

# GENERAL TERMS AND CONDITIONS („AGB“)

LITZ-Konfektion GmbH  
Biburgerstraße 3  
A-5270 Mauerkirchen  
Phone: 0043/7724/2284-0, Fax DW 21  
Email: fashion@litz.at  
UID: ATU71396214  
FN 459831 y  
(short „LITZ“)  
(State of knowledge: 01.07.2019)

## 1. Ambit of these Terms and Conditions AGB

These General Terms and Conditions (in short „AGB“) apply to all legal acts closed with LITZ in the relevant version by the date of the order. LITZ reserves the right to adapt or to change these AGB as needed at any time without prior advance notice. The ambit of these AGB contains all offers, transactions, and other however described different services of LITZ, especially the delivery of goods. For this reason the deliveries and services from LITZ happen exclusively on the basis of these AGB. This is not valid, if concretely something else was agreed.

The regulations of these AGB apply to company and customer business, so far in detail – especially by explicit reference to „Company(business)“ or „Customer(business)“ – nothing contrary is noticed. These AGB are also valid, when in particular cases it will not specially be pointed out to them anymore. Against conditions (especially AGB) or exceptions of the customer which diverge from objective AGB, LITZ already objects to now. Herewith LITZ explicitly does not accept such dissenting conditions. This apart from that, in which form LITZ is submitted for attention of such dissenting conditions and which content they have. This not-acceptance is also valid, when LITZ does not disagree to dissenting conditions of the customer in particular cases (once more). The conditions of the customer obligate LITZ neither, when in these conditions the validity is named as explicit condition. Anyway the provision of a delivery or service by LITZ does not apply as repression under dissenting conditions of the customer, in fact not even, if LITZ is aware of conditions to the contrary or dissenting conditions of the customer and does not express exception against this. The objective AGB can be saved and printed or made available on the computer of the customer for the purpose of the online order.

## 2. Terminology

For these AGB and the other contractual basis the following terminology is valid, unless a different meaning results unmistakably out of spirit and purpose of the regulation:

· LITZ is LITZ-Konfektion GmbH, Biburgerstraße 3, A-5270 Mauerkirchen, Austria

Tel.: 0043/7724/2284-0, Fax direct dial -21, Email: fashion@litz.at UID (tax ID number): ATU71396214, FN 459831 y

- The onlineshop is the by LITZ practised web page under the web addresses „www.litz.at“, „www.arbeitskluft.at“ and „www.arbeitskluft.eu“ as well as the specified functions.
- Customer is each contractual partner and/or negotiating partner from LITZ, especially each buyer (or purchaser) of goods. Apart from that, if a contract was already been concluded or not.

Contractor is everybody to whom the legal transaction belongs to the business of his company (§ 1 Consumer Protection Act/KSchG). A company, to this effect, is any installed organisation in the long run of self-dependant, economic work, also if it is not non-profit.

Business of the contractor is any legal transaction from LITZ with an enterpriser.

Consumer is everybody who is not an enterpriser.

Consumer business is any legal transaction from LITZ with a consumer.

Service („Subject of the contract“) is each product (material and/or immaterial), each (material and/or immaterial) delivery and/or each (material and/or immaterial) other service from LITZ, whatever kind.

Goods („Object of purchase“) is each product (each thing) which is offered or sold by LITZ.

An order is a binding request of the customer upon service delivery by LITZ, especially the request upon delivery of goods.

An order („Contract“) is the legal transaction concluded between LITZ and the customer.

Registration of the customer is the storage of personal data voluntarily by the customer (Name, Title, Address, Date of birth, Telephone number, email address) especially for purpose of easing repeating order processing.

### 3. Conclusion of a Contract

All offers from LITZ are without obligation and without binding effect and only to be understood as request to place an order. LITZ reserves the right to change the particular service offer with regards to content at any time. The offers are generally under reserve of the own delivery by LITZ by their own suppliers. LITZ therefore points out explicitly that the acceptance and accordingly the procedure of the order — especially relating to requirement of the available delivery possibilities – must stay subject to. Orders of the customer are in any case binding offers to the conclusion of contract („Placing of order“). Orders of the customer are binding for the customer from order receipt on at LITZ.

