

### **General, Scope**

1. The General Terms and Conditions (hereinafter "GTC") set out below shall apply to the supply of goods and services of Nina Mair Architecture + Design (hereinafter "Provider") to customers being consumers pursuant to s 1 Consumer Protection Act (KSchG) or business persons pursuant to s 1 Commercial Code (UGB) (hereinafter "Customer").
2. The applicability of opposing, conflicting and/or supplementing conditions (irrespective of form) is hereby expressly excluded, the same shall not form part of the contractual relationship unless agreed upon in writing by Provider.

### **Offer, Formation of Contract**

3. Indications and representations made by Provider on the website shop.ninamair.at (hereinafter "Online-Presence") do not constitute a binding offer and are subject to change.
4. Provider will use reasonable efforts to ensure availability of the Online-Presence according to reasonable and common technical standards. This does not, however, include any warranty or liability on part of Provider for accuracy, completeness, particular features, merchantability or fitness for a particular purpose, uninterrupted service, accessibility, absence of errors or risks, transmission errors, hardware, software or network-errors, delays, mistakes (including, without limitation, quotation of prices) or a particular performance or outcome.
5. Minor deviations from and technical modifications of the depictions or descriptions shall be permissible and shall not constitute a misperformance. In particular, deviations in colour and vein of wood, paintwork as well as pattern / texture remain reserved insofar as the same are due to the nature of the materials and are customary and reasonable.
6. By placing an order by electronic means (by clicking the button "PAY NOW") within the Online-Presence, Customer submits a binding offer to enter into a respective contract of sales with Provider. Prior to submission, Customer is given the possibility to check all details given in respect of accuracy and completeness and to correct possible input errors. The contract can be concluded in German or English language. Offer / acceptance will not be saved.
7. Following successful transmission of the binding offer, Provider can accept the same by either (i) sending an order confirmation to Customer via e-mail; or (ii) dispatching the ordered products. Provider reserves the right to reject any offer at its sole discretion and without statement of reasons.
8. Insofar as Customer orders products on the basis of Customer's own specification, the contract shall become effective only under the condition precedent that the technical feasibility has been evaluated and confirmed by Provider. The furniture items presented are not prefabricated but will be produced upon individual selection of Customer.

### **Right of Withdrawal, Exceptions**

9. Customers qualifying as consumers pursuant to s 1 Consumer Protection Act (KSchG) have the right to withdraw their contractual statement and cancel the respective purchase within fourteen (14) days. The revocation period commences on the day Customer (or a third person designated by Customer, not being the carrier) acquires physical possession of the goods.
10. The right of withdrawal can be exercised by informing Provider through an unequivocal statement (e.g. by letter, telefax or e-mail) setting out the decision to withdraw. Customer may use the model withdrawal form provided in the Annex hereto but this is not mandatory.
11. It is sufficient to submit the communication concerning the exercise of the right of withdrawal before the aforementioned period has expired.
12. Upon exercise of the right of withdrawal, Provider shall reimburse all payments received from Customer, including the costs of delivery (but with the exception of additional costs incurred where Customer has opted for a different method of transportation than the most favourable standard-transportation offered) without undue delay and in any event no later than fourteen (14) days from the day on which Provider is informed of the Customer's decision to withdraw. The same means of payment Customer has used for the initial transaction shall be used for the reimbursement unless expressly agreed otherwise; Customer will incur no costs for such reimbursement. Provider may withhold the reimbursement until receipt of the goods, or until Customer has supplied evidence of having sent back the goods. The goods have to be returned to Provider without undue delay and in any event no later than fourteen (14) days from the day the right of withdrawal has been exercised. It is sufficient to submit the goods before the aforementioned period has expired. Customer shall bear the direct costs of returning the goods. Customer shall only be liable for any diminished value of the goods resulting from the handling of the goods other than what is necessary to establish the nature, characteristics and functioning of the goods.
13. Customer has no right of withdrawal
  - a. concerning contracts for the supply of goods made to Customer's specifications or clearly personalised or goods which, due to their nature, are not suitable for return. Such products are marked accordingly within the Online-Presence; or
  - b. where Customer qualifies as a businessperson pursuant to s 1 Commercial Code (UGB) and acting in a commercial capacity when entering into the contract.

### **Prices, Conditions of Payment**

14. Unless otherwise stated, the prices indicated within the Online-Presence at the time the order is placed are in Euro, final and include the applicable sales tax in the amount of currently 20 per cent. Costs for shipping are calculated individually according to the destination and will be stated prior to completion of the order process.
15. Payment can be effected by the means indicated within the Online-Presence during the order process.

**NINA MAIR**  
**ARCHITECTURE + DESIGN**  
Innstrasse 23  
A-6020 Innsbruck / Austria  
shop.ninamair.at  
info@ninamair.at

T. +43 512 935214 / F. +43 512 935214

16. Payment of the total costs is due immediately and in full. Where Customer is a businessperson, a default interest rate of 12 per cent p.a. (per year) applies for late payment.
17. Customer shall have no right to withhold or set-off any payments against Provider's claim, unless Customer's entitlement has been confirmed in writing or by a court of law with final and binding effect.

