



GENERAL TERMS AND CONDITIONS

Dear business partners!

We would like to thank you for your interest in entering into business relations with us and are happy to count you among our customers in the future. Our General Terms and Conditions, which are specified below, will serve as a base for our business activities:

1. Scope

- 1.1. The following terms and conditions apply to all offers, sales, deliveries and services, as well as for customized products.

These terms and conditions are binding upon the placement of an order and shall be acknowledged and accepted by the customer. They shall also be applicable for any future business relationships, even if not expressly agreed upon again. They are applicable in their valid form at the time of the placement of the order.

Any divergence or other form of agreement must be in written form. Such agreements reached between the two parties shall supersede these terms and conditions in every instance.

- 1.2. Divergent, contradictory and additional terms and conditions on the part of the customer are not part of this agreement, even upon the knowledge thereof, unless their validity has been expressly agreed upon. Should they contradict the terms and conditions of Backhausen GmbH, the valid form of the terms and conditions of Backhausen GmbH are applicable.
- 1.3. The customers covered by these terms and conditions are mostly companies. Should the customer be a consumer as defined by the Austrian Consumer Protection Act (KSchG), then the binding terms of this Act have precedence over these terms and conditions.

2. Offers, Order Acceptance, Order Cancellations

- 2.1. All orders, offers, commissions, changes to orders, order cancellations and other agreements are only binding for Backhausen GmbH when confirmed in writing. Silence is not a valid form of agreement.

- 2.2. Any offers made by Backhausen GmbH are not binding.

Images, drawings and information, in particular information on weights and measures, are only approximate values. Minor, justifiable changes are accepted by the customer.

- 2.3. Backhausen GmbH is entitled to accept the contract offer implied in the order upon receipt through the sending of a written order confirmation within a period of a maximum of 10 days, otherwise the contract offer shall be considered as rejected.

- 2.4. Backhausen GmbH is entitled to reject the order for good reason - such as after checking the creditworthiness of the customer.

- 2.5. The order is placed under the condition that Backhausen GmbH receives the materials required from its suppliers to complete it in a timely and complete manner. Furthermore, this requirement is valid should Backhausen GmbH not be in the position to allocate the necessary manpower to fulfill the agreement due to its debt situation, or due to unforeseen circumstances such as a widespread illness among its staff.

In such cases, Backhausen GmbH is required to inform the customer of these circumstances without delay and to find a solution that is acceptable to both parties through an agreement, such as to ensure the possible partial completion of the order.

Any payments already made by the customer must be returned to the extent of the service that cannot be rendered by Backhausen GmbH. The customer is not entitled to any other claims towards Backhausen GmbH other than those mentioned. Backhausen GmbH, on the other hand, will transfer any claims it has against its suppliers to the customer, in order to enable the customer to assert any potential claims against the supplier.

- 2.6. Should the purchaser withdraw from a given order completely or in part without good reason, the vendor can claim 20% of the purchase price in question for costs incurring from the processing of the order, cutting losses etc., including transportation costs, without waiving the right to claim higher, real damages. The purchaser retains the right to provide evidence of lower levels of damage. The returning of fabric is generally unaccepted if the wares sent have cutting marks or signs of use.

3. Prices

- 3.1. Prices exclude Value Added Tax (V.A.T.) and, if not agreed otherwise, orders meeting the specified net value minimum will be shipped:

Within Austria: free of charge

Backhausen GmbH will choose the dispatch type and route.

For orders below EUR 150.00 netto, the customer will be billed with a flat fee for transport and processing.

Within the EU: ex-works;

International: delivered at frontier (Austria), duty unpaid, taxes unpaid, packaged, no insurance.

- 3.2. Agreements to express delivery are subject to charges. The goods can be insured upon the request of the customer. The customer must carry the insurance costs.
- 3.3. Should the customer make the request to have the goods shipped express delivery, all extra costs arising from this request must be borne by the customer. The prices listed in orders, offers and order confirmations are binding.

4. Terms of Payment

- 4.1. Invoices are payable within 30 days net from the issuance date of the invoice without discounts or within 10 days with a 2 % discount. There shall be no discounts when sending samples and collections. A payment shall be considered to have been made once Backhausen has received the payment on its account.

Should there be a binding order placement from a contract partner for a customized product an advance payment of 30 % of the total sum of this special request is required.

