

General terms and conditions of sale
of Walter Bösch GmbH & Co KG (FN 12924g, LG Feldkirch)
Industrie Nord, A-6890 Lustenau

1. Validity of the general terms and conditions of sale

- 1.1 The following general terms and conditions of sale – hereinafter referred to as T&Cs – apply exclusively to all offers, deliveries and services of Walter Bösch GmbH & Co KG and affiliated companies (paragraph 228, subparagraph 3, Austrian Business Code (UGB)). These T&Cs are binding for all present and future business transactions with the party to the contract.
- 1.2 Regulations – in particular, the general terms and conditions of business or of purchase of the party to the contract – deviating from or supplementing these T&Cs shall only become part of the contract if they are recognised in writing by Walter Bösch GmbH & Co KG.
- 1.3 If conflicting T&Cs cause a difference of opinion, the T&Cs of the party to the contract shall not apply; those of Walter Bösch GmbH & Co KG shall apply alone. In cases of doubt the T&Cs of neither party to the contract should apply.
- 1.4 These T&Cs contain special provisions for consumer transactions.

2. Offers and conclusion of the contract, contents of the contract

- 2.1 Offers provided by Walter Bösch GmbH & Co KG are always subject to change. Offers, drafts, designs and calculations described as "cost estimates", "ballpark costs" or "rough estimates" and the like are not binding.
- 2.2 The contracting party's order is only deemed to be accepted following the written order confirmation sent by Walter Bösch GmbH & Co KG (also by email or fax), whereupon a contract is effected. Where **trade transactions** apply, the party to the contract may only withdraw from the contract with the agreement of Walter Bösch GmbH & Co KG.
- 2.3 The party to the contract shall receive the T&Cs either at the time of the first offer, the order confirmation or at the party to the contract's express request. They are also available to download at www.boesch.at/agb for printing or storing.
- 2.4 With the exception of the sales manager responsible and/or the management, no employees of Walter Bösch GmbH & Co KG are authorised and/or allowed to conclude additional agreements or make other commitments which go further than the content of the written contract. In order to be legally binding, additional agreements must be in writing and legally signed in accordance with law by both parties to the contract.

3. Instructions for consumers

- 3.1 Parties to the contract, who are consumers as defined by the Austrian Consumer Protection Act (KSchG) and the Austrian Distance Selling Act (FAGG), are entitled to withdraw from the contract within fourteen days without giving any reasons where goods have been ordered or service contracts concluded outside the business premises of Walter Bösch GmbH & Co KG. The withdrawal period is fourteen days from the date of goods received or conclusion of the contract. The party to the contract shall inform Walter Bösch GmbH & Co KG of the party to the contract's decision to withdraw from the contract by making a clear statement to that effect (in any format, or by letter, fax or email). The party to the contract can download the T&Cs at www.boesch.at/agb for printing or storing. The withdrawal period deadline is satisfied if the party to the contract communicates the intention to exercise the right to withdraw before expiry of the withdrawal period. Advice of withdrawal must be addressed to: **Walter Bösch GmbH & Co KG, Industrie Nord, 6890, Lustenau, Austria, info@boesch.at**.
- 3.2 If the party to the contract withdraws, Walter Bösch GmbH & Co KG shall repay all payments received from the party to the contract, without delay and no later than within fourteen days from the date on which notification of the contracting party's withdrawal from this contract is received. Insofar as a service has, at the contracting party's request, started but has not yet been concluded, during the withdrawal period, the contracting party shall pay Walter Bösch GmbH & Co KG an amount which, when compared to the contractually agreed total price, corresponds proportionally to the services provided by Walter Bösch GmbH & Co KG to the date of the withdrawal. The party to the contract shall also pay Walter Bösch GmbH & Co KG an amount of compensation for a reduction in the market value of the goods if this loss in value can be attributed to unnecessary handling of the goods in order to test the nature, features and function of the goods.