#### **Commissioned Work – Cancellation, Changes**

18. Commissioned Work shall have the meaning of products manufactured by Provider personally on the basis of Customer's specifications (contract for a specific work). Such products shall, even without respective marking, in any case be deemed "goods made to Customer's specifications" pursuant to s 18 (1) Z 3 FAGG.
19. Cancellation of the order for a Commissioned Work by Customer does not release Customer from the obligation to pay the agreed upon fee (price) in full.
20. Provider has the right to claim 50 per cent of the agreed upon gross fee (price) upon cancellation of the Commissioned Work by Customer in case Provider has already begun the work without being required to provide any evidence. This is without prejudice to the right to claim a higher amount of actual, verifiable damages. Customer has the right to prove that Provider has sustained no damage or damages in a lesser amount due to such cancellation.

#### **Delivery, Delivery Period and Delivery Charges, Retention of Title**

21. Delivery of the goods to Customer is carried out by third-party (logistics) contractors as specified in the course of the order process. Costs for shipping will be stated before the order is completed ("Shopping Cart"). Items in stock will normally be dispatched within five (5) working days upon receipt of payment. For items not in stock, the delivery period can extend to 8-10 weeks upon receipt of payment. Delivery periods can be extended by up to ten (10) working days during Christmas season and up to seven (7) working days during Easter season.
22. Delivery periods for Commissioned Work can deviate from the aforementioned periods, depending on work and effort of the amendment or adaption respectively. An individual assessment of the delivery period will be provided to Customer in the order process.
23. In addition to the standard destinations referred to within the Online-Presence, goods can be shipped worldwide on demand. This may lead to longer delivery periods and additional delivery charges, depending on weight, volume, destination etc. Respective details can be obtained from Provider who will issue an individual offer and quotation.
24. As a basic principle, delivery will be effected "Free Domicile", behind the first lockable door. For countries which are not referred to as standard destinations within the Online-Presence, however, delivery will be effected "Curbside Delivery".
25. Provider retains title in all goods delivered to Customer until full payment thereof is effected and received.
26. Place of performance shall be the seat of Provider.

#### **Warranty**

27. Customer shall inspect the goods upon receipt and shall inform Provider without delay about any damage or defect. Obvious transport-damages have to be registered on the bill of lading. For Customers who qualify as consumers within the meaning of s 1 Consumer Protection Act (KSchG), the omission of such information/registration does not affect their statutory warranty rights. Where Customer is a businessperson, the provisions of the Commercial Act (UGB) apply.
28. Provider warrants that the goods sold are free from defects in material and manufacturing and conform with the agreed characteristics at the time of the transfer of risk. The warranty does not extend to ordinary and reasonable wear and tear or damages/defects resulting from inappropriate or excessive use. The following warranty periods apply:
  - a. For Customers qualifying as consumers within the meaning of s 1 Consumer Protection Act (KSchG): two (2) years from the date of the handover;
  - b. For Customers qualifying as businesspersons within the meaning of s 1 Commercial Code (UGB): six (6) months from the date of the handover, the legal presumption set forth in s 924 Civil Code (ABGB) is hereby expressly excluded.
29. Customer's claims in damages for e.g. non-performance, default at the time of the conclusion of the contract, secondary obligations, consequential damages or tort shall be excluded. This notwithstanding, Provider shall be liable for the absence of warranted characteristics only for intent and gross negligence. Claims pursuant to the Product Liability Act shall not be affected by this clause.

#### **Default of Acceptance**

30. Should Customer be in default of acceptance of the goods shipped, Provider may at its sole discretion (i) deposit the consignment with a court (s 1425 Civil Code (ABGB)) with discharging effect at the cost of Customer; or (ii) store the consignment with discharging effect at the sole risk of Customer and charge the same with any associated costs (including storage costs); or (iii) after a respective notification to Customer, sell the goods on the open market and charge Customer with any associated costs. Any statutory rights of Provider (including, without limitation, for damages) remain unaffected.

#### **Data Protection / Privacy**

31. Personal data stated/entered by Customer in the course of registration and/or formation of contract and submitted to Provider will be treated by Provider as confidential and will only be used and processed in accordance with the GDPR, national data protection provisions as set forth in Provider's Privacy Policy (accessible on the website).

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### Jurisdiction, Applicable Law

32. The present GTC and the contractual relationship between Provider and Customer shall be governed exclusively by the laws of the Republic of Austria, to the exclusion of its conflict-of-laws provisions and the United Nations Convention on Contracts for the International Sale of Goods (CISG).
33. In respect of any dispute arising directly or indirectly from the contractual relationship, the parties agree to submit such dispute to the competent court at Provider's seat, where Customer qualifies as a businessperson pursuant to s 1 Commercial Code (UGB). Where Customer qualifies as consumer pursuant to s 1 Consumer protection Act (KSchG) the aforementioned shall apply only, where the venue is congruent with Customer's general place of jurisdiction.

### Severability

34. Should one or more of the provisions of these GTC be, or become, illegal, invalid or unenforceable, the validity of the other provisions and the remainder of the provision in question shall not be affected. As long as the parties have not agreed on another regulation, a regulation which is effective and which comes closest to the commercial intent of the provision and the intentions of the parties shall be deemed concluded in lieu of the invalid provision.

### Annex

MODEL WITHDRAWAL FORM	
(Should you decide to withdraw the contract, please fill in this form and send it back)	
To NINA MAIR ARCHITECTURE + DESIGN Innstraße 23 A-6020 Innsbruck / Austria info@ninamair.at Fax +43 512 935214	
I/We (*) hereby give notice that I/we (*) cancel my/our (*) contract of sale for the following goods (*) / for the supply of the following service (*)	
Ordered on (*)/ received on (*)	
Name of consumer(s)	
Address of consumer(s)	
Signature of consumer(s) (only if this form is notified on paper)	
Date	
(*) delete as appropriate	