

General Terms and Conditions of Order and Payment of Allegra Tourismus Österreich GmbH**I. Validity/Offer/Cancellation**

1. These General Terms and Conditions of Delivery shall apply to all - including future - contracts with entrepreneurs, legal entities under public law and special funds under public law for deliveries and other services, including contracts for work and services, consulting, proposals and other ancillary services. The Purchaser's terms and conditions of purchase shall not be recognized even if we do not expressly object to them again after receipt.
2. Our offers as well as information in connection with deliveries are subject to change. Liability on our part is excluded in accordance with Section XVI Nos. 1 and 2. Verbal agreements, promises, assurances and guarantees made by our employees in connection with the conclusion of the contract shall only become binding upon our confirmation in text form. This shall also apply in particular to direction work. The documents belonging to our offers, such as drawings, illustrations, performance and consumption data, contain or are only approximate data and, unless otherwise provided, are not deemed to be specially agreed properties. We reserve the right to make design-related changes.
3. We reserve the right of ownership and copyright to cost estimates, drawings and all other documents; they may neither be made accessible to third parties nor used for their purposes.
4. In case of doubt, the Incoterms in their latest version shall be decisive for the interpretation of commercial clauses.

II. Prices

1. The prices do not include the legally valid value added tax.
2. If charges or other external costs included in the agreed price change later than four weeks after conclusion of the contract, or if they are newly incurred, we shall be entitled to change the price to the corresponding extent.

III. Payment and settlement

1. Invoicing shall take place with each delivery / work performance / service in text form by email. This also applies to partial deliveries.
2. Unless otherwise agreed or stated in our invoices, the remuneration shall be due immediately after delivery without any discount and shall be paid in such a way that we can dispose of the amount on the due date. Costs of payment transactions shall be borne by the customer. The customer shall only be entitled to a right of retention and a right of set-off insofar as his counterclaims are undisputed or have been legally established.
3. If the payment deadline is exceeded or in the event of default, we shall charge interest at 9% points above the respective prime rate, unless higher interest rates have been agreed. We reserve the right to assert further damage caused by default.
4. The Purchaser shall be in default at the latest 30 days after the due date and receipt of the invoice / payment schedule or the due date and receipt of the performance. The Purchaser shall not be in default as long as performance is not effected due to a circumstance for which the Purchaser is not responsible.
5. If, after conclusion of the contract, it becomes apparent that our claim for payment is jeopardized by the customer's lack of ability to pay, or if payment of due invoices or agreed installments is not made on time, loss of time shall be deemed to have been agreed. We shall then also be entitled to call due all claims not subject to the statute of limitations arising from the current business relationship with the customer. Furthermore, these rights extend to all other outstanding deliveries, works and services from the business relationship with the customer. In addition, we shall be entitled to withdraw from the contract in the aforementioned cases in accordance with the statutory provisions. If the contract is rescinded for the aforementioned reasons, we shall be entitled, without prejudice to any other claims, to demand a contractual penalty in the amount of 10% of the order sum leading to the rescission.
6. An agreed cash discount always relates only to the invoice value excluding freight and presupposes the complete settlement of all due liabilities of the Purchaser at the time of the cash discount.
7. Claims of the purchaser against its insurers or other debtors assigned to us shall be made exclusively on account of performance.

