this case, in deviation from item no. 2.3, TYPS GmbH already declares its acceptance of the customer's offer at the point in time at which the customer triggers the payment process by clicking the button that concludes the order process.

2.5 The period for accepting the offer begins on the day after the offer is sent by the customer and ends at the end of the fifth day following the sending of the offer.

2.6 When submitting an offer via the TYPS GmbH online order form, the contract text is saved by TYPS GmbH and sent to

the customer in text form (e.g. e-mail, fax or letter) after the order has been sent along with the present GTC. In addition, the text of the contract is archived on the TYPs GmbH website and can be accessed free of charge by the customer via his password-protected customer account by entering the corresponding login data, provided that the customer has created a customer account in the TYPs GmbH online shop before submitting his order.

2.7 Before the binding submission of the order via the TYPs GmbH online order form, the customer can continuously correct his entries using the usual operator functions. In addition, all entries are displayed again in a confirmation window before the binding submission of the order and can also be corrected there using the usual operator functions.

2.8 Only the German language is available for the conclusion of the contract.

2.9 Order processing and contact are usually made by e-mail and automated order processing. The customer must ensure that the e-mail address given by him to process the order is correct so that the e-mails sent by TYPs GmbH can be received at this address. In particular, when using SPAM filters, the customer must ensure that all e-mails sent by TYPs GmbH or by third parties commissioned to process the order can be delivered.

### **3) Conclusion of contracts outside of distance selling / cost estimates / general information on contract conclusion**

3.1 Verbal communications by TYPs GmbH – also at the request of the customer – are non-binding, even if they include prices, dates and other technical specifications.

3.2 The contract is concluded with the order confirmation sent to the customer by TYPs GmbH or, in the absence of this, with the execution of the delivery to the customer. In any case, the contract is also concluded without the transmission of an order confirmation if the customer accepts the offer from TYPs GmbH in writing or signs the written order form from TYPs GmbH.

3.5 If the order confirmation signed by the customer deviates from his order, the order confirmation shall apply in case of doubt, provided that the customer is not a consumer. In this case, no contract is concluded with a consumer.

3.6 We reserve the right to insignificant, reasonable deviations in dimensions and designs – regardless of the type of contract concluded – insofar as these are due to the nature of the materials used and are customary. In particular, material-related changes are considered objectively justified.

### **4) Right of withdrawal**

4.1 Consumers residing in the EU have the right to withdraw from contracts if

1. the contract is concluded with the simultaneous physical presence of the entrepreneur and the consumer at a location that is not the company's business premises,

2. the consumer has been made an offer under the circumstances mentioned in item no. 2,

3. the contract is concluded on the business premises of the entrepreneur or by means of distance communication immediately after the consumer has been addressed personally and individually at a location other than the business premises of the entrepreneur with the simultaneous physical presence of the entrepreneur or his agent and the consumer, or

4. the contract is concluded on an excursion that was organized by an entrepreneur or his agent with the intention or with the result that the entrepreneur advertises or promotes advertising the sale of goods or the provision of services to the consumer and concludes corresponding contracts with the consumer,

5. the contract is concluded between an entrepreneur and a consumer without the simultaneous physical presence of the entrepreneur and the consumer within the framework of a sales or service system organized for distance selling, whereby only means of distance communication are used up to and including the conclusion of the contract;

6. the consumer has not submitted his contract declaration either in the premises used by the entrepreneur for his business purposes or at a stand used by the entrepreneur for this purpose at a trade fair or market, or the entrepreneur or a third party cooperating with him has taken the consumer to the premises used by the entrepreneur for his business purposes in the context of an advertising trip, and excursion or a similar event or through personal, individual addressing on the street, and the contract does not fall under items no. 1. - 5.

The consumer is not entitled to the right of withdrawal according to section 6.

- a. if he himself has initiated the business relationship with the entrepreneur or his agent for the purpose of concluding this contract,
- b. if the conclusion of the contract was not preceded by any discussions between the parties involved or their agents, or
- c. in the case of contracts in which the mutual services are to be provided immediately, if they are usually concluded by entrepreneurs outside of their business premises and the agreed fee is 25 euros, or if the company, by its nature, is not operated on permanent business premises and the fee does not exceed 50 euros,
- d. in the case of contractual declarations made by the consumer in the physical absence of the entrepreneur, unless he has been urged to do so by the entrepreneur.

The consumer has no right of withdrawal in the case of distance sales or contracts concluded outside of business premises in accordance with items no. 1. - 5. about

- a. services, if the entrepreneur – on the basis of an express request by the consumer and confirmation of the consumer's knowledge of the loss of the right of withdrawal in the event of complete fulfillment of the contract – had started to perform the service before the withdrawal period had expired and the service was then fully provided,
- b. goods that are made to customer specifications or that are clearly tailored to personal needs.

