

General Terms and Conditions of Business

1. Scope

1.1. These terms and conditions apply to all deliveries and services provided by GNC CardServices GmbH. Any variations from them shall only be binding if they have been recognised in writing by GNC CardServices GmbH. The above requirement for written recognition shall apply in any event, for example even if GNC CardServices GmbH, aware of the customer's T&Cs, makes the delivery to it without reservation.

1.2. Special agreements made with the customer in an individual case (including subsidiary agreements, additions and amendments) shall always have precedence over these General Terms and Conditions of Business. GNC CardServices GmbH shall only provide guarantees and accept procurement risks if special agreements have been made. A written contract or written confirmation from GNC CardServices GmbH shall be determinative of the content of any special agreement. The written form in accordance with Section 126 b of the German Civil Code (e.g. e-mail) shall suffice.

2. Offer

2.1. All offers from GNC CardServices GmbH are subject to confirmation and without obligation. The specifications contained in catalogues and the like are only authoritative if there is no separate agreement about the quality.

2.2. Respective approvals which are needed for the execution of an order and are to be issued by authorities or third parties are, provided they do not fall within the sole area of responsibility of GNC CardServices GmbH, to be obtained by the client, which must inform GNC CardServices GmbH about this and in any event must indemnify it and hold it harmless. GNC CardServices GmbH shall not be obliged to commence the work before these approvals have been issued in a legally effective way.

2.3. Drafts or samples which are produced at the client's request are subject to a charge. The client shall be obliged to pay GNC CardServices GmbH – unless the parties have come to some other arrangement in an individual case – the level of remuneration agreed for this and, if no agreement in relation to this has been made, the standard level of remuneration.

3. Contract conclusion – cancellation of continuing obligations

3.1. The placing of an order by the client shall be regarded as a binding offer to enter into a contract. This offer shall remain in force, provided that no shorter commitment period has been specified, for at least four calendar weeks following receipt by GNC CardServices GmbH. The offer shall be accepted by way of a written order confirmation or the actual delivery of the goods which were ordered.

3.2. Amendments and additions to the contract shall require written confirmation by GNC CardServices GmbH to be valid. Any variations between the order confirmation and the order which the customer does not want to accept must be notified in writing by the customer within one week. If the above written notification is not provided or is not provided in good time, the variation shall be deemed to have been approved by the client.

3.3. Subject to other written agreements, open-ended print jobs which are to be performed periodically and for which no cancellation period or no final deadline were agreed in an individual case may be cancelled by both parties to the contract giving one month's notice to the end of a month in each case. This does not affect the right of each party to the contract to terminate it without notice and the other contract dissolution rights. If the average monthly scope of service exceeds € 1000.00 net, such contracts can be terminated by giving three months' notice exclusively to the end of half a calendar year. In the case of periodic assignments for which special materials have been made or procured, termination is not permitted unless these materials have already been used up.

4. Prices

4.1. The prices specified by GNC CardServices GmbH in the order confirmation apply to the items for delivery which are specified in the order confirmation. Any deliveries or services ordered or approved by the client which extend beyond the agreed scope of service may be charged for separately by GNC CardServices GmbH.

4.2. Unless something to the contrary has been agreed in writing, the prices are to be understood to be in euros, the prices apply ex works or ex warehouse of GNC CardServices GmbH exclusive of packaging, transport, insurance, customs duties and value added tax or other statutory levies. If the shipment is agreed to include delivery to the final destination point, the prices do not include unloading and carrying.

4.3. GNC CardServices GmbH shall be entitled to adjust the prices to the prices which apply on the day of delivery if the order differs from an overall offer or if the factors which have a crucial bearing on the pricing (e.g. wages, material prices, etc.) have changed by the time of the delivery. GNC CardServices GmbH shall provide evidence of this to the client on request. If a contract is entered into with the prices left open, the price which applies on the day of delivery or completion shall be charged.

4.4. GNC CardServices GmbH shall be entitled in particular to charge additional costs incurred as a result of a delay for which the client is responsible in the clarification of technical or legal requirements for the delivery or as a consequence of extra hours, night work or Sunday work requested by the purchaser.

