

## General Terms and Conditions Ghirloni

### §1 Scope of application

1. The following General Terms and Conditions (GTC) apply to all contracts between Ghirloni Eismanufaktur GmbH and its customers.
2. The General Terms and Conditions of Ghirloni Eismanufaktur GmbH shall apply exclusively. Conflicting, deviating or supplementary terms and conditions of the customer shall only become part of the contract if and insofar as they are expressly recognised in writing by Ghirloni Eismanufaktur GmbH.

### §2 Conclusion of contract

1. All offers of Ghirloni Eismanufaktur GmbH are subject to confirmation and non-binding, unless otherwise stated in the offer.
2. A customer's order shall constitute a binding offer. Ghirloni Eismanufaktur GmbH shall be entitled to accept the order within 14 calendar days of receipt.
3. The acceptance of the order, i.e. the conclusion of the contract, shall be effected by the transmission of the order confirmation by Ghirloni Eismanufaktur GmbH.

### §3 Prices

1. All prices are quoted net in euros. They do not include statutory taxes and levies and any other ancillary public charges that may be incurred.
2. The price quotations are only valid for undivided and unchanged orders. If the actual scope of services is increased after conclusion of the contract, the additional services shall be invoiced according to the price list valid at the time of conclusion of the contract.
3. If the costs of Ghirloni Eismanufaktur GmbH increase or decrease after conclusion of the contract, in particular the procurement costs or the wages for the required personnel, Ghirloni Eismanufaktur GmbH shall be entitled to adjust the prices to the cost ratio if the period between conclusion of the contract and contractual performance exceeds 4 months. If the extent of the price increase exceeds 7.5% of the original price, the customer shall be entitled to withdraw from the contract within a period of 2 weeks after notification. If he does not do so, the new price shall become effective.
4. Ghirloni Eismanufaktur GmbH shall be entitled to charge separately for additional expenditure resulting from the delay in the provision of the service and based on circumstances for which Ghirloni Eismanufaktur GmbH is not responsible. This shall also apply to additional services rendered beyond the agreed working hours,

and for transport delays for which Ghirloni Eismanufaktur GmbH is not responsible.

5. Services which are carried out at the request of the Customer and which were not estimated in the offer shall be paid for additionally by the Customer. This shall also apply to additional expenses incurred due to the fact that the Ordering Party or other third parties who are not vicarious agents of Ghirloni Eismanufaktur GmbH provide incorrect information or do not provide a preliminary service in accordance with the deadline or professional requirements.

#### **§4 Payment**

1. Ghirloni Eismanufaktur GmbH shall issue an invoice for the scope of services actually provided.
2. The invoice amount is due for payment immediately and without deduction. Any down payments shall not be subject to interest. The amount shall be paid within 10 days of receipt of the invoice. If the client does not pay within the payment period, he shall be in default.
3. In the event of default in payment, Ghirloni Eismanufaktur GmbH shall be entitled to demand compensation for damages caused by default in the amount of the interest on arrears customary in banking (at least, however, 8 percentage points above the base interest rate, 5 percentage points for consumers). Further claims shall not be affected by this. The client shall have the right to prove a lesser damage. The assertion of a higher damage is expressly reserved.
4. Ghirloni Eismanufaktur GmbH shall furthermore be entitled to withdraw from the contract in the event of default of payment after setting a further deadline and to claim damages for breach of duty. In the event of withdrawal the provisions of §12 No. 2 shall apply accordingly.

#### **§5 Set-off and assignment**

1. The customer may only offset undisputed or legally established claims.
2. Any transfer or assignment of the Customer's rights and obligations arising from this contractual relationship shall require the prior consent of Ghirloni Eismanufaktur GmbH.

#### **§6 Delivery and transport**

1. Unless fixed dates have been agreed in writing, the dates stated for the performance of the service shall only be approximate.
2. If the client makes changes or alterations after conclusion of the contract, agreed deadlines shall lose their binding force. This also applies if circumstances

which are not the responsibility of Ghirloni Eismanufaktur GmbH, in particular those which are based on an act of cooperation by the customer (e.g. failure to provide documents in good time or to obtain necessary permits etc.).