- 4.2. Should payments by the customer be late, Backhausen GmbH is entitled to:
- Postpone the fulfilment of its own obligations until the payments have been made;
 - Demand the entire unpaid price payable (suspended deliveries); Demand payment security even for claims that are not due from any agreements made with this customer, as Backhausen GmbH sees fit;
 - To bill interest on arrears (in line with the provisions of Art. 456 of the Austrian Commercial Code) at the amount of currently 9.2 % above the base interest rate) vis-a-vis a consumer, 5 % shall be charged for business relationships with consumers;
 - Terminate current or follow-up orders should the customer be non-compliant with the appropriate grace period, whereas Backhausen GmbH is not obliged to issue a termination notice when setting a grace period, if a reasonable grace period is actually granted;
 - Postpone and withhold services from other orders that were to be performed for the customer until the payment of the arrears.
- 4.3. Backhausen GmbH reserves the right to file for potential further claims, such as damages.
- 4.4. The customer agrees to bear all costs and expenditures that may arise from the collection of the claim, such as any costs for reminders, costs for debt collection agencies according to the tariff given and legal intervention by lawyers according to fee regulations given or costs for any other appropriate legal proceedings necessary. A reminder fee of € 20.00 per reminder is agreed for any reminder written by Backhausen GmbH.
- 4.5. Should the customer be in payment arrears, any incoming payments will be first charged against the costs that may have arisen from any out-of-court collection of debt, including reminders from debt collection agencies and lawyers, or judicial collection, then to accumulated interest and only then to the principal owed. Should the customer be in arrears with more than one obligation, any incoming payments will be charged against the longest

open arrears in the way described above. Backhausen GmbH is not bound to allocate payments made to a specific debt.

5. Delivery

- 5.1. The start of the delivery period agreed requires the timely and orderly fulfilment of the obligations of the customer. Backhausen GmbH reserves the right to raise objections to unfulfilled contracts.

However, the customer has the right, following a grace period of six (6) weeks granted in written form and after issuing notice to terminate the contract, to withdraw from the contract after the grace period has expired without result.

- 5.2. Backhausen GmbH is entitled to carry out partial or advance deliveries and invoice these deliveries and will show reasonableness towards the contract partner in doing so.
- 5.3. Backhausen GmbH is entitled to postpone deliveries for the duration of a problem or terminate the unfulfilled parts of the contract in the case of a force majeure or any other unforeseeable circumstances that Backhausen GmbH and/or its suppliers cannot be made responsible for, in particular transportation delays, production failures, transport and customs delays, shortages of materials, loss of workforce, fire damage, workforce and raw material shortages, strikes or lockouts, official injunctions and any other circumstances that could prevent manufacturing and dispatch.

In such cases, the customer is not entitled to damages or penalty payments.

- 5.4. The customer has no right to withdraw from the contract for the reasons mentioned above. However, in such a case the customer is entitled to send Backhausen GmbH a written notice six weeks subsequent to the exceeding of the delivery date demanding delivery within an appropriate time period (minimum of 3 weeks) or the delivery of the finished good(s), notifying Backhausen GmbH that he/she has the right not to accept the object of the contract after this deadline has expired and terminating the contract in writing at the same time.
- 5.5. Should dispatch be delayed on the customer's request, any storage costs will be billed to the customer beginning one month after Backhausen GmbH has informed the customer that the goods were ready to send. The minimum fee billed is at least 0.5 % of the amount stated on the invoice per month. Backhausen GmbH is entitled to freely dispose of the contract object following the expiration of a reasonable deadline of at least three weeks or to deliver the good(s) to the customer, setting (granting) a last grace period of 14 days.
- 5.6. Should the customer be in arrears upon accepting the goods or is guilty of infringing other contractual obligations to cooperate, Backhausen GmbH is entitled to claim damages, including any additional costs arising from this. Backhausen GmbH also reserves the right to make further claims. Should any of the aforementioned conditions apply, the risk of accidental loss or accidental deterioration of the goods is transferred to the customer at that point of time at which the customer has entered into arrears of acceptance or payment.
- 5.7. Contract partners are obliged to accept special requests that were ordered by them.

6. Fulfilment and Risk Transfer

- 6.1. The obligation to deliver the goods is deemed as being fulfilled on part of Backhausen GmbH and the risk is transferred to the customer once the goods are dispatched from the Backhausen GmbH factory and/or its warehouse.

This does not apply:

- If the goods ordered are delivered by Backhausen GmbH itself and arrive at their designated location and have been made ready to be unloaded by the customer.
 - If the goods ordered are not accepted by the customer after they have been finished or the customer has been informed that they have been finished or if they could not be delivered due to the fault of the customer.
 - If the goods are shipped by train, postal service, forwarders, courier service or a freight carrier chosen by Backhausen GmbH and have been handed over to the relevant delivery point or freight carrier.
 - If the readiness to dispatch is indicated by Backhausen GmbH via an agreement with the customer to pick up the goods by him/herself.
- 6.2. The place of fulfillment for deliveries and payments is the production site at Hoheneich, regardless of any individual agreements on delivery and payment location and/or the bearing of potential shipment costs by Backhausen GmbH.