4.5. If GNC CardServices GmbH agrees to a subsequent reduction in the quantity ordered, the prices which apply to the reduced quantity shall apply in accordance with the official price list of GNC CardServices GmbH that is applicable in each case. In the event that an

order is cancelled, the statutory regulations (in particular Section 649 of the German Civil Code) shall apply.

5. Delivery

5.1. The order confirmation shall be decisive in determining the delivery deadline and the scope of the delivery. Delivery dates and delivery deadlines are non-binding, unless explicitly binding delivery dates and delivery deadlines are promised. The delivery deadline shall commence with the latest of the times set out below: a) date of the order confirmation; b) date of the clarification of all technical and legal requirements by the client; c) date on which GNC CardServices GmbH receives the initial payment which is agreed prior to execution of any work, or on which a letter of credit to be prepared was issued.

5.2. If subsequent changes to the contract which may have impacts on the delivery deadline being met are agreed, a new delivery date or a new delivery deadline is to be agreed at the same time.

5.3. The delivery is made subject to our receiving correct and prompt delivery from our suppliers.

5.4. GNC CardServices GmbH shall be entitled, to a reasonable extent, to make advance deliveries or partial deliveries and invoice them if they constitute at least 50% of the contractually agreed quantity for delivery, the remaining delivery is still possible and can be performed within a period of time that is reasonable to the client. Provided that the discrepancy is not more or less than 10 per cent of the total quantity (total circulation), the purchaser shall be obliged to accept this additional delivery or short delivery at the price calculated on a pro-rated basis, provided that no unreasonable discrepancy arises as a result of this.

5.5. In cases of force majeure, uprising, strike or lockout or if a major or important piece of work is rendered unusable at GNC CardServices GmbH or one of its suppliers, we shall be entitled to extend the delivery deadline appropriately by the length of time for which there is a default in performance caused by the circumstances listed above, without being in default. The statutory regulations in the event of permanent defaults in performance remain unaffected.

5.6. If GNC CardServices GmbH is unable to meet binding delivery deadlines for reasons that are beyond the control of GNC CardServices GmbH (in particular if the service is unavailable), GNC CardServices GmbH shall notify the client about this immediately, specifying the reasons and the anticipated length of the delay, and ask for an extension to the deadline by mutual consent. If an agreement which is acceptable to both parties is not reached within 14 calendar days and the delay persists, GNC CardServices GmbH shall be entitled to withdraw from the contract, with the client being reimbursed for any return service that has already been provided.

5.7. Raw materials, semifinished or finished products shall only be stored following prior agreement in writing and this is to be compensated separately. If goods which are ready for dispatch have not been sent through no fault of GNC CardServices GmbH within 3 months of billing or if this has been postponed at the request of the client, the service shall be deemed to have been provided and GNC CardServices GmbH shall be entitled to put the goods into storage at the client's expense. Warehousing costs in this regard shall be charged to the client. The terms of payment set out in clause 7.1. of these terms and conditions apply.

5.8. In the event that there is a delay in delivery, the following shall be deemed to be agreed: A delay which has demonstrably occurred as a result of intent or gross negligence on the part of GNC CardServices GmbH shall entitle the client, for each completed week of the delay, to claim compensation for the delay of ½%, but no more than 5% in total, of the invoice amount for that part of the affected delivery or service which cannot be used as a result of non-prompt delivery of an essential part, if the client has incurred a demonstrable loss of this amount. Claims for compensation by the client which extend beyond this shall be governed by clause 9 of these terms and conditions.

6. Performance and transfer of risk

6.1. Usage and risk shall transfer to the client when the item for delivery leaves the factory of GNC CardServices GmbH or is put into storage within the meaning of point 5.7.

6.2. Separate agreements relating to goods inspections or trial operations shall not affect the provisions relating to place of performance and transfer of risk.