The party to the contract or the consumer has no right of withdrawal with regard to contracts concluded outside business premises

- where the amount payable by the latter does not exceed € 50;
- for services, if the trading enterprise – on the basis of an express request from the consumer and confirmation from the consumer to the effect that the consumer is aware of the loss of right of withdrawal where there is complete contract fulfilment – had started performance of the services prior to expiry of the withdrawal period and the services were then fully completed;
- for urgent repair or maintenance work, where the consumer expressly requested the trading enterprise to make a visit to perform such work;
- for goods which are made in accordance with customer specifications or clearly tailored to personal requirements;
- for goods which, due to their nature, were mixed inseparably with other goods after delivery.

- 3.3 As defined by the Austrian Consumer Protection Act (KSchG), the consumer is obliged to bear the costs for the return of goods insofar as these may be sent by post.

4. Prices and terms of payment

- 4.1 Walter Bösch GmbH & Co KG's price lists in their latest versions are applicable. The prices, shown in euros, apply "ex works", Incoterms 2010 and include packaging but not, however, – subject to any separate individual contract provisions – costs of transport, assembly or positioning. Prices are quoted before the relevant amount of VAT and any stamp duties.
- 4.2 Offer prices are only valid if the offer from Walter Bösch GmbH & Co KG is accepted unchanged by the party to the contract.
- 4.3 Walter Bösch GmbH & Co KG is entitled to supply partial deliveries and to invoice for these separately.
- 4.4 Services that have not been included in the offer but are performed upon request of the party to the contract or additional expenses incurred due to incorrect information or the behaviour of the party to the contract, or due to non-culpable delays in transport or due to preliminary work by third parties not performed on time or in a proper manner, insofar as they are not agents of Walter Bösch GmbH & Co KG, shall be additionally charged to the party to the contract in accordance with Walter Bösch GmbH & Co KG's current rates of remuneration.
- 4.5 Invoices are payable immediately and without any discount unless agreed otherwise in accordance with the offer.
- 4.6 **Trade transactions:** The party to the contract has no right to retain payments. **Consumer transactions:** Insofar as Walter Bösch GmbH & Co KG does not provide services in accordance with the contract, or provision of the services is endangered by Walter Bösch GmbH & Co KG's poor financial circumstances which were not and could not have been known by the consumer at the time of conclusion of the contract, the party to the contract has right of retention.
- 4.7 In the event of late payments with regard to trade transactions, Walter Bösch GmbH & Co KG is entitled, without prejudice to any further claims, to demand interest on late payment of 9.2 % above the relevant reference interest rate of the European Central Bank. In the event of late payments with regard to consumer transactions, statutory interest on late payment of 4 % applies. Late payments relating to trade transactions will also incur – insofar as not contractually regulated otherwise – a flat rate charge of EUR 40 for any costs of collection.
- 4.8 In the event of late payment and after setting a grace period, Walter Bösch GmbH & Co KG is entitled to withdraw from the contract and to demand compensation for non-fulfilment if the party to the contract does not make any payment.
- 4.9 If payments in instalments are agreed, a deadline is considered missed as soon as one instalment is not paid on time or in full. When a deadline is missed the total remaining balance outstanding shall become due immediately. If a deadline is missed, Walter Bösch GmbH & Co KG has the right to take charge of the goods delivered under

retention of title, without withdrawing from the purchase contract, until the whole claim is completely covered together with any ancillary costs.

5. Place of performance and risk assumption

- 5.1 The place of performance is the registered office of Walter Bösch GmbH & Co KG in A-6890 Lustenau, Industrie Nord.
- 5.2 The party to the contract bears the costs and risks of transport, subject to any separate individual contract provisions.
- 5.3 When data is downloaded or transmitted via the internet, the risk of loss or modification of the data passes to the party to the contract once the data have passed the network interface of Walter Bösch GmbH & Co KG.

6. Retention of title

- 6.1 The goods remain the property of Walter Bösch GmbH & Co KG until payment has been made in full. Walter Bösch GmbH & Co KG reserves the right to indicate unrestricted right of ownership to the contract goods on the exterior in a visible manner. Walter Bösch GmbH & Co KG is entitled to collect the goods at any time in the event of late payment. If bankruptcy proceedings are applied for or opened over the assets of the party to the contract, Walter Bösch GmbH & Co KG may, at any time, upon entering the premises of the party to the contract, demand surrender of the goods held under retention of title.