The consumer also has no right of withdrawal for contracts that are concluded outside of business premises (item no. 1. - 4.) and for which the remuneration to be paid by the consumer does not exceed the amount of 50 euros.

4.2 Further exceptions and more detailed information on the right of withdrawal can be found in our cancellation instructions.

## **5) Prices and terms of payment**

5.1 Unless otherwise stated in our product description, the prices quoted are total prices that include statutory sales tax. Any additional delivery and shipping costs that may incur are specified separately in the respective product description.

5.2 In principle, all goods are deemed to have been ordered without assembly or binding adjustment. A commissioned assembly will, unless otherwise agreed, be charged according to the corresponding price list of TYPS GmbH. It is agreed that the binding adjustment has to be commissioned by the buyer himself and at his own expense. TYPS GmbH points out that this must be carried out by a certified specialist company. A corresponding overview of certified specialist companies can be found at [www.tyrolia.com](http://www.tyrolia.com).

5.3 In the case of deliveries to countries outside the European Union, additional costs may arise in individual cases for which we are not responsible and which are to be borne by the customer. These include, for example, costs for money transfer by credit institutions (e.g. transfer fees, exchange rate fees) or import duties or taxes (e.g. customs duties). Such costs can also arise in relation to the transfer of funds if the delivery is not made to a country outside the European Union, but the customer makes the payment from a country outside the European Union.

5.4 The customer has various payment options available for distance orders, which are specified in our online shop.

5.5 If prepayment has been agreed for purchases via the online shop, payment is due immediately after the conclusion of the contract.

5.6 If the payment method "PayPal" is selected, the payment will be processed by the payment service provider PayPal (Europe) S.à r.l. et Cie, S.C.A., 22-24 Boulevard Royal, L-2449, Luxembourg, subject to the PayPal Terms of Use, accessible at <https://www.paypal.com/de/webapps/mpp/ua/useragreement-full>.

5.7 If you choose the payment method purchase on account, the purchase price is due after the goods have been delivered and invoiced. In this case, the purchase price must be paid within 14 (fourteen) days of receipt of the invoice without deduction, unless otherwise agreed. TYPS GmbH reserves the right to offer the payment method purchase on account only up to a certain order volume and to refuse this payment method if the specified order volume is exceeded. In this case, TYPS GmbH will inform the customer of a corresponding payment restriction in his payment information in the online shop.

5.8 In the event of default, the customer undertakes to reimburse the reminder and collection fees necessary for appropriate legal prosecution, insofar as these are in reasonable proportion to the claim made and to pay default interest of 9% p.a. The statutory default interest for entrepreneurs remains unaffected.

5.9 If the customer does not meet his payments, if he suspends his payments or if bankruptcy or settlement is opened for his assets, the entire remaining debt becomes due. In the case of consumer transactions, this only applies if TYPS GmbH has already provided its services itself, at least one backlog by the customer has been due for at least six weeks and TYPS GmbH has unsuccessfully warned the customer, threatening to lose the deadline and setting a grace period of at least two weeks.

## **6) Delivery and shipping conditions**

6.1 The delivery of goods takes place on the dispatch route to the delivery address specified by the customer, unless otherwise agreed. When processing the transaction, the delivery address specified in the order processing of TYPS GmbH is decisive. Deviating from this, when choosing the PayPal payment method, the delivery address stored by the customer at PayPal at the time of payment is decisive.

6.2 If the transport company sends the goods back to TYPS GmbH because delivery to the customer was not possible, the customer bears the costs for the unsuccessful shipment. This does not apply if the customer effectively exercises his right of withdrawal, if he is not responsible for the circumstance that led to the impossibility of delivery or if he was temporarily prevented from accepting the offered service, unless TYPS GmbH had announced the service an appropriate time in advance.

6.3 If the customer acts as an entrepreneur, the risk of accidental loss and accidental deterioration of the goods sold is transferred to the customer as soon as TYPS GmbH has delivered the goods to the freight forwarder, the carrier or the person or institution otherwise assigned to carry out the shipment. If the customer acts as a consumer, the risk of accidental loss and accidental deterioration of the goods sold is generally only transferred when the goods are handed over to the customer or a person authorized to receive them. Notwithstanding this, the risk of accidental loss and accidental deterioration of the goods sold, even for consumers, is already transferred to the customer as soon as TYPS GmbH has delivered the goods to the freight forwarder, the carrier or the person or institution otherwise assigned to carry out the shipment, if the customer instructs the freight forwarder, the carrier or the person or institution otherwise appointed to carry out the shipment and TYPS GmbH has not previously named this person or institution to the customer.