An automatic notice of receipt at ordering in the online shop only documents that the order of the customer at LITZ came in and does not represent an acceptance of the order. It only helps as information for the customer that the order was received at LITZ. LITZ can accept the order of the customer respectively within a period of 12 workdays after own choice by direct sending of the goods or by handing over of the goods to the field crew of the customer, by confirmation by phone, by faxed confirmation or by transmission of an order confirmation (also per E-Mail); hereby the order (contract) comes to a conclusion (Conclusion of a contract). Relevant hereby is in each case the date of the sending. Saturday does not count as

workday.

Silence by LITZ does not count as agreement and accordingly as acceptance of the order of the customer. It is in the customer's interest to check the order confirmation for apparent clerical and calculation errors as well as for differences between order, order confirmation and delivery. Possible discrepancies to this effect and accordingly differences should be told to LITZ immediately. LITZ reserves the right to refuse orders of the customer (especially also after incoming at LITZ) and accordingly not to carry out and that especially then, when there are open invoices from other orders of the customer. The customer is not able to raise a claim for whatever reason. Should the online shop or any other product representations show an apparent mistake, like a clerical error or a calculation error, then LITZ is not obligated to accept the order and accordingly to carry it out. LITZ will inform the customer in this regard immediately in each case that the order will not be carried out.

Separate specifications and accordingly requirements of the customer to the goods to be delivered by LITZ as well as the service to be carried out by LITZ or other additional demand and deliveries from LITZ need the confirmation by LITZ for the legal obligation. Subsequent change requests can — without legal claim of the customer — only be carried out in exceptional case and with appropriate separate refund. If there are no exemplars of the goods available chosen by the customer at the time of order, then LITZ informs the customer about this in the order confirmation. If a model is not available anymore, LITZ reserves his right to make no delivery. With regard to this case LITZ will inform the customer immediately that the order will not be carried out. In this case it does not come to a conclusion of a contract. If the goods ordered by the customer are just temporarily not available, LITZ informs the customer also immediately in the order confirmation about this. At delay of delivery from more than eight weeks the customer has the right to cancel the purchase. By the way in this case also LITZ has the right to cancel the purchase. In this connection the customer will get back promptly payments on account if need be. At contracts for delivery of goods which are not ready-made and for which production an individual choice or instruction by the customer overrides or which are clearly tailored to personal needs of the consumer, there exists no right of withdrawal in case of delivery delays. With the sale of ordered goods no company rights of use for these goods run over to the customer. With the order the customer declares his absolute and unconditional agreement with these AGB.

#### 4. Delivery

LITZ will deliver the ordered goods to the address given by the customer. LITZ has no duty to check the correctness of this address. Deliveries are carried out as fast as possible. The fixation of binding dates of delivery or period of delivery between LITZ and the customer, especially a business to be settled on a fixed date, needs an explicit agreement. Agreed (also to be derived from delivery dates) delivery periods do not start before all necessary technical or any other information, documents, advance payments or other attainments of the customer arrive at LITZ in order to fulfil the duties of LITZ. If not all required goods are on stock and therefore cannot be delivered immediately, partial deliveries are allowed. Subsequent deliveries are with regard to this case then post-free. LITZ reserves the right for each particular case to choose or to change the mode of dispatch and the forwarder. With the leaving of the transport from LITZ, in case of direct delivery from stock of our supplier, with the handing over of the goods to the customer at the latest or his authorised representative, the price (transfer of property rights) and title changes over to the customer. This is also valid at

partial deliveries. There exists no insurance of the goods. If the customer is in default of acceptance and it is a matter of the delivery of goods which are ready-made (standard goods), LITZ has the right to withdraw from the contract after fixation of an adequate period of grace and to resell the goods after carried out withdrawal.

In case that LITZ makes use of this right of withdrawal, the customer has to pay liquidated damages in the amount of 10 % of the invoice amount. Disruptions in operation and acts of nature beyond control as well as other incidents out of the zone of influence of LITZ, especially also more than two week delivery delays and the like on the part of pre-suppliers, authorise LITZ to withdraw from the contract because of the still not fulfilled part of the contract. Should the acceptance of a delivery cash on delivery be refused, the customer will be charged with the complete forwarding expenses, the cash on delivery charge and a handling fee in the amount of von € 20,00.