7. Retention of Title

- 7.1. The goods remain the absolute property of Backhausen GmbH until all payments listed in the contract (including interest, expenditures and costs) are paid in full.
- 7.2. The customer is obliged to keep the goods in proper condition during the duration of the retention of title. Should the customer be in arrears, in particular in default of payment, Backhausen GmbH is entitled to take back the goods and the customer must return the goods to Backhausen GmbH. The enforcement of the retention of title in relation to goods delivered does not constitute a termination of contract on the part of Backhausen GmbH. The collection of individual receivables in an open account and the balancing of the account do not affect the retention of title. Moreover, the seizure of reserved goods in the course of a seizure of property initiated by Backhausen GmbH does not constitute a waiver of the retention of title. Payment shall be de-fined as receipt of the full consideration on part of Backhausen GmbH.
- 7.3. For the duration of the retention of title, a sale or other kind of transfer or modification of the retained goods that could affect the safeguarding of the goods is only granted with the prior written consent of Backhausen GmbH. A pledge or security transfer of the retained goods is not permissible on part of the customer.
- 7.4. In the case of resale, the customer transfers his/her rights arising from the sale to third parties to Backhausen GmbH and Backhausen GmbH accepts the transfer. Notwithstanding the transfer and collection right on the part of Backhausen GmbH, the customer is entitled to collect any debts as long as he/she fulfils his/her payment obligations arising from the proceeds collected, is not in default of payment and is not subject to insolvency proceedings of any kind. The customer must provide the necessary information for the collection of the

assigned debts upon request of Backhausen GmbH and must notify the debtors of the assignment.

- 7.5. The customer conducts any adaptation or processing of the retained goods on behalf of Backhausen GmbH, without any obligations arising therefrom for Backhausen GmbH. Should the retained goods be processed, combined or mixed with other goods that do not belong to Backhausen GmbH, Backhausen GmbH shall be entitled to a co-ownership share in the new product. This share shall correspond to the invoice value of the retained goods in relation to the new product at the time of processing, combining or mixing. Should the customer acquire sole ownership of the new product, he/she shall grant Backhausen GmbH co-ownership in relation of the value of the processed, combined or mixed retained goods (original condition and quantity) to the value of the "new" product. Furthermore, the customer shall keep the goods for Backhausen GmbH without any charge and pay Backhausen GmbH in relation to the invoice value of the retained goods. Should the retained goods be sold to third parties together with other products, the provision above applies only to the amount of the value of the retained goods that are sold together with the other products, regardless of whether the retained goods were processed, combined or mixed with the other products or not.
- 7.6. In the event that a third party seizes the retained goods, in particular by pledging the retained goods or the receivables assigned in advance, the customer must notify Backhausen GmbH immediately in writing about these proceedings, passing on any documents required for an intervention and notifying the relevant third party immediately of the retention of title held by Backhausen GmbH.

8. Set-Off / Retention / Transfer

- 8.1. The customer is not permitted to offset any potential claim he/she might have against Backhausen GmbH against claims Backhausen has against the customer as long as they are undisputed or have already been declared final by a legal court. In addition, the customer is not permitted to make use of any rights or retention or to deny services against payment claims or other claims made by Backhausen GmbH. A consumer's mandatory right of retention or to deny services remain unaffected by this provision.

Furthermore, the customer is not permitted to transfer any potential claims he/she has against Backhausen GmbH to third parties, whether natural or legal entities (contractual exclusion of set-off and assignment).

- 8.2. Should there be doubt about the solvency of the customer, in particular if the customer is in arrears, Backhausen GmbH - subject to further claims - is entitled to demand advance payment or securities for further deliveries and revoke terms of payment granted.
- 8.3. Contractual rights and obligations must not be assigned to third parties by the customer without the express prior written consent of Backhausen GmbH.
- 8.4. Backhausen GmbH or any companies related to Backhausen GmbH are permitted to assert claims by way of offsetting.