If the goods have been sold through the normal business operations of the party to the contract, the resale price shall be deemed as assigned to Walter Bösch GmbH & Co KG. If a resale is made on credit or on account, this shall take place under retention of title and the claim against this party to the contract shall be deemed as assigned to Walter Bösch GmbH & Co KG, who hereby accepts this assignment.

- 6.2 If the party to the contract processes or reprocesses the delivered goods, Walter Bösch GmbH & Co KG has the right to proportional co-ownership of the resulting item. The party to the contract shall inform Walter Bösch GmbH & Co KG without delay, in writing, of any access by third parties to the goods, in particular of any compulsory enforcement measures as well as of any damage to or destruction of the goods. The party to the contract shall report, without delay, any change in ownership of the goods or the party to the contract's own change of address.
- 6.3 The party to the contract shall make good all damage and reimburse all costs arising due to a violation against these obligations and due to required intervention measures against third party access to the goods.

7. Acceptance and partial delivery

- 7.1 The party to the contract is obliged to accept the deliveries and services provided on time by Walter Bösch GmbH & Co KG.
- 7.2 Deliveries of goods or software supplied "ex works", Incoterms 2010, are deemed

accepted subject to any separate individual contract provisions.

- 7.3 If installation or assembly services have been agreed, the delivery is deemed to have been accepted at the earliest of the following points in time: when the acceptance is confirmed by the party to the contract or the latter's end customer; when the delivery and/or service was brought into operation by the party to the contract or the latter's end customer; or at the latest four weeks after installation or assembly.
- 7.4 Services and administrative work are deemed to be accepted when they are actually supplied.
- 7.5 Acceptance is also possible through the conclusive behaviour of the party to the contract, in particular by the unconditional use or commissioning etc. of the deliveries or services of Walter Bösch GmbH & Co KG.
- 7.6 Acceptance is deemed to have taken place when Walter Bösch GmbH & Co KG sends a notice of completion to the party to the contract requesting that the latter accepts the work within 10 working days but there is no response from the party to the contract within this period.
- 7.7 Acceptance is also deemed to have taken place when the party to the contract makes an unconditional payment.
- 7.8 If Walter Bösch GmbH & Co KG's service, for reasons for which the party to the contract is responsible, cannot be provided to the latter, the risk passes to the party to the contract on the date of receipt of the notice of completion. Walter Bösch GmbH & Co KG's service is then deemed to have been fulfilled.
- 7.9 The party to the contract may not refuse to accept deliveries and/or services on account of insignificant defects.

8. Delay

- 8.1 The agreed delivery periods and delivery dates shall be observed by Walter Bösch GmbH & Co KG as far as possible: Insofar as they are not expressly agreed as binding, they are non-binding and are always understood to mean the expected date of provision and handover to the party to the contract.
- 8.2 Withdrawal from the contract by the party to the contract on account of delayed delivery is only possible subject to setting a reasonable period of grace: this must be at least two months. Withdrawal shall be asserted, in writing, by means of a registered letter. The right of withdrawal relates only to that part of the delivery or service in respect of which there has been a delay.
- 8.3 Goods not accepted on the agreed date shall be stored for a period of 6 weeks at the risk and expense of the party to the contract, for which Walter Bösch GmbH & Co KG shall charge a storage fee per commenced calendar day. The amount of the storage fee is determined by the volume and weight of the goods but shall be at least 3 % of net goods value. At the same time, Walter Bösch GmbH & Co KG is entitled either to insist on fulfilment of the contract or, subject to a reasonable period of grace, to withdraw from the contract and to make other use of the goods. In the event of an

enforcement event a contractual penalty of 20 % of the invoice amount, before VAT, shall be deemed to be agreed.

9. Guarantee

9.1 Provided that payment conditions have been fulfilled, assembly and operating regulations have been properly observed and that there have been perfect operating conditions for the individual devices, a guarantee shall be provided by Walter Bösch GmbH & Co KG for a period of 12 months from the date of commissioning or, if applicable, a maximum of 18 months from the date of delivery. The guarantee is to be understood as meaning that only the device parts which are proven to be defective within this period, as a result of material or construction faults, shall be repaired or replaced free of charge. Work performed under guarantee shall not extend the guarantee period and is to be understood as being exclusive of costs chargeable for travelling time and labour. A guarantee case shall not defer the due dates of amounts owing to Walter Bösch GmbH & Co KG.