IV. Execution of deliveries, delivery periods and dates, assembly, acceptance

1. Our delivery and assembly obligation is subject to correct and timely self-delivery, unless the incorrect or delayed self-delivery is our fault. The timely production of the work shall also be subject to the timely production of the preparatory work necessary for the production of the work by the customer, its vicarious agents and/or third parties. Delayed production of necessary preparatory works shall be borne by the customer, irrespective of the reason for the delay, and irrespective of whether the customer is responsible for the delay.
2. Details of delivery and assembly times are approximate. Delivery and assembly periods shall commence on the date of our order confirmation and shall only apply on condition that all details of the order are clarified in good time and that all obligations on the part of the customer are fulfilled in good time, e.g. provision of all official certificates, provision of letters of credit and guarantees or provision of advance payments, plans, construction drawings, provision of the floor areas, construction elements, objects and/or materials on or with which the work performances ordered are to be provided.
3. Engineering, landscape architecture and architectural work are not owed by us, unless this is expressly agreed between the parties.
4. We are entitled to subcontract the order in whole or in part to other contractors (subcontractors) for execution.
5. Our facilities are built according to the rules of the Allegra Trail Construction Standard. This trail construction standard will be attached to the offer in text form and is part of the contract.
6. If it is agreed that the trail set up by us will be operated by the customer himself, this operation shall be carried out solely at his risk and expense. He shall bear full responsibility for the operation; in particular, he shall ensure that only trained employees are employed in the operation and that all persons using the trail are sufficiently instructed beforehand. If claims are made against us by third parties in connection with the operation of the trail by the client, the client shall indemnify and hold us harmless.
7. Events of force majeure entitle us to postpone the construction of trails or the provision of other services, in particular marketing services, for the duration of the hindrance and a reasonable start-up period. This shall also apply if such events occur during an existing delay. Force majeure is any external, unforeseeable and uncontrollable event that cannot be prevented even by the utmost care. Equal to force majeure are adverse weather conditions, adverse vegetation, adverse soil conditions, currency, trade policy and other sovereign measures, strikes, lockouts, operational disruptions for which we are not responsible (e.g. fire, machine breakdown, shortage of raw materials or energy), obstruction of traffic routes, delays in import / customs clearance, shortage of local labor, as well as all other circumstances which, through no fault of our own, make the construction significantly more difficult or impossible. It is irrelevant whether these circumstances occur with us, the supplying plant or a sub-supplier. If the execution of the contract becomes unreasonable for one of the contracting parties due to the aforementioned events, in particular if the execution of the contract is delayed in essential parts by more than 6 months, this party may declare the cancellation of the contract.
8. In the case of work performance, the Purchaser shall be obliged to accept the work immediately upon completion.
9. Upon acceptance of the Work, the Purchaser shall be obliged to issue a corresponding receipt in the form of an acceptance protocol signed by the Purchaser and submitted by us, provided that the Work is free of defects. The work shall be deemed to have been accepted upon signature of the receipt.
10. A work shall also be deemed to have been accepted if we have set the Purchaser a period of 7 days for acceptance after completion of the work and the Purchaser has not refused acceptance within this period, stating at least one defect.

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v. Special obligations of the customer

1. The customer undertakes to comply with the statutory regulations in connection with the order placed with us.
If the customer violates the obligations pursuant to sentence 1, he shall be obligated to compensate us for any resulting damage.
2. The customer shall, on its own initiative and at its own expense, obtain all official permits required for the performance of the work we have contractually undertaken, such as, in particular, building, industrial, nature conservation, landscape conservation and environmental protection permits as well as permits under water law, and the necessary consents of third parties who may be affected by the work in their legal sphere; if claims are asserted against us for such a reason, the customer shall indemnify and hold us harmless.
3. Unless otherwise agreed, the customer shall provide us with the necessary equipment and auxiliary materials (e.g. winches, rails, water, electrical energy, etc.) in good time and free of charge, even if a lump sum price has been agreed. Any arrangements made by the customer which may be necessary for our performance, e.g. structural measures, shall be completed before the arrival of our employees.
4. The Customer shall take all necessary safety measures for the protection of persons and property insofar as these are related to the property or location. In this respect, the customer has an increased duty to warn and inform (e.g.: danger zones). He must inform our employees of these, insofar as this is necessary for their work. This applies in particular to installations or work in areas where there is a risk of explosion, as well as to the existence and location and course of lines of any kind, in particular water and power lines.
5. The customer shall provide us with all documents required for our performance (e.g. pipe and installation plans and permits, static calculations and the like) on his own initiative. Furthermore, he shall support us in the performance of our service, in particular by allowing unhindered access to the place of the service to be performed by us and by assigning an employee who is authorized and qualified to operate, supervise or monitor the plant or parts of the plant on which our service is to be performed. If he fails to comply with these obligations, he shall be liable to us for any damage resulting therefrom and shall at the same time release us from any liability.
6. If the contract concluded between the parties involves the construction of mountain bike or hiking trails or other facilities, the customer must make the boundaries of the property on which the facility is to be constructed easily recognizable for us. The orderer shall indemnify us against claims of third parties arising from the omitted or incorrect marking of property boundaries.
7. The purchaser must comply with any instructions for use / safety instructions for trails issued by us. This also applies to use / safety instructions issued after acceptance. Instructions for use / safety instructions provided by us before or upon conclusion of the contract shall become part of the contract unless otherwise agreed.
8. The customer grants us all rights with regard to the work performed that are necessary to use them for communication, advertising and training purposes.
9. If the customer recognizes that his own information and requirements are incorrect, incomplete, ambiguous or impracticable, he must inform us of this and the consequences he recognizes without delay.
10. After prior agreement, the customer is obliged to reimburse the costs of necessary technical measures that exceed the agreed scope of services.
11. If the customer changes or cancels orders, work, planning and the like, or changes the prerequisites for the provision of services, he shall reimburse us for all costs incurred as a result and indemnify us against all liabilities to third parties.