9. Sample Materials, Customized Products

- 9.1. Samples will be invoiced at cost price. Collections and samples provided to the customer by Backhausen free of charge and on loan remain the property of Backhausen GmbH. Sample material shall be non-binding for production in relation to production or material-related divergences. (In such an event, the customer is entitled to make use of his/her rights in line with 10.5 of these Terms & Conditions).
- 9.2. Requests and order placements for customized products outside/additionally to existing collections must be sent to Backhausen GmbH in written form. Backhausen GmbH will provide an appropriate offer to the contract partner within 10 days of receiving such a request (see provision 2.3). Both parties are required to provide binding information to make such an agreement come into effect (making customized products/customized patterns). Only then will Backhausen be obliged to start the development and production of the customized product.
- 9.3. The costs billed by Backhausen GmbH are due following the completion of the customized product and upon the delivery of the pattern at the latest (see provision 4). Should the contract partner reject the pattern developed, the total development costs will still be due to Backhausen. However, they will be subtracted from the final bill once the order is placed/the assignment is carried out.
- 9.4. Should the contract partner request any changes (pattern, material, weight, color, bindings etc.) after having received an order confirmation by Backhausen GmbH, a written confirmation from Backhausen accepting the changes will be required. Extra costs accrued through such changes will be charged additionally. Otherwise, any development costs accrued up to that point will become due (see provision 9.3).

10. Warranty and Damages

- 10.1. Backhausen GmbH will grant warranties within the legal framework of Article 922 ABGB, as long as no modifications have been agreed upon as part of these Terms & Conditions or the contract respectively.
- 10.2. Complaints about defects on part of the customer shall be made immediately in writing after receiving the goods, but within 14 days following delivery and before any processing at the latest, otherwise any warranty and/or damage claims and/or disputes over errors will be void. However, such complaints do not entitle the customer to retain payments or parts thereof.
- 10.3. The warranty period for defects that could not be detected during the checking of the delivery is 24 months from the date of delivery and will neither be extended nor interrupted by attempted improvements. This warranty period also applies to partial deliveries.
- 10.4. Should the goods delivered have any defects despite all due diligence shown and these defects have already existed at the time of the transfer of risk and there are no opposing legal, mandatory regulations, in particular regulations from the Consumer Protection Act, Backhausen GmbH is entitled to attempt to remedy the defects or deliver replacement goods subject to the timely complaint issued by the customer. In such an event, Backhausen GmbH shall always be given the opportunity for rectification within a reasonable timeframe. Repairs shall be considered as failed after the second unsuccessful attempt, unless further attempts to repair products are reasonable and acceptable to the customer in line with the subject of the agreement. Recourse claims remain unaffected by this provision. Should the remedy of

defects by Backhausen GmbH fail or should Backhausen GmbH not be able to deliver a replacement, the customer is entitled to withdraw from the contract or demand a price reduction. The customer shall inform Backhausen GmbH in writing whether he/she chooses to withdraw from the contract or demand a price reduction. Any further-reaching claims on the part of the customer, in particular claims for damages including the loss of expected profits or other financial damage, are excluded.

- 10.5. Any deviations between the goods ordered and the goods delivered, such as wrong sizes, wrong colours or wrong items (aliud pro alio) must be claimed within 8 days of receiving the goods and before any processing of the goods has occurred, even if the goods are not delivered directly to the customer. Otherwise, the goods shall be considered accepted and cannot be taken back or replaced by Backhausen GmbH.
- 10.6. It is the responsibility of the customer to check the suitability of our products for the intended purposes. Our advice, whether given in writing or verbally, is not binding and does not relieve the customer from checking the suitability of our products for the intended purposes by himself/herself. Damage claims from this title are excluded. Backhausen cannot guarantee replacements and subsequent deliveries to have the same colour tones as the first delivery, as a result of manufacturing processes.
- 10.7. The timely posting of a letter by registered mail to Backhausen GmbH, 3945 Hoheneich 136, is enough to keep the deadline.
- 10.8. It is always the responsibility of the customer to check for defects of the goods delivered at the time of delivery, legal presumption in line with Art. 924 ABGB is excluded. The warranty shall be void immediately should the customer or any third party commissioned by the customer carry out any modifications or repairs to the goods delivered without our prior written consent.
- 10.9. Warranty will not be accepted for damages caused by unsuitable or incorrect use, e.g. velvet fabrics, the pile of which consists of wool or cotton and that are treated with water during cleaning, or faulty or missing cushioning, etc. There are special washing instructions available for each article in our price lists. Items with low flammability must only be dry-cleaned with pure perchloroethylene WITHOUT the addition of water and cleaning boosters. For fire-retardant fabrics used for buttons, the button caps must be made of rustproof material or coated with rust converter - RWM COROBLOCK (available in paint shops). When using the fabrics use only INOX staples, Art. Co5/BGA by Bühnen.