9.2 A guarantee does not exist,

- if the device was not brought into operation by Walter Bösch GmbH & Co KG;
- if Walter Bösch GmbH & Co KG is not informed immediately, by registered letter, after recognition of the defect so that the cause can be investigated;
- if unauthorised persons are given access to the devices in new buildings or installations;
- if administrative provisions are not observed or preliminary work has not been performed properly;
- for defects in such parts that are subject to normal wear and tear.

9.3 The guarantee shall be without prejudice to the warranty provisions of these T&Cs.

10. Warranty

10.1 **Warranty for trade transactions:** If the party to the contract is a trading enterprise, the party to the contract shall examine deliveries and/or services without delay and shall notify Walter Bösch GmbH & Co KG of any defects, in writing, no later than within seven working days from the date of handover, failing which all rights of the party to the contract in particular as regards the warranty, damages or avoidance on the grounds of mistake are excluded. Providing notice of defect does not give entitlement to retention of invoiced amounts or parts thereof. If a complaint is made in good time and defects actually exist, Walter Bösch GmbH & Co KG may choose how to provide the warranty (exchange, rectification, subsequent delivery, price reduction or cancellation and this shall be independent of the statutory requirements). Defects that could not be recognised on the occasion of the delivery and/or service shall benefit from a warranty period of 24 months from the date of delivery which shall be neither extended nor interrupted by attempts to rectify; this shall also apply to partial deliveries and/or

services. Such defects shall be asserted in writing by registered letter within seven working days of their discovery under exclusion of any other warranty claims and/or compensation claims and/or claims for avoidance on the grounds of mistake, but do not provide entitlement to retention of invoiced amounts or parts thereof. Recourse claims against Walter Bösch GmbH & Co KG, in particular in accordance with paragraph 933b of the Austrian Civil Code (ABGB), are excluded. The party to the contract shall always demonstrate the deficiency of the delivered goods at the time of handover; legal presumption in accordance with paragraph 924 of the Austrian Civil Code (ABGB) is expressly excluded. Entitlement to rights under warranty only applies if assembly and operating regulations have been observed.

10.2 Warranties for consumer transactions: The statutory warranty provisions apply.

11. Damages

11.1 As and where appropriate, Walter Bösch GmbH & Co KG is only liable for damages in cases of wilful intent or gross negligence. In cases of slight negligence, Walter Bösch GmbH & Co KG is liable solely for personal injury. Liability shall lapse in 18 months after learning from the party to the contract of the damage and originator of the damage.

11.2 Walter Bösch GmbH & Co KG is not liable for indirect damages, lost profits, lost interest, missed savings, consequential damage and damage to property, damage resulting from third party claims or for the loss of data or programs and cost of their recovery.

11.3 Liability for contract atypical (consequential) damages is excluded.

11.4 No liability is assumed for defective supplies and/or services from external companies who are called in on the instructions of the party to the contract, provided it is not proved that Walter Bösch GmbH & Co KG infringed any duty of care in selecting and monitoring the external company intentionally or with gross negligence.

11.5 Verbal or written advisory services from Walter Bösch GmbH & Co KG regarding the use and application of the goods delivered are based on practical experience as well as information from the party to the contract and are provided on a non-binding basis to the best of our knowledge. Liability may not be based on instructions or on verbal advice.

11.6 Claims for compensation in accordance with product liability law remain unaffected.

12. Property rights and rights of use, confidentiality

12.1 All industrial property rights (copyright and performance protection rights, trademark rights, competition-law-related performance protection, patent rights) in connection with the deliveries or services to be provided accruing to or transferred to Walter Bösch GmbH & Co KG, employees or third parties Walter Bösch GmbH & Co KG has authorised – also on behalf of the party to the contract – shall, unless expressly agreed

otherwise, remain the property of Walter Bösch GmbH & Co KG. The transfer of rights of use or rights of exploitation requires agreement in writing and applies always only for the specific period of the contract. Changes in concepts or designs etc., may only be made by Walter Bösch GmbH & Co KG or by persons expressly authorised accordingly by the latter.

