

General Delivery and Sales Conditions (GDSC)
NKE AUSTRIA GmbH (NKE)**Scope of Validity:**

The following "General Delivery and Sales Conditions" apply for all transactions of NKE AUSTRIA GmbH (abbreviated to NKE) with individual or legal persons with regard to exercising of their commercial business activities.

Deliveries and services proceed exclusively in accordance with NKE's "General Delivery and Sales Conditions", which the Buyer accepts upon receipt of our order confirmation or at latest by acceptance of the ordered goods.

Deviating purchase conditions or general supply and sales conditions of the Buyer do not become effective through NKE's acceptance of order.

Various sub-conditions or single alterations to NKE's General Delivery and Sales Conditions, such as special agreements must be made exclusively in written form and are applicable only after receipt of NKE's written confirmation.

These General Sales and Delivery Conditions apply for previous, current and future business transactions.

Wherever doubts arise regarding the (legal) meaning or content of this document, the original German version takes precedence and overrides all other versions.

Price / Packaging:

The prices given are not fixed and subject to change at NKE's discretion.

Transport packaging is invoiced at cost price. NKE reserves the right for the calculation of additional administration costs for small lots, special documentation and other incidental expenses.

The prices and rebates applicable are those actual at delivery date. Rebates apply only when payments are made within contract time limits and/or agreed total quantity of goods is released. Late or delayed payments render any and all applied rebates and discounts invalid.

Currency / Payment Conditions / Cancellations / Arrears:

The currency for all quotes is exclusively Euro (€); deviations must be agreed upon with written confirmation and consent before contract acceptance.

Standard terms of payment are 30 days after date of invoice. Special arrangements must be made through written agreement only.

All payments must be cashless transactions through NKE nominated accounts only. Incurred fees are to be carried solely by the Buyer. Any possible split of fees/costs is through previous written agreement only.

NKE reserves the right to cede the receivables in part or totally. Drafts and cheques are not accepted unless previously agreed in writing.

In case of over-indebtedness and payment default with subsequent application for bankruptcy or any other non-payment to schedule, all debts owing to NKE by said Buyer fall due immediately.

Late payments will incur additional default damages fees, these being calculated at 8% over and above the European Central Bank official basic interest rates.

Part payments received are firstly utilised against costs for out of court or legal acquisition of outstanding debts, secondly for interest fees incurred and then against the capital invoice sum.

Offset Prohibition:

Any offset against NKE demands with counterclaims, in any form whatsoever, are comprehensively excluded.

Retention of Title:

NKE retains the rights to all goods delivered until receipt of payment in full of the Buyer's invoiced sum, inclusive of incidental fees.

The Buyer is entitled to resell the goods in normal course of business. In the case of reselling, the Buyer is bound and obligated to secure payment of the NKE invoice amount. The Buyer is obligated to inform the transferee of the assignment, and on these grounds the Buyer is obligated to provide access to its books and each resale invoice or document. The Buyer must disclose the resale on the relevant invoice and business records and also inform NKE of same.

In the case of infringement against the above mentioned clause, NKE is empowered to cancel the business relationship, withhold outstanding deliveries and claim compensation against these.

In case of default, NKE is entitled to apply the retention of title rights defined. It is agreed that upon enactment of retention of title rights, cancellation of contract is excluded unless NKE declares such expressly.

In the case that retention of title, rights are through legal means not enforceable, the Buyer is obligated to appropriately ensure the securing of NKE's claims and to utilise all possible means to this end.

The client bears the total costs for the acquisition of payment incurred by the retention of title process.

Delivery Period:

The delivery periods are approximate figures and are met where possible. Days are defined as "working days". The delivery period begins at acceptance of an order through an order confirmation, and not before the final clarification of any outstanding pre-production questions.

Goods ordered on demand must be collected at latest within the defined time frame (order period) after contract completion. Failing which the Buyer faces the legal ramifications of acceptance default. Upon expiry of the defined time frame the uncollected quantity will be delivered and invoiced.

Where unforeseen order difficulties/delays occur, NKE reserves the right to either extend the delivery period or withdraw from the contract. Considered as unforeseen difficulties are – strikes, lock-outs, material supply failures, unforeseeable difficulties unforeseeable by NKE, production closure of suppliers, blockage of transport routes, governmental intervention or other instances of force majeure.