To get the best properties from all of our qualities the fabric shall be used solely on white upholstery (Interliner).

- 10.10. Any liability on the part of Backhausen GmbH for consequential damage in regards to compensation is excluded. For such goods that Backhausen GmbH has acquired from suppliers, Backhausen GmbH only guarantees the extent of the warranty claims Backhausen GmbH has towards the supplier. Backhausen GmbH will only guarantee that products delivered by Backhausen GmbH will feature the properties that such products would usually feature on the market. For further properties referred to in public statements, such as advertising and attached information, Backhausen GmbH only grants warranties should these have been promised by us to the customer in written form as part of the order placement.

Any potential warranty only exists for defective goods and not for the work time and travelling expenses required to repair the defect(s).

- 10.11. Backhausen is liable for any damage that has occurred to the customer as part of the business transaction up to the total amount of the order placed only in the case of gross negligence on the part of Backhausen GmbH or its agents, excluding damage to individuals, for which we are already liable in the case of slight negligence.
- 10.12. Should the customer be made liable himself/herself as part of the Product Liability Law, he/she waives any right of recourse towards Backhausen GmbH.
- 10.13. Should the customer market the goods delivered by us outside the European Community market, he/she agrees to exclude the obligation to compensate it has towards its client as long as this is possible under the applicable law.

Omitting this mandatory exclusion obliges the customer to indemnify Backhausen GmbH from any third party claims concerning product liability.

11. Right of Withdrawal

- 11.1. Should any insolvency or preliminary proceedings be filed against the customer or rejected because of the lack of assets, Backhausen GmbH is entitled to terminate the contract without setting a grace period.
- 11.2. The contract partner shall only be able to withdraw from the contract unilaterally following an order placement of customized products, if all costs accrued up to that point will be paid (see provision 9.3 and 9.4).

12. Place of Fulfilment/Place of Jurisdiction/Applicable Law

- 12.1. Hoheneich shall be the place of fulfilment for delivery and payment for both parties.
- 12.2. The exclusive place of jurisdiction for any disputes arising from an agreement between the parties is the location of the headquarters of Backhausen GmbH, namely the relevant court in Hoheneich. However, Backhausen GmbH is entitled to bring legal action suits to other courts, in the event that there is another place of jurisdiction.
- 12.3. Any disputes arising from contractual relationships, their execution and termination shall be subject to Austrian law with the exception of the relevant provisions, in particular those of international private law, should these provisions refer to the application of foreign law. Should Austrian law provide for the application of special international conventions - such as the UN Sales Convention - these shall not be applied. This also applies to issues on the formation and interpretation of the Terms & Conditions and the contract.
- 12.4. In the case of legal, mandatory regulations that state otherwise, in particular provisions of the Consumer Protection Act, these shall /take precedence over the provisions here.

13. Data Protection Information

- 13.1. Should a contract be concluded, Backhausen GmbH will collect and process the personal data provided by the customer in its own system and use it for the period it takes to fulfil the contract, i.e. for order processing and invoicing. Personal data includes all information that can be used to identify a person directly or indirectly, such as name, address, email address, birth date, occupation, account details, etc. Backhausen GmbH is obliged to solely set up and use anonymous user profiles for advertising purposes, market research and making need-oriented offers. The customer has the right to object to this use at any time by sending an email to Backhausen GmbH at hoheneich@backhausen.com. In addition, Backhausen GmbH is obliged to inform the customer for free on the stored, personal data, if requested.
- 13.2. The customer is entitled to demand that Backhausen GmbH correct, delete and block his/her personal data stored at any time.
- 13.3. Backhausen GmbH reserves any and all proprietary rights and copyrights - in particular with regard to customized products - for all documents left to the contract partner in connection to the order placement, including designs, calculations, sketches etc. These documents must not be made accessible to third parties without express prior written approval of Backhausen, otherwise Backhausen GmbH is entitled to claim an appropriate contractual penalty and damages. Should Backhausen GmbH reject the offer made by the contractual partner, such documents must be returned immediately to Backhausen GmbH.

14. Final Provisions

- 14.1. Supplementary oral agreements are considered to be ineffective. Any alterations and amendments made to these Terms & Conditions must be made in written form. This shall also apply to changes to this form requirement.
- 14.2. Should individual provisions of the agreement with the customer, including these Terms & Conditions, become or be fully or partially invalid, the remaining clauses shall remain unaffected. The invalid provision should be replaced by one that is valid and that reflects the intent of previous condition.

As of: November 2017, subject to change without notice