6.4 In the case of self-collection, TYPS GmbH first informs the customer by e-mail that the goods ordered by him are ready for collection. After receiving that e-mail, the customer can pick up the goods at the headquarters of TYPS GmbH after consultation with TYPS GmbH. In this case, no shipping costs will be charged.

## **7) Retention of title**

7.1 In relation to consumers, TYPs GmbH retains ownership of the delivered goods until the purchase price owed has been paid in full.

7.2 In relation to entrepreneurs, TYPs GmbH retains ownership of the delivered goods until all claims from an ongoing business relationship have been settled in full.

7.3 If the customer acts as an entrepreneur he is entitled to resell the reserved goods in the ordinary course of business. The customer assigns all receivables against third parties arising from this in advance to TYPs GmbH in the amount of the respective invoice value (including sales tax). This assignment applies regardless of whether the reserved goods have been resold without or after processing. The customer remains authorized to collect the receivables even after the assignment. The authorization of TYPs GmbH to collect the receivables itself remains unaffected. However, TYPs GmbH will not collect the receivables as long as the customer fulfills his payment obligations to TYPs GmbH, does not fall into arrears and no application to open insolvency proceedings has been made.

## **8) Warranty**

In the event of defects, the provisions of the statutory warranty apply. Deviating from this, the following applies:

8.1 For entrepreneurs

- a. an insignificant defect does not justify any warranty claims;
- b. TYPs GmbH has the choice of the type of remedy;
- c. the limitation period does not start again if a replacement delivery is made within the scope of liability for defects.

8.2 If the customer acts as a consumer, he is asked to complain to the deliverer about delivered goods with obvious transport damage and to inform TYPs GmbH of this. If the customer does not comply, this has no effect on his legal or contractual warranty claims.

8.3 The customer is advised that maintenance work may have to be carried out on his part, in particular ski bindings and common components such as steel edges and ski bases have to be checked and serviced if necessary. This work is not part of the scope of the order, unless expressly agreed otherwise. Failure to perform maintenance work can impair the life span and functionality of the components without this giving rise to claims for defects against the contractor.

8.4 The customer expressly understands that ski bindings are only mounted in accordance with the generally applicable technical specifications of the binding manufacturer. The specific binding setting for body weight, body height, skiing style, age, sole length, etc. is not carried out by TYPs GmbH. The customer understands that ski sets with pre-assembled bindings are not ready for use. The customer undertakes to have the necessary specific binding adjustment carried out in accordance with the applicable industry standards (specifically, but not limited to ISO 11088) by an authorized specialist dealer and to have it regularly serviced.

## **9) Liability**

TYPs GmbH is liable to the customer for all contractual, quasi-contractual and legal claims, including tortious claims for damages and reimbursement of expenses as follows:

9.1 TYPs GmbH is liable without restriction for any legal reason

- in the event of willful intent or gross negligence,
- in the event of willful or negligent harm to life, body or health.

9.2. If TYPs GmbH negligently breaches an essential contractual obligation, liability is limited to the foreseeable damage typical of the contract, unless unlimited liability is assumed in accordance with the preceding item no.

9.3. Otherwise, TYPs GmbH accepts no liability.

## **10) Indemnification for violation of third party rights**

If, according to the content of the contract, TYPs GmbH owes both the delivery of goods and the processing of the goods according to certain specifications of the customer, the customer must ensure that the content provided to TYPs GmbH for the purpose of processing does not violate the rights of third parties (e.g. copyrights or trademarks). The customer releases TYPs GmbH from claims by third parties that can be asserted against him in connection with a violation of their rights through the contractual use of the customer's content by TYPs GmbH. The customer also assumes the appropriate costs of the necessary legal defense including all court and lawyer costs in the statutory amount. This does not apply if the customer is not responsible for the infringement. In the event of a claim by a third party, the customer is obliged to immediately, truthfully, and completely provide TYPs GmbH with all information that is necessary for the examination of the claims and a defense.

## **11) Applicable law / place of jurisdiction**

The law of the Republic of Austria applies to all legal relationships between the parties, excluding the UN sales law. For consumers, this choice of law only applies insofar as the protection granted by mandatory provisions of the law of the country in which the consumer is domiciled is not withdrawn.

If the customer is an entrepreneur as defined in item no. 1.2, the exclusive place of jurisdiction is agreed to be the place of business of TYPs GmbH. The place of jurisdiction is the consumer's place of residence for both actions by the entrepreneur against the consumer and for actions by the consumer against the entrepreneur if the consumer is domiciled in the EU but not in Austria. If the consumer has his domicile or habitual residence in Austria, he can only be sued at the court in whose district the domicile or habitual residence is located; in this case, the entrepreneur can only be sued by the customer at his place of business, unless another place of jurisdiction is legally given.

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