

**miniClima Schönbauer GmbH**

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Firmenbuchnummer | Trade Register Number: 267137z (Landesgericht | Regional Court of Wiener Neustadt)

miniClima *General Terms and Conditions (GTC)*

1 Preamble

- 1.1 The following terms and conditions shall apply to all deliveries and services performed by miniClima Schönbauer GmbH (hereinafter referred to as "miniClima").
- 1.2 The application of terms and conditions of business and/or sale of the customer shall be expressly excluded for the legal transaction at hand and for the entire business relationship.
- 1.3 These General Terms and Conditions shall also apply to all further legal transactions entered into by and between the contracting parties.

2 Scope of Services and Important Notes

- 2.1 Unless expressly agreed otherwise, miniClima shall deliver ready-to-install standard devices including accessory parts (hereinafter referred to as "Products") for the regulation of the relative air-humidity and/or air temperature in containers that can be closed both air tight and steam tight, such as, for instance, museum showcases (hereinafter referred to as "Showcases").
- 2.2 Every Product is delivered together with comprehensive instructions for installation and use which must be complied with in order to guarantee the undisturbed and damage-free operation and preservation of the Product.
- 2.3 The installation, putting into operation, operation, monitoring of operation, maintenance, de-installation and storage in conformity with the instructions, the arranging for servicing work to be carried out and, in addition, any further decision taken in this connection which is essential for operation (such as: the positioning of the RH/T sensors in the Showcase, the positioning of air inlets and outlets at the Showcase, allowing extraordinarily high/low air resistances through the Showcases or tube connections, and the like) shall be the responsibility of the customer and/or the customer's buyer, it being understood that the former undertakes to expressly point this fact out to the latter. The former furthermore undertakes to forward to the end-user the complete documentation concerning the Products, be it in copies or original, as received from miniClima.
- 2.4 miniClima recommends to clarify in advance whether the Product is suitable to meet the expectations and requirements of the individual case.
- 2.5 miniClima hereby refers to its general and urgent recommendation to the customer to check the proper functioning of an installed complete system (consisting of the Showcase and the Product(s) connected to it) prior to using it to keep the relative air humidity and/or air temperature constant, in particular if this is done for sensitive objects or components.
- 2.6 The use of the Products is at your own risk.

3 Intellectual Property Protection of Plans and Documents

- 3.1 Plans, sketches, cost estimates, instructions for use and other documents as well as brochures, catalogues, samples and the like shall remain the intellectual property of miniClima. Every use including, without limitation, the passing on, reproduction and publishing (including on the Internet) shall require the express approval of miniClima. Any changes thereto shall be expressly prohibited.

4 Cost Estimate

- 4.1 Although we prepare the cost estimate to the best of our expert knowledge, no responsibility is taken for its correctness.
- 4.2 Should it turn out, after the order has been placed, that the costs exceed the estimate by more than 15%, miniClima shall notify the customer without delay. If the cost estimate is exceeded by 15% or less, no separate notification shall be required and the extra costs shall be charged to the customer without further action being required.

5 Offers

- 5.1 miniClima shall be bound by its offers for a time period of 90 days starting from the date the offer was made.

6 Prices

- 6.1 Unless expressly provided otherwise, all prices quoted are ex works, exclusive of value added tax and denominated in euros. All other taxes, customs duties, delivery costs, insurance premiums and the like possibly accruing in connection with the sale/distribution of the Product shall be indicated separately and borne by the customer. All prices are calculated on the basis of the prices valid at the date of delivery.
- 6.2 Should the labour costs change because of collective bargaining agreements for the industry or internal agreements or should other cost centres relevant for calculation or costs required for the goods and services, such as costs of materials, energy, transport, external labour, financing, etc. change, miniClima shall be entitled to increase or reduce the prices accordingly, unless in the case of consumer transactions.

