

GENERAL TERMS AND CONDITIONS  
of the PACOGI International GmbH

For wholesale business and Internet distribution

English

## **1. Validity**

The General Terms and Conditions of PACOGI International GmbH apply to all deliveries and services provided by PACOGI International GmbH to a contractual partner. These General Terms and Conditions also apply to future transactions between the contractual partners, even if no reference is made to them again in the future conclusion of the contract (except consumer transactions).

PACOGI International GmbH will inform the contractual partner of any changes to the General Terms and Conditions as well as the relevant service descriptions and terms of payment for the services in question by post, fax or e-mail and will come into force after publication.

## **2. Conclusion of contract**

2.1 When placing an order, the customer confirms to PACOGI International GmbH his full legal capacity.

2.2 The contract shall be deemed concluded if PACOGI International GmbH has sent a written order confirmation or a delivery to the address last notified by the contractual partner after the order has been placed or has begun with the actual provision of services (such as delivery of the goods or notification of user login and password). PACOGI International GmbH reserves the right to reject an offer to conclude a contract for technical, economic (such as lack of creditworthiness or default of payment of the contractual partner from other contracts with PACOGI International GmbH), legal (such as lack of legal capacity) or operational reasons (such as capacity reasons).

2.3 The information contained in catalogues, brochures etc. shall only be authoritative if reference is made to it in an order confirmation.

2.4 The terms and conditions of payment applicable to the respective services shall form an integral part of the contract with the contractual partner. Verbal ancillary agreements do not exist.

2.5 Amendments and supplements to the contract must be made in writing. Unless it concerns consumer business.

2.6 PACOGI International GmbH is entitled, even during the current contractual relationship, to demand all necessary information regarding the identity, legal capacity and legal capacity of the contractual partner from the contractual partner by presenting official documents (extract from the commercial register, photo ID such as driving licence, passport). PACOGI International GmbH may also be required to provide and verify proof of the existence of an authority to sign and represent.

2.7 The contractual partner expressly declares his consent to the verification of his creditworthiness by enquiries to officially authorised credit protection associations, credit institutions and credit agencies and the necessary data transfer (such as name, date of birth and address; Section 2.1).

## **3. Prices and payment**

3.1 Unless otherwise agreed, the prices stated in the offer or order form (e-mail) shall apply. The prices are based on the costs at the time of the first price offer. Should the costs increase by the time of delivery, PACOGI International GmbH is entitled to adjust the prices. The legal sales tax will be charged additionally.

3.2 In deviation from 3.1 sentence 3, the following shall apply to consumer transactions: Should these costs change between conclusion of the contract and delivery (provision of the service), the agreed price shall not increase or decrease.

3.3 Payments are due upon receipt of invoice according to agreed terms of payment or without deduction. Invoices may also be issued electronically (by e-mail).

3.4 The invoice shall show the total amount of the fees owed as well as a composition of the individual fees owed for articles and/or services.

3.5 The prices apply ex warehouse for articles and services, excluding packaging and loading. If charges are levied in connection with the delivery, these shall be borne by the other party. If delivery with delivery has been agreed, this and any transport insurance requested by the contractual partner shall be charged separately.

3.6 Compliance with the agreed payment dates is an essential condition for the performance of deliveries and services by PACOGI International GmbH. In the event of late payment, PACOGI International GmbH is entitled to additionally charge all resulting expenses and costs, including the costs of the intervention of collection agencies and/or lawyers, as well as customary bank default interest. The contractual partner expressly declares his consent to the transfer of data (such as name, date of birth, address, reminder data) required by collection agencies and/or lawyers.

3.7 In addition, PACOGI International GmbH is entitled to suspend contractual services until full payment has been made and/or to dissolve the contract with immediate effect in the event of default in payment after unsuccessful reminders in writing or electronically. PACOGI International GmbH will grant the contractual partner a grace period of two weeks for payment.

3.8 In any case, a counter-compensation with open claims against PACOGI International GmbH and the withholding of payments due to alleged defects not recognised by PACOGI International is excluded.