## 5. Right of withdrawal according to § 11 FAGG

The arrangements and references of this point are only valid for consumer business in the distance selling. If the customer is a consumer as defined by the Consumer Protection Law and made his order per post, phone, fax machine, E-Mail or in the online shop, then the customer is allowed to cancel the purchase according to section § 11 FAGG within fourteen days from the day on of receipt of the goods at the customer. The cancellation period starts as soon as the customer or a third person named by him took over the goods. In case of a contract of purchase of several goods the cancellation period starts as soon as the customer or a third person named by him took over the last partial delivery, the last goods or the last piece of ordered goods. The day of the take-over will not be included into the period run. Saturdays, Sundays and public holidays count to the calculation of the deadline. In order to exercise the right of cancellation, the customer must inform LITZ about his decision to cancel the purchase to the following contact data per clear explanation (for example with a letter sent per post, per telefax or E-Mail):

LITZ-Konfektion GmbH  
Biburgerstraße 3  
A-5270 Mauerkirchen  
Tel.:0043/7724/2284-0, Fax direct access 21  
Email: fashion@litz.at  
UID: ATU71396214  
FN 459831 y

The customer can use for this the enclosed sample withdrawal form (please see last page). For ensuring the period of withdrawal it is adequate that the customer sends the message about the exercising of the right of withdrawal before the expiry of the right of withdrawal to LITZ. When the customer withdraws this contract, LITZ has to pay back received payments of the customer, including delivery costs (except additional subsequent costs which the customer chose for a different kind of delivery than the from LITZ offered, cheapest standard delivery), immediately and within fourteen days at the latest from that day on, on which the message about the right of withdrawal of the purchase at LITZ arrived. For this back payment LITZ uses the same means of payment which the customer used at the primary transaction, unless something different was explicitly agreed with the customer. In no case fees will be charged

to the customer because of this back payment. LITZ can refuse the back payment, until the goods arrived at LITZ or until the customer provided proof that the customer sent back the goods, depending on what the earlier point in time is. The customer must send back or handover the goods immediately and in each case within fourteen days at the latest from that day on, on which the customer informed LITZ about the cancellation of the contract, to LITZ-Konfektion GmbH FN 459831y, Biburgerstraße 3, 5270 Mauerkirchen, Austria. The deadline is preserved, when the customer sends the goods before the expiration of the deadline of fourteen days.

The customer bears immediate costs as well as the risk of returning the goods. The customer must only pay for a possible loss in value of the goods, when this loss in value is traced back to an unnecessary handling with the goods for testing the composition, quality characteristics and functionality of the goods. **The right of withdrawal does not exist at agreements for delivery of goods which are not ready-made and for its production an individual choice or purpose by the consumer is relevant or which are clearly custom-tailored to the personal needs of the consumer. The right of withdrawal expires early at agreements for delivery of sealed goods which are not adequate for return for reasons of health protection or sanitation, when their sealing was removed after delivery.**