7 Transport and Delivery

- 7.1 Partial delivery is possible.
- 7.2 Transport and delivery services shall be provided entirely for the account of the customer.
- 7.3 It is expressly agreed that the place of delivery shall be the place of business of miniClima (Brunner Straße 21b, 2700 Wiener Neustadt, Austria, EU). The customer may select either to take delivery of the goods at said location or to have a transport company named by the customer take delivery of the goods. If the customer fails to name a transport company and/or does not state his/her intention to take delivery of the goods at the place of delivery him/herself, miniClima shall hand the goods over to a transport company selected by miniClima (usual practice) or miniClima shall deliver the goods itself to a place of destination named by the customer. In any case, the goods shall be deemed delivered as soon as delivery has been taken a) by the customer or b) by a transport company named by the customer or c) by a transport company selected by miniClima or d) at the place of destination. Upon taking delivery of the goods, risk shall pass to the customer. In the event of any assistance in loading, the customer shall indemnify and keep harmless miniClima regarding all claims arising therefrom.
- 7.4 The customer shall notify visible damage or defects of the delivered goods to miniClima without delay after receipt, irrespective of the type of damage/defect. The transport company (in the case of transport damage) shall be informed by the customer without delay, unless the transport company was selected by miniClima and the customer prefers that miniClima remains responsible for all communications with the transport company. For damage or defects which are not directly visible, these provisions shall apply accordingly immediately after discovery of the damage/defects. This shall not affect para. 7.3. miniClima does not give any warranty regarding defects which have not been notified without delay, unless the customer is a consumer.
- 7.5 Objectively justified and reasonable changes of the contractual obligation of performance and delivery of miniClima including, without limitation, reasonable extensions of delivery periods, shall be deemed accepted by the customer in advance, unless in the case of consumer transactions.
- 7.6 Unless a transaction for delivery by a fixed date has been agreed upon, announced delivery dates shall be considered approximate estimates only. Force majeure or other unforeseeable impediments within the sphere of miniClima shall release miniClima from its obligation to comply with the delivery period agreed upon.
- 7.7 Interruptions of operations or traffic and improper delivery from subcontractors shall also be deemed force majeure and shall release miniClima from its delivery obligation for as long as the impediment continues to exist or, at the option of miniClima, even finally, it being understood that the withdrawal from the contract on the part of miniClima shall not entitle the customer to any claims.
- 7.8 If the stated delivery date is exceeded by more than 30 days, the customer shall be entitled, after having set another grace period of at least 90 days, to withdraw from the contract by means of registered letter. miniClima shall also be entitled to withdraw from the contract if delivery becomes impossible because of force majeure, labour conflicts or other impediments which could not be prevented by miniClima such as, for instance, interruptions of transport or discontinuation of production. In both cases, miniClima shall only be obliged to make interest-free refunds of all down payments received.

8 Retention of Title

- 8.1 The delivered Products and accessory parts shall remain the absolute property of miniClima until full payment (including interest and costs, if any) has been made. During that period, the customer shall, at his/her own expense, ensure proper maintenance pursuant to the instructions delivered together with the Product. Pledging or transfers by way of security shall be prohibited until full payment has been made. The customer shall fully indemnify and hold harmless miniClima for any damage arising in this connection.
- 8.2 If the goods delivered with retention of title are combined with other goods which do not belong to miniClima, this shall not affect the retained title. This shall also apply in the event that, as a consequence of this combination, the delivered good becomes an inseparable component of a property of the customer or of a third party. In such case, the retained title shall continue to exist in the form of joint ownership of the entire property in proportion of the value of the delivered goods to that of the remaining goods at the time of combination.

9 Assignment of Receivables

- 9.1 In the event of delivery with retention of title, the customer herewith assigns to miniClima, as payment, his/her receivables from third parties to the extent they arise from the sale or processing of goods of miniClima, until complete payment of the claims of miniClima has been made. The customer shall provide miniClima, at its request, with the names and addresses of such third parties and the type and scope of the contractual agreements entered into with such third parties regarding the property of miniClima and shall inform these third parties of the assignment in due course of time. The assignment shall be made obvious to the buyer in the business records, on delivery notes, invoices, etc.
- 9.2 If the customer defaults in his/her payments to miniClima, sales proceeds received by the customer shall be separated and held and/or owned by the customer only on behalf of miniClima. Claims, if any, against an insurance company have already been assigned to miniClima within the scope permissible under insurance law.
- 9.3 The customer must not assign receivables from miniClima without the express approval of miniClima.