3. In the event of disruptions in business operations for which Ghirloni Eismanufaktur GmbH or its vicarious agents are not responsible, in particular those caused by strikes, official intervention, statutory prohibitions or in cases of force majeure due to an unforeseen event for which Ghirloni Eismanufaktur GmbH is not responsible and which lead to a serious disruption in operations, the agreed delivery and completion period shall be extended by the duration of the disruption and by a reasonable start-up time after the end of the disruption.
4. If it is not possible to fulfil the contract for one of the reasons stated in §6 No. 3, both parties shall be entitled to withdraw from the contract. In such cases Ghirloni Eismanufaktur GmbH shall be entitled to remuneration or reimbursement of costs for the services provided up to that point, insofar as these cannot reasonably be utilised elsewhere or Ghirloni Eismanufaktur GmbH maliciously fails to utilise them elsewhere. This shall also include the claims of third parties which Ghirloni Eismanufaktur GmbH has commissioned in reliance on the performance of the contract.
5. The delivery or transport of the goods shall always be at the risk and expense of the client, unless otherwise contractually agreed.
6. Risk shall also pass if the goods ready for dispatch cannot be delivered for reasons for which the client is responsible. In such cases, the risk shall pass on the day on which the goods are ready for dispatch. The costs arising from such a delay, such as those for storage, waiting time, provision, shall be borne by the client.
7. The client shall inspect the goods immediately after delivery to ensure that they are free of defects and complete and shall notify any defects discovered immediately in text form. If he fails to do so or fails to give notice of a defect, the goods shall be deemed to have been approved unless the defect was not obvious during the inspection. Hidden defects or defects discovered later must be notified within 14 days of discovery. If he fails to give notice or gives notice late, the goods shall be deemed to have been approved.

### **§7 Performance of the service**

1. The exact scope of services to be provided by Ghirloni Eismanufaktur GmbH shall be determined by the respective order or the written order confirmation.
2. All Ghirloni Eismanufaktur GmbH products are produced in accordance with HACCP.
3. Any official permits, concessions or other approvals that may be required (e.g. catering licence, GEMA, fire safety regulations).

shall be obtained by the customer himself at his own expense. This shall not apply if expressly agreed otherwise in the contract.

4. Other costs such as energy, water and waste costs are to be borne by the client.
5. There will be no reimbursement of costs for any goods not used.

### **§8 Leasehold transfer**

1. All items provided to the Client, with the exception of food, shall only be provided on a rental basis and shall remain the property of Ghirloni Eismanufaktur GmbH. They shall be returned at the end of the contract.
2. The client shall treat the rented items with care and consideration. In the event of damage, destruction or loss, the client shall, subject to further claims, reimburse the restoration costs resulting from the destruction or damage. These shall amount to the replacement value in the event of damage or to the new acquisition value in the event of destruction or loss.
3. Ghirloni Eismanufaktur GmbH reserves the right to inspect the items for any damage or loss within a period of 7 days after receipt.
4. The rental charges are calculated according to calendar days. Unless otherwise agreed, the start of the rental period shall be the day of handover and the end of the rental period shall be the day of return of the rental object.
5. If the return is delayed, the full rental fee of one day must be paid for each additional day.
6. All rented items shall be handed over to the customer in proper condition. The customer shall notify Ghirloni Eismanufaktur GmbH immediately of any damage or defects and give Ghirloni Eismanufaktur GmbH a reasonable opportunity to repair, rectify or replace the goods.

### **§9 Warranty**

1. The warranty is generally limited to supplementary performance. The choice of the appropriate subsequent performance shall be at the discretion of Ghirloni Eismanufaktur GmbH. The customer may only assert further claims (reduction and withdrawal) if two attempts at rectification have failed due to the same defect.
2. Ghirloni Eismanufaktur GmbH shall not assume any warranty for defects which occur after the goods have been handed over to the Customer due to natural wear and tear, moisture, strong heating or improper storage.

4. warranty claims shall lapse entirely if notification of defects is made late or no reservations were made at the time of acceptance due to known defects. The same shall apply if the customer makes changes to the goods or makes it impossible for Ghirloni Eismanufaktur GmbH to determine a defect or subsequent performance in this respect.