NKE also reserves the right of withdrawal when, after contract completion, circumstances become apparent that the full compliance with the contract obligations is endangered. Damage compensation for the client due to late or non-delivered orders is, in all cases, excluded. By

exceeding the delivery period by more than four months, the contract partner has the right, after granting a one month extension, to withdraw from the contract.

Delivery / Damage:

Delivery is made EXW in accordance with Incoterms 2010 from our nominated location.

Deviating delivery conditions require prior special written agreement.

Obvious damages (e.g. transport damage) are to be claimed by the Buyer immediately after conditional acceptance (e.g. "conditionally accepted - transport damage" + date/signature of driver), other damages within a period of 8 days after the first possible inspection opportunity. Thereafter all damaged goods related claims are null and void. If the claim is recognised as justified by NKE, then NKE is at its discretion entitled to supply replacement goods or issue credit against prior return of the goods.

Order Quantity:

The applicable quantities and notices are those described in the offers and order confirmations.

Warranty:

All requirements and suggestions are based on the information supplied by the Buyer. NKE's specification includes only those risks that were recognisable considering the specifications and information made available to it.

Results of calculations and such are carefully made to the current technical standards. These however do not set any nature of functional, quality and durability commitment whatsoever and relate only to products of NKE.

Bearings which become in part or totally unusable within one year of commissioning, however no later than fifteen months of the delivery date, due to a proven material or manufacturing defect may be requested to be improved or replaced by NKE.

Further guarantees or any other damage compensation claims for direct or indirect damages due to manufacturing or material defects are excluded.

All liabilities, especially guarantees for normal wear and tear or other damages resulting from excessive use, incorrect selection of bearing, overloading, detrimental bearing conditions (e.g. contaminants, rust), disassembly or other inappropriate use, are excluded.

Replacement or credit occurs only after clear confirmation of warranty obligations. The Buyer must return the rejected goods to NKE free of cost. The goods must be complete, because a professional and appropriate analysis of the damage and its origin is possible only where all components and sufficient lubricant are provided.

Where defect rectification occurs through replacement/improvement, the limit of warranty period must be redefined by written agreement.

Where the defect complaint is proven unsubstantiated, NKE AUSTRIA GmbH is entitled to demand the recovery of the total sum of all related costs (e.g., metallurgical examinations, lubricant analyses, manpower costs, etc.) from the Buyer.

Guarantee:

The acceptance of guarantees by NKE must be defined as such in every case by an explicitly comprehensive written agreement.
Information in catalogues, brochures, and other advertising or informational papers does not constitute a guarantee at any time.

Liability:

NKE accepts liability in the following circumstances:

- > Wilful or grossly negligent violation of duty
- > Culpable injury of life, body and health
- > Liability for personal injury and property damage through private use as defined by the product liability act

Liabilities, especially for minor negligence, compensation of secondary damages and/or pure financial damages etc, non achieved savings, interest losses and third party damages claims against the Buyer, are excluded.

The professional and appropriate application of NKE supplied goods is the sole responsibility of the Buyer.

Descriptions and explanations are non-binding information.

Confidentiality:

All information transferred between the Buyer and NKE is deemed strictly confidential. Each party retains ownership and any rights to its provided documentation and/or data carriers and the contents therein. Copying in part or full and/or release to third parties by either party is only permitted with written consent from the remaining party.

The obligation of confidentiality shall not apply in respect of information which the receiving party was already legitimately aware of at the time of receipt, or which said party became legitimately aware of at a later stage, in each case without the obligation to keep such information confidential, or information that is or becomes general knowledge.

Place of fulfilment / Court of Jurisdiction / Applicable Law:

For all disputes arising out of business transactions between NKE AUSTRIA GmbH and its clients, it is agreed that the local competent court in Steyr, Austria applies exclusively. The place of fulfilment is the seat of business of NKE in Steyr, Austria A-4407.

Austrian substantive law shall apply with the exception of the conflict of laws provisions. The application of the United Nations international sale of goods convention is excluded.

Severability Clause:

Should individual provisions of these General Delivery and Sales Conditions become in full or in part invalid, the parties commit themselves to form a regulation which economically approximates the invalid regulation the closest. In the case of legal ineffectiveness of one or more provisions of this document the remaining provisions remain legally valid and binding.