10 Terms of Payment

- 10.1 The place of payment shall be the place of business of miniClima.

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- 10.2 If possible, the invoice shall be submitted upon delivery. In justified individual cases, miniClima may insist on full payment or on the provision of a payment guarantee prior to delivery. If such advance payment is not made and/or such a guarantee is not provided in such cases, miniClima shall be entitled to withdraw from the contract.
- 10.3 Unless immediate payment with cash discount has been agreed upon in an individual case, all payments shall become due for payment within 30 days after invoicing, without any deductions and free of charges. The terms of payment agreed upon for the total order shall apply accordingly to partial invoices.
- 10.4 In the case of orders covering several units, miniClima shall be entitled to submit an invoice after delivery of each unit or service.
- 11 Default in Payment, Costs of Reminders and Collection Charges**
- 11.1 In case of default in payment, miniClima shall charge interest on arrears of 8% above the base interest rate announced by the Austrian central bank "Oesterreichische Nationalbank", however not less than 12%. If the customer defaults in the payment of two consecutive instalments, the entire outstanding amount shall become payable without delay.
- 11.2 In the event of default in payment, the customer shall be obliged to refund all pre-trial costs incurred by miniClima, such as attorneys' fees and customary costs of debt collection agencies.
- 11.3 Payments received by miniClima will first be used to pay compound interest, interest and ancillary expenses, pre-trial costs, the costs of attorneys-at-law or collection agencies, and then the outstanding capital, starting with the oldest debt. If miniClima carried out the payment reminding itself, it shall charge an amount of € 10.-- per overdue notice in addition to the other interest and costs incurred.
- 11.4 In addition, irrespective of his/her fault for the delay in payment, the customer shall reimburse miniClima for any further damage including, without limitation, the damage incurred by the fact that, as a consequence of the failure to pay, higher interest is charged on the credit accounts of miniClima, if any.
- 12 Set-off**
- 12.1 The set-off of alleged counterclaims of the customer against claims of miniClima shall be excluded unless the counterclaim has been adjudicated by a court or recognized in writing by miniClima. In addition, any right of retention on the part of the customer against miniClima shall be excluded.
- 12.2 This shall not apply to business relationships with consumers if mandatory consumer protection provisions provide otherwise.
- 13 Withdrawal from the Contract**
- 13.1 In case of default in acceptance or for other important causes including, without limitation, bankruptcy of the customer, the dismissal of a bankruptcy petition for lack of assets or the justified suspicion of the customer's reluctance/inability to pay, and in case of default in payment on the part of the customer, miniClima shall be entitled to withdraw from the contract as long as it has not yet been fully performed by both parties.
- 13.2 In cases of withdrawal from the contract caused by the fault of the customer, miniClima shall be entitled to request, in addition to the return of the goods, if applicable, either payment of lump sum damages of 30% of the net invoice amount or the reimbursement of the actual damage caused.
- 13.3 In case of default in payment on the part of the customer, miniClima shall be released from all further obligations of performance and delivery.
- 13.4 If the customer, without being entitled to do so, withdraws from the contract or requests its rescission, miniClima shall be entitled either to insist on the performance of the contract or to agree to the rescission of the contract. In the latter case, the customer shall also be obliged, at the option of miniClima, to pay either lump sum damages in the amount of 30% of the net invoice amount or reimburse the actual damage caused.
- 14 Warranty, Liability**
- 14.1 All warranty claims including recourse claims by dealers shall become statute-barred within twelve months after delivery. In case of consumer transactions, the provisions of the Austrian Civil Code ("ABGB") shall apply.
- 14.2 If a defect of the delivered goods is discovered within the above-mentioned limitation period, miniClima may select to remedy the defect by either exchanging or rectifying the defective good. miniClima undertakes to rectify or exchange the defective good within due course of time following delivery by the customer. The delivery of the defective good shall be made at the risk and expense of the customer, the place of performance shall be the place of business of miniClima.