## 6. Prices and Payment Conditions

The prices mentioned in the online shop are inclusive the legal value added tax. All other mentioned prices on other media are net prices without the value added tax which must be considered in each case. If the customer is enterpriser, then he must announce his VAT (UID) number to LITZ. The prices are valid up to the appearance of a new price list. The price agreed on the day of order for the particular delivery is the valid price. Increases in prices after conclusion of a contract are impossible for the already concluded contract. The costs for delivery and dispatch will be charged separately and additionally to the offered commodity price in the online shop or otherwise offered. Payment happens exclusively either per credit card, per advance payment, per cash payment, per bank transfer, per direct debit, per SEPA debit memo or per SEPA company debit memo. All stamp duties, bank charges, discount charges and encashment charges are for the customer's account. With the declaration of the credit card number of the customer in the order LITZ is authorised to debit the customer with the price amount. The goods will generally be delivered by LITZ after payment. Payments to employees or other representatives of LITZ who are not explicitly declared for collection procedure, do not appear guilt-free. Invoices from LITZ – also partial invoices – are due for payment in case nothing else is agreed, free of costs and discount, especially without cash discount deduction. The invoice amount is, in case nothing else is agreed, due for payment immediately after receipt of the invoice without any deduction. At production and delivery of individual adapted special models (CI garments) the customer has to pay an advanced payment with the amount of 30% of the order value to LITZ within seven days from the receipt of the order on by LITZ; the remaining order value is due for payment within thirty days net after delivery. For the timeliness of the payment the date of the irrevocable payment receipt on the account of LITZ is relevant. LITZ reserves the right to dedicate incoming payments to several possible outstanding debits in his sole discretion. If the due date of payment is defined beyond calendar, then the customer already is in default by failure of the date. The customer can change the payment method which is saved in his user account at any time. After due date the customer is obligated regardless of negligence or fault to pay annual defaulted interest in the legal amount (Consumer business: 4%; Enterpriser business: 9,2%

over the base lending rate). If the customer is separately granted a longer period, the payment is valid as deferred payment (pure delay of payment); in case of exceeding the deadline, the delay of payment is invalid. The customer is not authorised to count up with own outstanding accounts, if the outstanding accounts are not legally connected in any way with the binding force of the consumer or the outstanding accounts are not accepted by LITZ or are determined legally binding by law.

By failure to pay of LITZ this charging prohibition is not valid. If terms of payment are not kept and the customer falls behind with payment and if it is a matter of delivery of goods which are ready-made (standard goods), LITZ is authorised after fixing an appropriate extension of time to cancel a purchase and to demand the delivered goods back from the customer. LITZ is further authorised to charge as minimum damage compensation a 40% lump sum of the invoice value of the goods taken back, whereupon LITZ reserves the right to claim a really higher damage towards the customer. The customer obligates himself for the case of delay to refund LITZ arising default charges and collection expenses as far as they are necessary for adequate prosecution, whereupon the amount of the compensation of the activated collection institute arises from the act of the BMwA about the maximum rates of the due refunds of the collection institutes. If LITZ practises dunning process himself, the customer obligates himself to pay an amount of EUR 12,00 per carried out reminder. The customer is furthermore obligated to bear all necessary and appropriate costs and to refund expenses which arise with the out-of-court or/and judicial enforcement of the application for payment by LITZ towards the customer.

## 7. Title Retention

The goods remain in the exclusive property of LITZ (reserved property) up to the compliance of all LITZ entitled rights from the particular order towards the customer, especially up to the compliance of all payments (including interest rate and additional charges) and that also then, when single pieces have already been paid. The customer is not allowed to have the reserved property available up to the payment of the claim of LITZ and bears the full risk for the goods committed to him, especially for the danger of ruin, loss or setback. During existence of the title retention especially a sale, pledging, transfer by way of security or other disposals of the bought item to third persons is forbidden. If the customer sells the reserved property nevertheless, then his claims towards his buyers are regarded in advance as a precaution as assigned to LITZ up to the amount of our claims against him. For the period of the title retention the customer must treat the delivered goods carefully and gently. If the reserved property will be treated to a new flexible business by the customer, so this happens for LITZ without LITZ being obligated thereby. LITZ is then the owner of the new object. In case of connection, processing or mixture of the reserved property with goods which do not belong to LITZ, LITZ gains co-ownership proportionately at the rate of the effective invoice amount of the reserved property to the remaining goods. At execution by third parties or at other access of third parties to the reserved property the customer must point out the ownership of LITZ and the customer must immediately make a report to LITZ. The enforcement of title retention is not valid as withdrawal from the contract and does not cancel the responsibilities of the customer, especially concerning payment of the purchase price. At behaviour contrary to contract of the customer, especially at delayed payment, LITZ has the right to take back the reserved property or to demand after choice, if necessary, the act of transfer of the handover

requirements of the purchaser towards third parties. After take back of the object of purchase it is in LITZ discretion either to sell the object of purchase and to credit the earned profit with deduction of the sales costs to the customer from his still existing obligations or to take back the object of purchase with the invoice price with deduction of possible decreases in value and to charge the customer an adequate use fee for the time of his ownership for the delivered goods.