3.9 Objections to invoices are to be raised by the contractual partner in writing to PACOGI International GmbH within two weeks of invoicing. If the deadline expires without objection, the contractual partner acknowledges the correctness of the invoice in terms of reason and amount. PACOGI International GmbH will draw attention to this period in the invoice or at another suitable place. In the event of a timely objection, PACOGI International GmbH will check this and confirm the correctness of the issued invoice on the basis of the result or amend or recalculate the invoice accordingly. If the contractual partner continues to doubt the correctness of the invoice, he has the option of calling upon the regulatory authority as arbitration body within two weeks of the conclusion of the objection procedure at PACOGI International GmbH.

#### **4. Delivery**

4.1 The ordered products will be delivered in neutral packaging plus shipping costs within the EU. For orders from non-EU countries, the goods will be shipped according to expenses, customs clearance / duty unpaid. The customary export customs duties as well as their legal customs duties must be borne by the customer.

4.2 Delivered goods remain the property of PACOGI International GmbH until full payment has been received.

4.2.1 PACOGI International GmbH points out to the buyer that the buyer himself is responsible for the marketability of the individual products in his country of distribution. PACOGI International GmbH assumes no liability for the marketability of the products! PACOGI International GmbH accepts no liability for advertising statements that have not been authorised by PACOGI International GmbH.

4.3 The delivery period shall commence at the latest of the following dates:

4.3.1 Date of order confirmation, invoice or delivery note;

4.3.2 Date of fulfilment of all technical, commercial and other requirements incumbent upon the contractual partner;

4.3.3 Date on which PACOGI International GmbH receives a down payment or security due prior to delivery of the goods.

4.4 Defects must be reported in writing to PACOGI International GmbH immediately upon receipt of the goods, but no later than 3 working days after delivery. Warranty defects will be remedied at the discretion of PACOGI International GmbH either by repair or replacement. Conversion or price reduction is excluded. The warranty obligation expires as soon as repairs or changes have been carried out by third parties without the express consent of PACOGI International GmbH.

4.5 The warranty claim presupposes that the contractual partner has immediately reported the defects in detail in writing.

4.6 Point 4.5 does not apply to consumer transactions.

4.7 Excluded from the warranty are defects which result from arrangement and assembly not effected by PACOGI International GmbH, insufficient equipment, non-observance of the conditions of use, overloading beyond the performance specified by PACOGI International GmbH, incorrect handling and use of unsuitable operating materials. This also applies to defects which are attributable to material provided by the contractual partner. PACOGI International GmbH is also not liable for damage caused by chemical influences. The warranty does not apply to the replacement of parts that are subject to natural wear and tear.

Used, worn, modified, specially manufactured goods as well as hygiene and pleasure articles are generally excluded from exchange.

## **5. Withdrawal**

5.1 PACOGI International GmbH is entitled to withdraw from the contract (also with regard to an outstanding part of the delivery or service) if:

5.1.1 the execution of the delivery or the start or continuation of the service is impossible for reasons for which the contractual partner is responsible or is further delayed despite the setting of an appropriate grace period;

5.1.2 justified doubts regarding the solvency of the contractual partner have arisen, and the contractual partner neither makes an advance payment upon request from PACOGI International GmbH, nor provides suitable security prior to delivery;

5.1.3 insolvency proceedings are opened against the assets of the contractual partner or an application for insolvency proceedings is dismissed due to lack of cost-covering assets;

5.1.4 the contractual partner violates "netiquette" and the generally accepted standards of network usage. Should complaints be brought to PACOGI International GmbH via the contractual partner for non-compliance with the netiquette, PACOGI International GmbH is entitled to demand compensation from the contractual partner for the damage caused by the processing of the complaint (personnel and material expenses).

5.1.5 the contractual partner does not fulfil other legal and/or contractual obligations, in particular those which serve to ensure the functionality of the services offered by PACOGI International GmbH or the protection of third parties.

5.1.6 the contracting party has provided incorrect or incomplete information when making the offer.

5.1.7 doubts about the creditworthiness of the contractual partner arise after obtaining a credit rating (Section 2.6).

5.1.8 the contractual partner uses the services of PACOGI International GmbH to transmit threats, obscenities, harassment or damage.

5.2 Notwithstanding the claims for damages of PACOGI International GmbH, in the event of withdrawal (partial) services already rendered shall be invoiced and paid in accordance with the contract. This also applies if the delivery or service has not yet been accepted by the contractual partner, as well as for preparatory actions performed by PACOGI International GmbH. Instead, PACOGI International GmbH shall also be entitled to demand the return of items already delivered.