VI. Special provisions for repairs and maintenance work

1. We are entitled to refuse and not to perform services if they do not meet our standards, in particular the Allegra Trail Standard.
2. If an assessment of the feasibility of a repair/maintenance or an offer (cost estimate) for the repair/maintenance is requested and if the object must therefore be inspected on site or if further inspection procedures must be carried out, we shall be reimbursed for the costs incurred in this process, including any third-party costs and the costs of sending personnel, if no order is subsequently placed.

VII. Duration / termination of service contracts

1. The termination of service contracts must be in text form.
2. In the event of a breach of contract by the client, we have the right to block the client's access to the services provided. A blocked or terminated client is not allowed to establish or attempt to establish another access to our services.
3. Prepaid fees or remuneration will not be refunded in the event of unjustified termination.
4. Upon termination of the contract, all rights of use to the services provided by us shall expire. Access to the services will be blocked upon termination.

VIII. Rights of use in marketing agreements

1. If the customer uses our marketing work outside the scope of the contract, such as:
 - outside the area specified in the contract (spatial extent) and/or
 - after termination of the contract (temporal extension) and/ or
 - in modified, extended or rearranged form (extension of content) and/or
 - through use in other advertising media,we may charge an appropriate fee for this in line with the market.
2. We are entitled to all rights to our performances and services and their labeling, including patent rights, copyrights, trademark rights, licensing rights or other industrial property rights or rights, and may only be used by the client in accordance with the contract within the scope of the express contractual agreements, in the manner expressly regulated in the contract and for the contractually applicable duration.
3. Apart from the rights of use or other rights expressly granted herein, the Customer shall not be granted any further rights of any kind whatsoever, in particular to the company name and to industrial property rights such as patents, utility models or trademarks, nor shall we be under any corresponding obligation to grant such rights.
4. Insofar as the client contributes ideas and suggestions, we may use these free of charge for the development, improvement and distribution of the products from their portfolio.
5. Insofar as the client commissions individualized services, he shall transfer to us all rights required for implementation and use, in particular trademark rights, copyrights and other property rights for the duration of the intended purpose.

IX. Confidentiality of data and trade and business secrets, reference

1. The customer shall treat all information provided to him in connection with the order and all other data as well as company and business secrets of which he becomes aware as confidential and shall also impose this obligation on his employees; in particular, he may neither pass them on to third parties nor make them accessible in any other way.
2. We may name the client as a reference customer on our website or in other media and contexts.