In case of enforcement of title retention the customer must in particular replace a possible decrease in value regardless of negligence or fault. If there are further steps or explanations for effective agreement of title retention at conclusions of contracts with customers necessary who declare an address not lying in Austria, then the customer has to fulfil these steps and accordingly make statements immediately.

## 8. Delivery Expenses and Forwarding Costs

The delivery and forwarding expenses contain per order besides the internal processing the particular packaging as well as the freight costs. LITZ charges the delivery and forwarding expenses additionally to the quotes final prices in the price lists and in the online shop of the particular good(s) per order. For exact information about the particular amount of the expenses LITZ is available per E-Mail under [fashion@litz.at](mailto:fashion@litz.at). The return of goods by the customer to LITZ happens at the expense of the customer, if there is no contrary agreement or LITZ is obligated to take over the costs of return by reason of legal regulations. If the customer sends back the goods to LITZ without LITZ being legally or contractually obligated to take back the goods or to exchange (for example at wrong order, not fitting sizes, exchange to a different colour, goods damaged by customer and more), then LITZ has the right to charge a lump-sum operating cost in the amount of 10 % of the value of goods and is only obligated to refund 90 % of the value of goods to the customer, if LITZ really accepts the offer of the customer to take back or exchange the goods. If LITZ does not accept the offer of the customer to take back or exchange the goods, as far as there exists no special individual agreement with the customer, then LITZ has the right to send back or to hand over the goods to the customer on the customer's account again.

## 9. Defects Liability – Damage Compensation

For lack of other legal regulations in these AGB and/or in the contract the legal regulations are valid. LITZ assumes no defects liability for the ordinary wearing of the goods as well as for faults which arose from incorrect treatment. The improvement to be carried out or the exchange in the context of the defects liability will – for lack of other agreement – be carried out within a period of six weeks. At subsequent deliveries LITZ assumes no guarantee for the exact conformity with the first delivery. The customer is pointed out that there is no case of defects liability, if the product had the agreed quality at passing of risk. A case of defects liability is not existent especially in the following cases:

- At damages which arose from misuse or improper use at the customer.
- At damages which arose, because the products were exposed to detrimental outside influences at the customer especially extreme temperatures, humidity, extraordinary physical or electrical demand)

· At damages which arose, because the customer did not follow the delivered instructions for use and product information.

Furthermore LITZ does not warrant for a fault which arose from improper reparation by an enterpriser who was not authorised by a producer or by LITZ.

For the inflicted loss of the customer in the context of business handling LITZ is only responsible for at own intention or at own gross negligence or at intention and gross negligence of the auxiliary persons operating for LITZ, apart from damages to persons, for whom LITZ is already fully liable at slight negligence.

The regulations of the Product Liability Act stay unaffected. In case LITZ explicitly agreed to guarantees, these are only valid at correct usage of the goods, especially professional installation, assembling and correct care. Abrasion of any kind is just as little determined from the promise of guarantee like damages which were caused by the customer or third parties. For promised guarantees from producers explicitly their guarantee conditions are valid. Safety standards which certain products fulfil are mentioned in the product description. LITZ is not responsible that the customer does not choose appropriate products for a necessary safety standard. Instructions which are given in advertising folders, directions for use or other product information as well as care labels and instructions for installation must be followed by the customer strictly in order to avoid possible damages. It is warned not to do any application which is beyond the defined application areas. The data communication per internet cannot be guaranteed without mistakes and/or be available at any time according to the status quo of technology. LITZ is neither responsible for the permanent and uninterrupted availability of the online trading system nor for technical and electronic errors during a sales action on which LITZ does not have any influence on, especially not for the delayed handling or acceptance of orders.

