

## **Terms and Conditions for Direct Selling**

Glatz AG, 13/02/2017

### **1. Scope**

- 1.1. These Terms and Conditions (hereinafter "T&Cs") apply to all sales contracts concluded by Glatz AG with customers (hereinafter "purchasers") concerning the products sold by Glatz AG (hereinafter "products").
- 1.2. These T&Cs form an integral part of any contract concluded in accordance with clause 2 of the T&Cs and apply in the version applicable at the time of the conclusion of the respective contract. With any purchase of a product, the purchaser acknowledges the current version of these T&Cs as binding for all legal relationships between itself and Glatz AG.
- 1.3. Differing conditions proposed by the purchaser are not acknowledged by Glatz AG even if the latter does not expressly object to them.

### **2. Conclusion/content of contracts concerning the purchase of products**

- 2.1. The offers published by Glatz AG (e.g. in product catalogues, advertisements etc.) are merely invitations for the submission of purchase bids by purchasers, i.e. the submission of orders.
- 2.2. A contract concerning the purchase of products is concluded only by the express acceptance by Glatz AG of an order submitted by the purchaser (hereinafter "order confirmation"); such confirmation may be given in writing, by fax or by email.
- 2.3. The purchaser must truthfully declare all of the information required for the placement of orders, in particular the payment details. Any relevant changes must be communicated by the purchaser to Glatz AG without delay.
- 2.4. The product description specified by Glatz AG (e.g. in product catalogues, advertisements etc.) is the sole authoritative definition of the products. Verbal agreements or assurances with regard to products and/or technical documentation such as drawings, descriptions, illustrations and suchlike provided by the purchaser in connection with ordered products must be expressly confirmed in writing by Glatz AG in order to be binding.

### **3. Prices**

- 3.1. The prices quoted by Glatz AG at the time of the conclusion of the contract are authoritative. If no prices have been agreed, the Glatz AG price list shall apply. If Glatz AG should however change its prices or price list during the period between the purchaser's order and the dispatch of the order confirmation, Glatz AG shall separately indicate this fact to the purchaser with the order confirmation. In this case, the contract shall be concluded only by the purchaser's subsequent confirmation of the order at the prices applicable at the time.
- 3.2. If VAT is due, it shall be added to the invoice. Any additional shipping costs shall also be itemised and billed separately.

- 3.3. The prices refer solely to the scope of products defined by the quotation by Glatz AG. Modifications to the products and/or additional services by Glatz AG in connection with the products (such as assembly services) must be ordered separately by the purchaser; they require the express written confirmation of Glatz AG and must be billed separately to the purchaser.

#### **4. Terms of payment**

- 4.1. Unless other terms of payment have been expressly agreed, all invoices must be paid net within 30 days of the invoice date. The purchaser may withhold payment only on the basis of claims arising out of the same contractual relationship with Glatz AG.
- 4.2. In the event of delayed payment, the purchaser shall owe interest on arrears at the statutory rate without prior warning.
- 4.3. In the event of delayed payment, Glatz AG is entitled to withhold goods already ordered but not yet delivered; the purchaser shall have no right of withdrawal in relation to these orders.
- 4.4. Glatz AG is entitled to demand appropriate reminder fees of at least CHF 25.00 or a corresponding appropriate amount in EUR. All costs associated with recovery (e.g. collection costs and in particular legal fees) shall be charged in full to the purchaser in default. The same applies to costs incurred by Glatz AG if the purchaser makes false declarations or has insufficient funds in its account.

#### **5. Delivery / dispatch / transfer of risk**

- 5.1. Unless otherwise agreed, Glatz AG shall supply the products at the agreed time on its premises in packaging suitable for transport and ready for loading and notify the purchaser immediately so that the latter may accept the products. The type of packaging shall be determined by Glatz AG. Glatz AG is entitled to make partial deliveries and the purchaser is required to accept them, provided that it incurs no additional costs as a result. If collection of the products is delayed, the purchaser shall be charged appropriate storage costs of at least CHF 60.00 per day. The same applies if the purchaser unjustifiably refuses to accept the supplied products.
- 5.2. Unless otherwise expressly agreed, the risk of accidental destruction of the products shall be transferred to the purchaser at the time when the products are made available for collection or, in the case of dispatch, when they are issued for shipment. Accordingly, all goods are shipped at the purchaser's risk.

#### **6. Retention of title**

The products shall remain the property of Glatz AG until final settlement of the purchase price. Glatz AG is entitled to make a corresponding entry in the retention of title register.

## **7. Delivery date**

- 7.1. The delivery date indicated in the order confirmation by Glatz AG is not binding. Mandatory delivery dates must be expressly agreed in writing. The same applies if the products are to be delivered to the purchaser at a particular time.
- 7.2. If Glatz AG should fail to comply with a mandatory delivery date as defined in clause 7.1 of these T&Cs or a mandatory term of delivery, the purchaser may withdraw from the contract concerning the respective orders after an appropriate period of grace set by the purchaser. If Glatz AG has already made partial deliveries, the purchaser may withdraw from the entire contract if it has no interest in the partial delivery. Withdrawal is not permitted if delivery is temporarily impossible due to a case of force majeure or operational disruption at Glatz AG or one of its suppliers.