### **§10 Liability**

1. Ghirloni Eismanufaktur GmbH shall only be liable for damages if it or one of its vicarious agents has breached an essential contractual obligation (cardinal obligation) or if the damage was caused intentionally or by gross negligence by it or one of its vicarious agents. If the breach of an essential contractual obligation is not intentional or grossly negligent, the liability of Ghirloni Eismanufaktur GmbH shall be limited to the damage that is typical for the contract and was foreseeable at the time of conclusion of the contract. An "essential contractual obligation (cardinal obligation)" in the aforementioned sense is an obligation the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which the customer may regularly rely.
2. Liability in the event of injury to life, limb or health and under product liability law, as well as on the basis of other statutory provisions under which liability cannot be expressly excluded or alleviated in advance, shall remain unaffected by these GTC.
3. Ghirloni Eismanufaktur GmbH shall not accept any liability for defective services provided by third parties engaged on behalf of the customer. This shall not apply if Ghirloni Eismanufaktur GmbH breaches a duty of care in the selection and supervision of the third party companies due to gross negligence or intent. Claims of Ghirloni Eismanufaktur GmbH against third parties shall be assigned to the customer in such cases.
4. Ghirloni Eismanufaktur GmbH shall not be liable for impossibility or delay in performance if this is caused by force majeure or industrial action. Force majeure is any unforeseeable, unavoidable event outside the sphere of influence of Ghirloni Eismanufaktur GmbH which makes the fulfilment of the contractual obligations of Ghirloni Eismanufaktur GmbH wholly or partially impossible, in particular natural disasters, epidemics, quarantines, embargoes, etc.
5. The exclusion of liability agreed in these GTC shall also apply to the personal liability of the employees, staff and sub-employees of Ghirloni Eismanufaktur GmbH.
6. The limitation period for all claims against Ghirloni Eismanufaktur GmbH arising from breach of contractual duty shall be one year and shall commence from the start of the statutory limitation period. This shall not apply if the breach of duty is due to intent on the part of Ghirloni Eismanufaktur GmbH or if it has fraudulently concealed a defect.

## **§11 Indemnification**

1. Insofar as Ghirloni Eismanufaktur GmbH and its vicarious agents have not caused damage themselves, the ordering party shall indemnify Ghirloni Eismanufaktur GmbH against all third-party claims asserted in connection with this contract.

## **§12 Termination/Cancellation**

1. Ghirloni Eismanufaktur GmbH shall be entitled to withdraw from the contract without observing a first if the event is made considerably more difficult, endangered or impaired due to extraordinary circumstances such as force majeure for which it is not responsible or which it cannot influence. The right of withdrawal shall also apply if the contract partner becomes insolvent or insolvency proceedings are opened against its assets. The claim to remuneration of Ghirloni Eismanufaktur GmbH shall remain in force in such a case. In any case, the actual costs incurred by Ghirloni Eismanufaktur GmbH up to that point shall be reimbursed.
2. The customer may terminate the contract at any time without giving reasons until the service has been provided. If the customer terminates the contract without good cause, Ghirloni Eismanufaktur GmbH shall be entitled to demand the agreed remuneration. Saved expenses of Ghirloni Eismanufaktur GmbH or the acquisition through other use of its labour or its malicious omission shall be taken into account. In this respect, the following flat-rate percentages of the agreed remuneration shall be applied:
  - In the event of cancellation up to 30 days before the delivery date, 35% of the agreed remuneration and costs,
  - in the event of cancellation up to 5 days before the delivery date, 75% of the agreed remuneration and costs,
  - thereafter 90% of the agreed remuneration and costs.
  - In the event of termination on the day of the delivery date, the full amount of the agreed remuneration and costs.

The customer is expressly left to prove a significantly lower amount.

## **§13 Data protection**

It is pointed out that within the scope of the business relations or in connection with these, personal data, regardless of whether they originate from Ghirloni Eismanufaktur GmbH itself or from third parties, are processed within the meaning of the Federal Data Protection Act.

#### **§14 Final provisions**

1. The place of performance for all mutual services and the place of jurisdiction shall be the registered office of Ghirloni Eismanufaktur GmbH.
2. German law shall apply. International provisions, such as the UN Convention on Contracts for the International Sale of Goods, are excluded.
3. Amendments or supplements to the underlying order must be made in writing. This also applies to any deviation from the written form requirement.
4. Should any provision of these GTC be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. An invalid or ineffective provision shall be replaced by a provision that comes as close as possible to the original provision.