6.3. If delivery on call has been agreed with the client, the call which the client is required to make must be made by no later than the contractually agreed final deadline and, if such a final deadline has not been agreed, no later than one year after the conclusion of the contract, even if the (entire) service to be provided by GNC CardServices GmbH has not yet been called up by the client by this point in time. In this case, GNC CardServices GmbH shall be entitled to offer the delivery to the client and to demand the agreed payment. If the client is in default of acceptance, GNC CardServices GmbH shall be entitled to withdraw from the contract and demand the agreed payment, with the benefits arising as a result of the cancellation of the duty to perform being allowed for in the form of saved or wilfully non-saved expenditure.

6.4. All of the additional services that are required to fulfil the contract and are not reserved in the order confirmation of GNC CardServices GmbH are to be provided by the client at its own expense.

6.5. Material to be procured by the client, of whatever type and quantity, is to be delivered free of charge to GNC CardServices GmbH. An acknowledgement of receipt issued in respect of this shall not be deemed to constitute acknowledgement that the type and quantity which is stated to have been delivered is correct or free of any defects.

In the case of larger items, the client must promptly reimburse the costs and storage charges associated with the processes of counting and quality inspection at the request of GNC CardServices GmbH.

6.6. Manuscripts, originals, printed items, print data, papers, films and other goods which are handed over shall be stored at GNC CardServices GmbH exclusively at the risk of the client. Insuring these goods against whatever risk is a matter exclusively for the client. GNC CardServices GmbH is exempt from any liability for damage to or loss of these items, unless the damage or loss was caused deliberately or through grossly negligent behaviour on the part of GNC CardServices GmbH.

7. Payment

7.1. Provided that no special terms of payment have been agreed in writing, the invoice amount (net price plus value added tax as well as other additional costs) shall be due for payment within 30 days of the date of the invoice.

7.2. In the case of a framework supply agreement, partial invoices shall be prepared, with the corresponding partial amounts being due for payment when the relevant partial invoice is received. This also applies to invoice amounts which arise from follow-up deliveries or other agreements beyond the original contract total, without prejudice to the terms of payment which are agreed for the main delivery.

7.3. Payments are to be made by direct debit or by bank transfer by the due date without any deduction free of charge to the payment agency of GNC CardServices GmbH in the currency which is specified on the invoice. The date of payment shall be deemed to be the date on which the payment is received at GNC CardServices GmbH or our payment agency.

7.4. The client shall only be entitled to offset with claims which are uncontested or have been determined to be final and absolute. The same applies to the exercising of rights of retention, which must also be based on the same contractual relationship; if there are defects in the delivery, clause 8.3. of these terms and conditions remains unaffected.

7.5. If the client is in default in part or in full with its payment or other service, in particular within the meaning of points 2.2. and 6.4., GNC CardServices GmbH shall be entitled? a) to defer the fulfilment of its obligation to make delivery until the overdue payment or other service is effected,? b) to demand an appropriate extension to the delivery deadline,? c) to call for immediate payment of the full outstanding purchase price (loss of deadline) and? d) if an appropriate subsequent period is not complied with, to withdraw from the contract with effect for the future.

7.6. During the default, GNC CardServices GmbH shall be entitled to demand interest at the statutory amount (8% above the respective base interest rate) from the client. The right to assert a further claim for damage caused by default remains unaffected by this.

7.7. Up until full settlement of the demand of GNC CardServices GmbH arising from all reciprocal legal transactions with the client, the goods shall remain the property of GNC CardServices GmbH. The client must comply with the labelling obligations and other formal requirements to preserve the reservation of title. In the event of attachment or some other form of claim, the client is obliged to point out the title of GNC CardServices GmbH and notify GNC CardServices GmbH immediately.

8. Warranty

8.1. Unless something is agreed to the contrary, the agreed quality of the goods shall be determined by the specifications of GNC CardServices GmbH which are published and applicable at the time that the contract is entered into. Insignificant and customary differences which do not restrict the intended use of the goods shall be disregarded. Differences of less than 2% from the respective measured variable (colour, dimensions, quantity etc.) shall be deemed to be insignificant differences, provided that they do not have any adverse effect on the intended use.