## **8. Notification of defects, warranty and liability**

- 8.1. If the purchaser is a trader, any defects in the products must be reported to Glatz AG in writing and in detail within five days of the products' arrival at the destination indicated in advance to Glatz AG. Hidden defects must be reported to Glatz AG in writing and in detail as soon as they are identified, with the rebuttable presumption being made within the first six months since the products' arrival at the destination indicated in advance to Glatz AG that the defect already existed at the time of the products' arrival. A trader is defined as a natural or legal person or a partnership with legal capacity acting in the exercise of its commercial or independent professional activity when concluding a legal transaction.
- 8.2. If a defect is reported to Glatz AG within six months of the products' arrival at the destination indicated in advance to Glatz AG, the rebuttable presumption is made that the defect already existed at the time of the products' arrival at the destination indicated in advance to Glatz AG, unless this presumption is incompatible with the nature of the product or defect.
- 8.3. If two years have elapsed since the products' arrival at the destination indicated in advance to Glatz AG, no defects in the products (irrespective of the nature of such defects) may be claimed against Glatz AG.
- 8.4. If there are existing defects – and, in the case of purchasers who are traders, defects that have been correctly reported in accordance with clause 8.1 of these T&Cs – Glatz AG may either repair the products concerned, deliver replacement products to the purchaser or issue a credit note to the purchaser. If the purchaser is a trader, Glatz AG is entitled to choose the type of supplementary performance; if the purchaser is a consumer, he or she may choose the type of supplementary performance. A consumer is defined as any natural person who concludes a legal transaction for purposes that cannot predominantly be attributed to his or her commercial or independent professional activity.
- 8.5. Any return of the goods shall require the prior consent of Glatz AG. Glatz AG shall accept returned goods only in clean and good condition with a declaration of the reason for their return and the return authorisation number.

- 8.6. Glatz AG shall be liable for damage on whatever legal grounds only if the purchaser asserts claims for damages due to the wilful intent or gross negligence of Glatz AG, its agents or representatives. This does not apply to liability for warranted characteristics and for the breach of fundamental contractual obligations. Fundamental contractual obligations are defined as those obligations that enable the proper fulfilment of the contract and whose fulfilment the purchaser is entitled to expect. Unless Glatz AG is held responsible for an intentional or grossly negligent breach of contract in the case of a breach of a fundamental contractual obligation, its liability for damages is limited to foreseeable damage that might typically occur; the same applies if the purchaser requests compensation for futile expenses in lieu of damages in place of performance.
- 8.7. The liability exclusions or limitations above also apply with regard to the liability of the staff, employees, personnel, representatives and agents of Glatz AG and in particular for the benefit of the shareholders, employees, representatives, bodies and their members with regard to their personal liability.
- 8.8. The liability exclusions above do not, however, apply to liability in the case of damage to life, limb or health. Moreover, they do not apply if liability is based on product liability or the acceptance of a guarantee.

## **9. Intellectual property rights**

The rights to all product information and imagery provided by Glatz AG and/or published on the Internet are held solely by Glatz AG. Full or partial reproduction or full or partial dissemination by electronic or other means shall require the prior written consent of Glatz AG.

## **10. Other provisions**

- 10.1. The purchaser may set off only undisputed claims or claims determined to be legally valid.
- 10.2. Special provisions in individual written contracts between the purchaser and Glatz AG shall remain reserved. Verbal agreements between the purchaser and Glatz AG, however, shall be invalid.
- 10.3. Glatz AG reserves the right to update these T&Cs prospectively if an adjustment is necessary for economic or legal reasons. The amendments shall take effect for ongoing contractual relationships with the purchaser only if the purchaser consents to them. If the purchaser does not object to the amendments to the T&Cs within two weeks of being notified of the amendment of the T&Cs and the consequences of failure to object to it, consent shall be deemed granted. In particular, Glatz AG shall announce the amendments by transmitting the new T&Cs to the purchaser together with the order confirmation.
- 10.4. Should individual provisions of these T&Cs be or become wholly or partially invalid, this shall not affect the validity of the remaining provisions of the T&Cs. In the case of such invalidity, the invalid provision shall be replaced by the respective statutory provision.

**11. Applicable law, jurisdiction**

- 11.1. The contractual relationship between the parties, including these T&Cs, is governed as a whole by German law. In the case of consumers, this choice of law applies only in as much as the granted protection is not withdrawn through compulsory provisions of the law of the state in which the consumer is usually resident. The provisions of the United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention) shall not apply.
- 11.2. The sole place of jurisdiction is the registered domicile of Glatz AG if the purchaser is a trader, a legal entity under public law or a special fund under public law and no exclusive place of statutory jurisdiction has been established.