## 10. Choice of law – Place of jurisdiction – Contract language

For all conflicts from or in connection with these AGB and/or the contract the Austrian material Law is valid as agreed in the exclusion of the conflict rules of the International Civil Law and of the United Nations Convention on Contracts for the International Sale of Goods. This is also valid for questions about the conclusion and accordingly the interpretation of the AGB and the contract. This choice of law is only valid insofar as the guaranteed protection will not be withdrawn by mandatory regulations of constitutional law where the customer has his main residence. Place of jurisdiction for all civil disputes which arise from the existing contractual relationship or are associated with is explicitly the objective court having jurisdiction for das 5270 Mauerkirchen / Austria (Is not valid for consumer business). Contractual language is explicitly German; in another language the contract can neither be negotiated nor concluded.

## 11. Weblinks – Strange Content

LITZ is not responsible for the complete content of Websites of third parties to which are pointed out directly or indirectly in the online shop as well as for the complete content of Websites of third parties to which are pointed out directly or indirectly to the online shop; any liabilities to this effect of LITZ is excluded. This is also valid for all damages which are



caused by third parties, especially by unauthorised and accordingly illegal change of the Internet pages of the online shop. Links to the Internet pages of LITZ, especially to the online shop, are without our explicit previous agreement not acceptable.

## 12. Change of address

The customer is obligated to inform LITZ verifiably, unrequested and immediately at changes of his physical address and his business address, as long as the legal act covered by the contract is not fulfilled completely on both sides. If the information does not happen, then explanations to the customer are also valid as received, if they were sent to the last known address which was announced to LITZ.

## 13. Intellectual Property

Plans, layouts or other technical documents as well as samples, catalogues, advertising folders, drawings, (model) photos, designs and so on always stay in the intellectual property of LITZ. The customer receives and accordingly acquires no rights at it however natured, like for example creation utilisation rights or exploitation rights.

All however natured rights, especially immaterial rights like intellectual property, copyright and more to the internet pages of the online shop, including their presentation, contents, especially all documents, elements and programmes, stay explicitly at LITZ and are not allowed to be duplicated, spread, handled or reproduced in public without previous explicit agreement.

## 14. Other

The place of fulfilment for all services, payments and deliveries is the registered office of LITZ in 5270 Mauerkirchen, Austria. The headlines of the regulations written in these AGB only serve for clear arrangement and are not allowed to be used as their interpretation. The ineffectiveness of individual regulations of these AGB or other contractual agreements let the effectiveness of the remaining regulations of these AGB and accordingly the other contractual agreements unaffected. The contractual partners will agree a new regulation which comes as close as possible to the purpose of the ineffective regulation. If mandatory regulations of the Consumer Protection Act (KSchG) or its effectiveness of particular regulations are opposed to these AGB, then it is valid as agreed that the mandatory norms of the KSchG to this effect take the place of the AGB. But all remaining regulations of these AGB stay hereof unaffected and persist with regards to full contents.

## 15. Data Protection / Acceptance according to §107 TKG

**It is pointed out that in case of conclusion of a contract of a product/service the a transmission of personal data of the customer (name, title, address, date of birth, profession, email address, phone number) is carried out to the service partner who need the transmission of these data for the order processing (this is the forwarder who is**

**commissioned with the delivery and the financial institution who is assigned with the handling of payments). The customer agrees to this. The order processing is carried out with help of automatic data processing. LITZ is authorised to use automatically and to record the personal data of the customer (name, title, address, date of birth, profession, email address, phone number), as far as this serves the order fulfilment. The customer accepts that his personal data (name, title, address, date of birth, profession, email address, phone number) is included into the customer data file of LITZ and handled in a way that he can receive information about products, novelties and price campaigns of LITZ per post, fax or email in the legal sense of § 107 TKG until cancelled. The customer registers that in countries who are not members of the European Union it is possible that there is a lower data protection level than in the EU. The customer registers that he can cancel the above mentioned declaration of approval at any time in written form per letter to LITZ, to the address LITZ-Konfektion GmbH, Biburgerstraße 3, 5270 Mauerkirchen, Austria or per email to [datenverwaltung@litz.at](mailto:datenverwaltung@litz.at). The customer registers that in case of cancellation of the transmission of his data to the service partner who needs these data for the order processing only a direct pickup of the goods at LITZ cash down is possible.**

Sample-Withdrawal Form