- 14.3 If both the rectification and the exchange are impossible or would involve a disproportionately large effort on the part of miniClima, the customer shall be entitled to a price reduction or, in case of an essential, irremediable defect, to rescission of the contract. The same shall apply if miniClima refuses to rectify or exchange the defective good or fails to carry out the rectification or exchange within due course of time.
- 14.4 This warranty shall not cover transport damage (unless the transport was carried out by miniClima itself), wear parts and accessories as well as repairs required a) as a consequence of non-authorized interventions/adaptations by the customer or by third parties; or b) as a consequence of inappropriate handling (not complying with the instructions delivered together with the Product) by the customer or by third parties. If the Products are used in combination with devices and/or programmes of the customer or of third parties, the warranty regarding functionality and performance defects of the Products shall only apply if such defects also occur without such a combination.
- 14.5 Unless in the case of consumer transaction, miniClima shall not give a warranty for defects which have not been notified without delay pursuant to para. 7.4.
- 14.6 Unless mandatory liability is provided for by law in cases of intent or gross negligence, miniClima shall not be liable for damage or consequential damage caused by any defects of the goods.
- 15 Product Liability**
- 15.1 Recourse claims within the meaning of sec. 12 of the Austrian Product Liability Act ("Produkthaftungsgesetz") shall be excluded, unless the person entitled to recourse furnishes proof that the mistake originated in the sphere of miniClima and was caused at least by gross negligence.
- 16 Complete Overhaul, Repairs**
- 16.1 If miniClima is ordered to completely overhaul or repair Products of the kind, which can be dismantled (in particular devices of series EBC), these works shall be carried out at the place of business of miniClima. The customer shall bear the risk and the costs of sending the Products to and from the place of business for the purpose of the complete overhaul or repair.
- 17 Place of Jurisdiction and Applicable Law**
- 17.1 The exclusive jurisdiction of the court having subject matter jurisdiction over the place of business of miniClima is agreed upon for all disputes.
- 17.2 Austrian substantive law shall apply. The applicability of the Convention on the Law Applicable to Contractual Obligations, the Austrian Act on International Private Law ("IPRG") and the UN Sales Convention shall be excluded.
- 17.3 For all legal actions on the basis of disputes arising in connection with this contract which are brought against a consumer who has his/her permanent residence, habitual abode or place of employment in Austria, the jurisdiction of one of the courts in whose district the consumer has his/her permanent residence, habitual abode or place of employment is agreed upon. Regarding consumers in all other countries of the European Union, the compulsory jurisdiction pursuant to the Council Regulation on Jurisdiction and the Recognition and Enforcement of Judgements in Civil and Commercial Matters shall apply. Regarding all other contracting parties, para. 17.1 shall apply.
- 18 Data Protection and Change of Address**
- 18.1 The customer agrees to the automated storing and processing of any personal data contained in the sales contract by miniClima in the performance of the contract.
- 18.2 The customer shall be obliged to inform miniClima of all changes of his/her home and/or business addresses, telephone and fax numbers and e-mail addresses for as long as the relevant legal transaction has not been fully performed by both parties. If no such information is provided, declarations and communications shall also be deemed served on the customer if sent to the address, fax number or e-mail address last communicated to miniClima.
- 19 Final Provisions**
- 19.1 These Terms and Conditions shall apply to sales to consumers within the meaning of mandatory consumer protection provisions only to the extent mandatory consumer protection provisions do not provide otherwise.
- 19.2 If individual provisions of these Terms and Conditions are or become invalid, ineffective or unenforceable, this shall not affect the validity, effectiveness or enforceability of the remaining provisions. In such case, a provision which, from an economic point of view, comes as close as possible to the provision to be replaced shall be deemed agreed upon.