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3. The client is only permitted to state our company as a reference with our prior consent in text form.
- X. Protection of intellectual property
- Insofar as work results are copyrightable, we as the producer shall remain the copyright holder. In these cases, the client shall only receive the revocable, exclusive and non-transferable right of use to the work results, which is restricted by us and otherwise limited in terms of time and place, unless otherwise agreed in the contract. We reserve the right to archive work and drafts and to use them as reference.
- XI. Copyright and trademark rights
1. The Client declares that it is in possession of the copyrights and/or trademark rights required for the services it has commissioned or, if it is not itself the copyright and/or trademark owner, that it has obtained permission from the copyright and/or trademark owner to use the images, trademarks and/or brand names. We will not check whether the client is in possession of the copyrights and trademark rights required for the services to be provided. Liability towards third parties with regard to copyright and/or trademark claims is therefore excluded for the services commissioned in accordance with Section XVI Nos. 1 and 2. Should the services commissioned violate copyright and/or trademark law, the client shall be responsible for this. In the event of a breach of the aforementioned obligation, the client shall be obliged to indemnify us from liability towards the rights holder.
 2. Upon full payment of the agreed remuneration, the client shall acquire the rights of use to all work produced by us within the scope of this order for the contractually agreed duration and to the contractually agreed extent. This transfer of rights of use shall apply, insofar as a transfer is possible under Austrian law, to the agreed use within the territory of the Federal Republic of Austria. Uses that go beyond this territory require an agreement in text form within the scope of the order or a separate supplementary agreement in text form. Rights of use to work that has not yet been paid for at the end of the contract shall remain with us, subject to any other agreements made.
 3. We are allowed to sign the advertising materials developed by us appropriately and in accordance with industry standards and to publish the placed order for self-advertising.
 4. The transfer of granted rights of use to third parties and/or multiple uses are, unless regulated in the initial order, subject to a fee and require our consent in text form. The client is obligated to obtain the necessary consent prior to the intended transfer and must inform us of this process in text form no later than 14 days after the transfer of the rights of use has taken place.
 5. Notwithstanding the aforementioned provisions, we shall be entitled to information about the scope of use.
- XII. Liability for material defects
1. The warranty period is one year from acceptance of the work. The warranty period shall not be extended by the replacement of the item or of parts or components of the item.
 2. In order to detect any defects at an early stage, the customer shall carry out a trial run immediately after the construction of mountain bike or hiking trails or other facilities. The successful completion of such a trial run shall be deemed acceptance.
 3. Defects of quality of the work shall be reported immediately, at the latest seven days after acceptance, in text form by email. Material defects which cannot be discovered within this period even with the most careful inspection shall be notified in text form by email immediately after discovery, at the latest before the expiry of the agreed or statutory limitation period, with immediate cessation of any processing. In the event of an insignificant reduction in the value or suitability of the work, our liability for material defects shall be excluded. If the work has already been resold, processed or redesigned, the customer shall only be entitled to the right of reduction.
 4. After performance of an agreed acceptance of the Work by the Purchaser, the notification of material defects which were detectable during the agreed type of acceptance shall be excluded.
 5. The defectiveness of the work at the time of acceptance shall be proven by the Purchaser; the provisions of § 924 sentence 2 ABGB (or a comparable foreign legal provision) shall be waived.
 6. In the event of a justified notice of defect within the time limit, we may, at our discretion, remedy the defect or install or assemble a defect-free item (subsequent performance). In the event of failure or refusal of subsequent performance, the customer may reduce the remuneration for the work or, after setting and unsuccessful expiry of a reasonable deadline, withdraw from the contract. If the defect is not substantial, he shall only be entitled to the right of reduction.
 7. If the purchaser does not immediately give us the opportunity to convince ourselves of the material defect, in particular if he does not immediately provide the object complained of upon request, all rights due to the material defect shall lapse.
 8. We shall bear expenses in connection with subsequent performance only to the extent that they are reasonable in the individual case, in particular in relation to the remuneration for the work, but in no case in excess of 150 % of the order value. Excluded are costs incurred by the purchaser for the self-remedy of a defect, without the legal requirements for this being met. We shall not bear any expenses incurred by the fact that the Work sold has been taken to a place other than the Purchaser's registered office or branch, unless this is in accordance with its contractual use.
 9. We do not give any warranty for a specific purpose or a specific suitability of the work, unless otherwise expressly agreed in text form; in all other respects, the risk of use and application lies exclusively with the customer.
 10. We do not give any warranty for damage to mountain bike or hiking trails or other facilities caused by force majeure. Force majeure includes adverse weather conditions, in particular precipitation, lightning strikes, fire, avalanches and mudslides.
 11. If we have to perform according to drawings, specifications, samples, etc. of the customer, the latter shall assume the risk of suitability for the intended use.
 12. We do not provide any warranty for deviations of our services from their agreed quality that are tolerated by ÖNORMEN, EN or DIN or otherwise customary in the trade.
 13. In the case of repair and maintenance work, our warranty is limited to the services rendered. For the proper function of a facility or the like, the components of which were not exclusively supplied by us, we shall only provide a warranty if we have undertaken to manufacture the entire facility (mountain bike / hiking trail / pump track or the like) in text form despite the provision of components by the orderer or by third parties and if the faulty function is based neither on incorrect nor incomplete information provided by the orderer.
 14. Replaced items, parts or components shall become our property. We shall not reimburse the costs of any rectification of defects undertaken or attempted by the customer or a third party.
 15. The customer is not entitled to withhold payments due to warranty claims or other counterclaims not recognized by us.
 16. Any liability for factual statements about products and services of the client contained in the advertising measures and the patent, copyright and trademark protection or registrability of the ideas, suggestions, proposals, concepts, drafts, etc. supplied within the framework of the contract shall be excluded in accordance with Item XVI Nos. 1 and 2. The client shall indemnify us against all obligations asserted against us by third parties on the basis of a violation of this responsibility of the client. Furthermore, we are permitted to prevent the use of the contents.
- XIII. General limitation of liability