8.2. The client shall undertake to examine the items delivered on receipt in accordance with the statutory obligations to examine and provide notification of defects (Sections 377, 381 of the German Commercial Code) and report any apparent defects, incorrect quantities or incorrect items delivered in detail in writing within a week. If a defect which was initially not discernible becomes apparent at a later date, this must also be reported in writing within a week of being discovered. If in numerical terms the defectiveness of the goods which is identified as a consequence of reasonable examination is within insignificant limits, the client cannot refuse to accept the delivery as a whole. Insignificance in the above sense is deemed to exist if the number of defective pieces of work identified does not exceed the quota of 10% of the items examined at random. If the purchaser fails to provide notification in writing or if this notification is received late at GNC CardServices GmbH, the delivery shall be deemed to have been approved, even in view of the defect.

8.3. For material defects which exist when the risk is transferred, GNC CardServices GmbH shall at its choice warrant the goods by making a subsequent improvement or providing a further delivery. The expenditure necessary for the purpose of providing subsequent performance, in particular transport, travel, labour and material costs, shall be paid by GNC CardServices GmbH, provided that they are not increased as a result of the goods also being provided at a location other than the commercial branch office of the client. This restriction shall not apply if the transfer is in line with the intended use of the goods. GNC CardServices GmbH shall be entitled to make the subsequent performance dependent upon the client paying the purchase price which is due. However, the client shall be entitled to withhold a part of the purchase price which is commensurate with the size of the defect until the defect has been rectified.

8.4. The client must provide GNC Card Services GmbH with the opportunity and time required to provide the subsequent performance which is due, in particular to transfer the defective goods for inspection purposes or – in the event of work under the warranty

carried out at the client's business premises – to permit GNC CardServices GmbH to access the client's business premises.

8.5. If a service is provided on the basis of design details, drawings, models and other specifications of the client, the liability of GNC CardServices GmbH shall only extend to the execution according to the agreement. If the client issues an instruction to fit or implement specific components or software produced and supplied by third-party manufacturers and the material defect is caused exclusively or predominantly by the third-party software or components, the warranty obligation of GNC CardServices GmbH shall be restricted to the assignment to the client of all warranty and compensation claims which exist against the manufacturer or supplier of these components or software. Any liability of GNC CardServices GmbH extending beyond this in terms of both warranty and compensation is ruled out.

8.6. The warranty does not cover defects which have been caused by excessive loading, careless or inappropriate handling, modification and repair, the use of unsuitable operating materials, material provided by the client or a third party, instructions of the client or assembly work by third parties. GNC CardServices GmbH shall not be liable for any damage caused by third-party actions, atmospheric discharges, excess voltages and chemical influences. Parts which are subject to natural wear and tear are excluded from the warranty.

8.7. GNC CardServices GmbH shall only be liable for the light fastness, variability and deviation of the colours to the extent that they are based on defects which were readily apparent on appropriate inspection prior to the use of the materials concerned.

8.8. Proofs must be examined by the client for typesetting and other errors and returned to GNC CardServices GmbH with a declaration that they are ready for printing. Samples for approval are to be subjected to a detailed examination by the client and approval thereof is to be confirmed to AustriaCard in writing. GNC CardServices GmbH shall not be liable for errors which were overlooked by the client. Requests for corrections which are notified by telephone shall only be binding following written confirmation to the same effect. In the case of colour reproductions in all printing processes, insignificant differences from the original shall not be deemed to constitute a defect. The same applies to differences between the proof print and the final print which arise in the print.

8.9. Typesetting errors shall be corrected free of charge. Any changes from the setting copy which are requested by the author or purchaser after the order confirmation has been produced by GNC CardServices GmbH shall only form part of the content of the contract if they have been acknowledged by GNC CardServices GmbH in writing and shall also provide entitlement to charge the additional expenditure caused as a result on the basis of the actual number of working hours required.

8.10. Unless this is unnecessary according to the statutory regulations, the client shall enjoy a claim for compensation instead of the service, a right to reduce the purchase

price or, if the defect is significant, to withdraw from the contract only if it has granted GNC CardServices GmbH an appropriate additional period of at least four weeks to effect the subsequent performance.

8.11. In other respects, claims for compensation on account of a material defect are subject to the restrictions outlined in clause 9.