5.3 If the contractual partner withdraws from the contract for reasons for which PACOGI International GmbH is not responsible, or if PACOGI International GmbH justifiably withdraws from the contract, compensation in the amount of the expenditure incurred by PACOGI International GmbH, but at least 20 % of the net order value or a minimum lump sum of € 110, shall be deemed agreed. The judicial right of moderation is excluded.

5.4 from point 5.3 does not apply to consumer transactions.

5.5 The contractual partner is expressly informed that upon termination of the contractual relationship for whatever reason PACOGI International GmbH is no longer obliged to continue the agreed service. PACOGI International GmbH is therefore entitled to delete stored or retrieved content data. The timely retrieval of such content data prior to termination of the contractual relationship is therefore the sole responsibility of the contractual partner. The contractual partner cannot derive any claims against PACOGI International GmbH from the deletion.

5.6 The right exists to revoke this contract within fourteen days without giving reasons. The revocation period is fourteen days from the day on which the contractual partner or a third party named by him who is not the carrier has taken possession of the goods. In order to exercise the right of withdrawal, PACOGI International GmbH must be informed by means of a clear declaration (e.g. a letter, fax or e-mail sent by post) of the decision to withdraw from this contract. In order to comply with the revocation period, it is sufficient to send notification of the exercise of the right of revocation before the expiry of the revocation period.

5.7 If the contract is revoked, all payments received by PACOGI International GmbH, including the delivery costs (with the exception of the additional costs resulting from this, a different type of delivery than the offered, cheaper standard delivery, was selected), must be refunded immediately and at the latest within fourteen days from the day on which the notification of revocation of this contract was received. Such refund shall be made using the same means of payment as used in the original transaction. Unless expressly agreed otherwise, in no event shall any charges be levied in respect of such repayment. Refund may be refused until the Goods have been returned or until proof has been furnished that the Goods have been returned, whichever is the earlier.

## **6 Liability**

6.1 PACOGI International GmbH is liable for damages outside the scope of application of the Product Liability Act only for intent or gross negligence within the scope of the statutory provisions. Liability for slight negligence, compensation for consequential damages and financial losses, savings not achieved, loss of profit, loss of interest and damage from third-party claims against the contractual partner are excluded. In particular, any claims in the event of server failure are excluded. The amount

of the obligation of PACOGI International GmbH to compensate a single injured party is limited to € 1,000. PACOGI International GmbH is not liable for damages caused by actions of third parties, force majeure or effects caused by devices connected by the contractual partner.

6.2 For consumer transactions, the following applies in deviation from clause 6.1: PACOGI International GmbH is only liable for damages outside the scope of application of the Product Liability Act if PACOGI International GmbH or third parties, for whose conduct PACOGI International GmbH is responsible, are guilty of intent or gross negligence. Liability for slight negligence is excluded. PACOGI International GmbH is not liable for texts published by third parties in catalogues or on the Internet.

6.3 PACOGI International GmbH is not liable for the marketability of the products outside Germany and Austria.

## **7. data protection and security**

7.1 PACOGI International GmbH is entitled to store brokerage data, insofar as this is necessary for the purpose of charging fees, until the expiry of the period within which the invoice is legally contested or the claim for payment can be asserted, as well as for the fulfilment of legal obligations. The contractual partner expressly agrees that PACOGI International GmbH may use the data for its own marketing purposes.

7.2 The employees of PACOGI International GmbH are subject to the secrecy of telecommunications and the secrecy obligations of the Data Protection Act. Even the mere fact of an exchange of messages that has taken place is subject to the obligation of secrecy.

7.3 PACOGI International GmbH stores as master data of the contractual partners and participants: academic degree, first names, surnames, participant number, date of birth, company, address, industry sector, job title, date of enquiry, payment modalities, incoming payments and invoicing. This master data is processed automatically and is not passed on without the participant's written consent (with the exception of Sections 2.6 and 3.7). PACOGI International GmbH is entitled to keep access statistics.

7.4 PACOGI International GmbH takes all technically possible measures to protect the customer data stored by it. However, PACOGI International GmbH shall not be liable if third parties unlawfully bring this data into their possession and further use it. The assertion of damages by the contractual partner or third parties against PACOGI International GmbH from such a connection is excluded.