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1. We shall be liable for breach of contractual and non-contractual obligations, in particular for impossibility, delay, culpa in contrahendo and tort as well as warranty claims - including for our executive employees and other vicarious agents - only in cases of intent and gross negligence.
 2. These limitations shall not apply in the event of culpable breach of essential contractual obligations, insofar as the achievement of the purpose of the contract is jeopardized and the damage is typical for the contract and foreseeable at the time of conclusion of the contract, in cases of mandatory liability under the Product Liability Act, in the event of damage to life, limb and health and also not if and insofar as we have fraudulently concealed defects in the work or guaranteed their absence. The rules on the burden of proof shall remain unaffected.
 3. Unless otherwise agreed, contractual claims which the purchaser has against us on the occasion of or in connection with the manufacture of the work shall become statute-barred one year after acceptance of the work, unless they involve compensation for bodily injury or damage to health or typical, foreseeable damage or are based on intent or gross negligence on the part of the purchaser. This does not affect our liability for intentional and grossly negligent breaches of duty. In cases of subsequent performance, the limitation period shall not start to run again. XV No. 1 remains unaffected by this.
 4. If claims are asserted against us by third parties in connection with manufacture and delivery based on drawings, samples, models or other documents provided by the customer, the customer shall indemnify and hold us harmless.
 5. When using the equipment and other objects delivered or installed by us, the customer shall be obliged to strictly comply with all existing regulations, technical provisions, installation instructions, operating instructions and instructions for use for the protection against hazards and to use only authorized specialists.
 6. Furthermore, the customer undertakes to notify us immediately of any liability cases and to provide us with the necessary documents.
 7. The client is responsible for content provided by him. This responsibility is governed by the general laws and the provisions, in particular the liability provisions of this agreement. The risk of the legal admissibility of the project measures carried out shall be borne by the client.
- XIV. Insolvency
- If insolvency proceedings are opened against the customer's assets and the right under § 78 IO is exercised, or if the opening is rejected for lack of assets, we shall be entitled - without prejudice to our other rights - to withdraw from the contract in accordance with the statutory provisions.
- XV. Place of performance, jurisdiction and application of law
1. The place of performance for our deliveries is our registered office. The place of jurisdiction is, at our discretion, the registered office of our company or the registered office of the purchaser.
 2. All legal relations between us and the Purchaser shall be governed exclusively by Austrian law in addition to these Terms and Conditions (to the exclusion of the IPRG and other conflict of law provisions). The provisions of the Convention of 11 April 1980 on Contracts for the International Sale of Goods (CISG) shall not apply.
- XVI. Other
1. Correspondence between the contracting parties shall be in text form by email, unless another form is contractually mandatory. Oral correspondence shall not have any legally binding effect unless the parties agree otherwise or there is imminent danger for the mutual economic interests or the legal interests of the parties. This shall not apply to correspondence which is contractually subject to mandatory text or written form. The consent to communication by email is granted without any further need for regulation upon conclusion of the contract.
 2. Should individual provisions of the contract with the Purchaser, including these General Terms and Conditions, be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The wholly or partially invalid provision shall be replaced by a provision whose economic success comes as close as possible to that of the invalid provision.

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