- 12.2 The party to the contract is only entitled to use the concepts, designs etc., of Walter Bösch GmbH & Co KG for the purposes laid down in the contract. Duplications are only permitted with the express prior authorisation of Walter Bösch GmbH & Co KG. Software, files, templates, working method films, diagrams etc., produced by or on the instructions of Walter Bösch GmbH & Co KG, remain in the possession of the latter, even if the party to the contract is charged for these.
- 12.3 With regard to the execution of orders in accordance with information or documents given by the party to the contract, the latter assumes responsibility that third party property rights are not infringed by the manufacture and delivery of services performed in accordance with the information and documents of Walter Bösch GmbH & Co KG. Walter Bösch GmbH & Co KG is not obliged to check whether the information or documents provided by the party to the contract in order to render the service infringe or may infringe third party property rights. The party to the contract is obliged to release Walter Bösch GmbH & Co KG immediately from any possible third-party claims for compensation and to be answerable for any damages accruing from the infringement of property rights. This does not apply in the event of wilful intent or of gross negligence or in the event of injury to body, life or health of an individual on the part of Walter Bösch GmbH & Co KG.
- 12.4 Supplied standard software is subject to the license terms concluded by the party to the contract directly with the relevant software manufacturer, such as Microsoft, SAP or third-party providers.
- 12.5 The party to the contract is, furthermore, hereby irrevocably obliged to maintain silence regarding all business or trade secrets which Walter Bösch GmbH & Co KG has made accessible or made available or of which Walter Bösch GmbH & Co KG has become aware in connection with or based on a business relationship or from contact with Walter Bösch GmbH & Co KG and not to make these accessible to third parties under any circumstances whatsoever without authorisation from Walter Bösch GmbH & Co KG. The party to the contract is, furthermore, obliged only to use information on a need to know basis and only under the terms of the concluded contract.
- 12.6 The confidentiality obligation shall prevail for 3 years after the end of the business relationship with Walter Bösch GmbH & Co KG or, independently of a business relationship, for 3 years after the offer was made by Walter Bösch GmbH & Co KG.

13. Data protection

It is noted that personal data within the scope of the business relationships or in connection with these, no matter whether they originate from Walter Bösch GmbH & Co KG itself or from a third party, shall be processed as defined by the federal Data Protection Act (Bundesdatenschutzgesetz).

14. Place of jurisdiction and choice of law

14.1 **Trade transactions:** All disputes arising from a contract – including such concerning its existence or non-existence – shall be settled by the exclusive competence of the factual and local courts applicable to the registered office of Walter Bösch GmbH & Co KG.

Consumer transactions: Consumer transactions: the place of jurisdiction in accordance with paragraph 14 of the Austrian Consumer Protection Act (KSchG) applies with regard to consumers (place of residence; habitual residence; place of employment).

14.2 The contract is subject exclusively to the law of the Republic of Austria under exclusion of the UN Sales Convention.

15. Final provisions

15.1 Should any provision of these T&Cs be or become wholly or partially legally invalid or unfeasible, this shall not affect the legal validity of all the other terms and conditions. The parties to the contract shall replace the legally invalid or unfeasible provision with a valid and feasible provision which comes as close as possible to the content and purpose of the invalid or unfeasible provision.

15.2 Changes or supplements to the contract must be made in writing. This also applies to any changes to the requirement for the written form.

15.3 **Trade transactions:** The offset of any counterclaims against Walter Bösch GmbH & Co KG's claims, whatever their nature, is not allowed for trade transactions.

Consumer transactions: Consumers may only offset claims that are legitimately related to those of Walter Bösch GmbH & Co KG with counterclaims that are undisputed or upheld by a final decision of a court of law or in the event of Walter Bösch GmbH & Co KG's inability to pay.

15.4 Using subcontractors is permitted.

15.5 Walter Bösch GmbH & Co KG observes the Waste Electrical and Electronic Equipment Ordinance (Austrian Official Journal (BGBl) II No. 121/2005), whereby the obligations resulting from this are also transferred to other companies or separate written agreements can be made.