7.5 In deviation from 7.4, the following shall apply to consumer transactions: The exclusion of liability provided for under 7.4 shall not apply PACOGI International GmbH or third parties for whose conduct PACOGI International GmbH is responsible are guilty of intent or gross negligence.

7.6 The consent to the use of data is recognized by the General Terms and Conditions.

7.7 Information, correction, deletion or blocking of the data can be requested at any time. In addition, it is possible to revoke consent or terminate cooperation without stating reasons.

## **8 Additional provisions for services**

8.1 The contractual partner is obliged to keep his passwords secret. The contracting party shall be liable for any damage caused by inadequate secrecy of the passwords by the contracting party or by passing them on to third parties. In particular, the contractual partner of PACOGI International GmbH is liable for all fees resulting from the (authorized or unauthorized) use of the access.

8.2 The prices quoted do not - unless expressly stated otherwise - include:

8.2.1 Usage costs of transmission facilities (e.g. telephone charges) up to the selected PoP of

PACOGI International GmbH;

8.2.2 the costs incurred at the location of the contractual partner.

8.3 PACOGI International GmbH operates the services offered with the greatest possible care, reliability and availability. However, PACOGI International GmbH does not guarantee that these services are accessible without interruption, that the desired connections can be established at any time, or that stored data is retained under all circumstances.

8.4 PACOGI International GmbH is also not liable for the content of transmitted data or for the content of data accessible through the services of PACOGI International GmbH. Each contractual partner of PACOGI International GmbH undertakes to comply with the relevant legal regulations when using the services and data lines offered by PACOGI International GmbH. PACOGI International GmbH reserves the right to prevent its contractual partners from transporting data or services that contravene laws, international conventions or morality, but is not obliged to do so.

8.5 The contractual partner undertakes to be of legal age and not to allow persons under the age of 18 access to the website: <https://pacogi.com>. The contractual partner undertakes to comply with the provisions of the TKG, as amended from time to time.

8.6 A prerequisite for the use of the services is Internet access which enables access to the websites of PACOGI International GmbH. The contractual partner has the obligation to take care of this prerequisite himself.

8.7 The contractual partner agrees to receive information material (advertising) from PACOGI International GmbH by e-mail or online.

## **9 Additional provisions for resellers**

Resellers commit themselves to PACOGI International GmbH to impose the obligations assumed in the General Terms and Conditions on their customers. Resellers are liable to PACOGI International GmbH for damages incurred by PACOGI International GmbH due to a violation of this obligation.

## **10. other provisions**

10.1 Unless otherwise agreed and subject to mandatory provisions of the Consumer Protection Act, the statutory provisions applicable between fully qualified merchants shall apply. In business transactions with companies and with legal entities under public law (contract with companies, B2B), the place of jurisdiction for all legal disputes concerning these General Terms and Conditions and individual contracts concluded under these General Terms and Conditions, including actions based on bills of exchange and cheques, shall be exclusively the court responsible for A-4660 Wels (Austria). In this case, PACOGI International GmbH is also entitled to sue at the customer's place of business.

10.2 All declarations concerning this contractual relationship are only valid in writing.

10.3 10.2 does not apply to consumer transactions.

10.4 PACOGI International GmbH is authorized at its own risk to commission other companies to provide services under this contractual relationship.

10.5 The contractual partner is obliged to notify PACOGI International GmbH immediately of any changes to his name or designation, changes to the specified subscriber numbers, any change to his address (business address, relocation of registered office) or change to the legal form. If the contractual partner does not notify PACOGI International GmbH of any changes, PACOGI International GmbH shall be deemed to have received legally significant declarations if they are sent to the address last notified.

10.6 The possible invalidity of individual provisions shall not affect the validity of the remaining General Terms and Conditions. The ineffective provision shall be replaced by an effective provision which comes closest in economic and legal terms to the former in terms of its meaning and purpose.

10.7 For all legal transactions or other legal relationships with PACOGI International GmbH only formal and substantive Austrian law applies. The UN Convention on Contracts for the International Sale of Goods (CISG) including reference standards as well as any other intergovernmental agreements, even after their adoption into Austrian law, expressly do not apply. In the case of contracts for a purpose which cannot be attributed to the professional or commercial activity of the entitled party (contract with consumer, B2C), this choice of law shall only apply insofar as the protection granted by mandatory provisions of the law of the country in which the consumer has his habitual residence is not withdrawn.

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