8.12. Apart from in cases of deliberate intent, claims on account of defects shall lapse 12 months from the date of delivery. This does not apply to claims for compensation on account of a defect if they are based on a loss of life, physical injury or harm to health or if we are guilty of gross negligence.

8.13. The specifications of Sections 478, 479 of the German Civil Code relating to recourse in the case of purchases of consumer goods remain unaffected without prejudice to clause 8.10 above.

9. Compensation

9.1. We shall only be liable to pay compensation, apart from in the case of a breach of substantial contractual obligations, if we, our legal representatives or vicarious agents are guilty of wilful intent or gross negligence.

9.2. Unless we, our legal representatives or senior staff are guilty of wilful intent or gross negligence, the liability shall be restricted to the level of damage which could typically be foreseen when the contract was entered into.

9.3. The above restrictions of liability shall also apply to any competing claims arising from unpermitted actions.

9.4. Claims for compensation arising from loss of life, physical injury or harm to health as well as those based on the German Product Liability Act remain unaffected.

10. Withdrawal and termination

10.1. In addition to the other rights of withdrawal which are specifically set out in these General Terms and Conditions of Business, GNC CardServices GmbH shall also be entitled to withdraw from the contract in the cases which are set out below:

10.1. a) if the execution of the delivery, the commencement or continuation of the service is rendered impossible or delayed further despite the setting of an additional deadline for reasons for which the client is responsible

10.1. b) in accordance with the regulation of Section 321 of the German Civil Code, if it becomes apparent after the contract has been concluded that the entitlement to

counterperformance is jeopardised by a lack of performance capacity on the part of the client. In the case of contracts relating to the production of specific items (in particular items made to individual specification), GNC CardServices GmbH shall be entitled to declare its withdrawal immediately; the statutory regulations regarding the dispensability of the need to give notice remain unaffected

10.1. c) if judicial insolvency proceedings are opened in respect of the client's assets or an application for insolvency is rejected for lack of assets. In the case of continuing obligations, the right of withdrawal shall be replaced by a right of termination of GNC CardServices GmbH. In the cases listed, partial withdrawal is also permitted.

10.2. Without prejudice to any claims for compensation, in the event of withdrawal GNC CardServices GmbH shall be entitled to receive payment for the deliveries or services which have already been provided, as well as the preparatory actions performed in relation to the contract, even if the contract has only been partially fulfilled as a result. Even if no delivery has yet been made, GNC CardServices GmbH shall be entitled to reimbursement of the costs which were incurred in its preparation.

11. Trade name imprint

GNC CardServices GmbH shall be entitled to print a company name or trade name onto the products which are delivered, unless the client has objected to this entitlement in writing. Subjects and sample cards may (voided) be reused by GNC CardServices GmbH for presentation to customers and for marketing purposes.

12. Copyrights and other use rights

GNC CardServices GmbH reserves all rights to supplied software components, draft designs, quotations, projects, the associated drawings, scale drawings and specifications, as well as all intellectual property rights. Such documents, software and other works protected by copyright may not, even if they do not originate from GNC CardServices GmbH, be utilised by the client in a way that extends beyond the content of the contract. In particular, unless something to the contrary is agreed in writing, they may not be reproduced or made accessible to third parties and must be returned immediately upon our request.

The client is obliged to indemnify and hold GNC CardServices GmbH harmless against all claims which are raised by third parties as a consequence of specifications of the client arising from breaches of copyrights, neighbouring rights, other commercial property rights or privacy rights. If any legal action is taken, GNC CardServices GmbH shall notify the client about the dispute. If the client does not enter into the proceedings as a joint defendant with GNC CardServices GmbH, GNC CardServices GmbH shall be entitled to recognise the cause of action. The client must reimburse GNC CardServices GmbH for all of the plaintiff's claims which are rightly recognised or settled as well as all of the costs of the trial within 14 days regardless of the legitimacy of the claim.

13. Applicable law and place of jurisdiction

This contract is governed by the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods. The exclusive place of jurisdiction for all disputes arising directly or indirectly from the contract is Offenbach.