

**GENERAL TERMS OF SALE** (hereinafter referred to as the TERMS AND CONDITIONS)  
**WINTERSTEIGER Sports GmbH** (hereinafter referred to as WINTERSTEIGER)  
Version dated december 2024

**1. Validity | Applicability | Order of precedence**

- 1.1. These TERMS AND CONDITIONS shall apply to all supplies and services (including digital services, in particular firmware and goods containing digital elements in accordance with the Austrian Consumer Warranty Act, VGG) delivered or rendered to companies by WINTERSTEIGER. They shall form the basis for all proposals (including future proposals), and for all contracts and business contacts associated therewith, in order to enable smooth business relationships.
- 1.2. Any deviating customer terms and conditions shall be inapplicable, even if these terms are referred to at a later point in time and WINTERSTEIGER does not object to such terms and conditions.
- 1.3. Any amendments to these TERMS AND CONDITIONS and to the contract, any deviations, ancillary agreements and additional specifications, warranties and representations, etc. relating to WINTERSTEIGER's supplies and exceeding the normally assumed properties or the characteristics set forth in the proposal and/or the operating manual, shall only apply if WINTERSTEIGER confirms them in writing.
- 1.4. The following documents shall apply to the contract in the following order of precedence:
  - WINTERSTEIGER's order acknowledgement,
  - written deviations from the present TERMS AND CONDITIONS,
  - the present TERMS AND CONDITIONS.

**2. Proposal | Order acknowledgement | Contract**

- 2.1. All proposals shall be subject to change (non-binding). An order placed by the Customer is deemed to be an offer to conclude a contract. Binding contracts shall not be deemed to have been concluded unless WINTERSTEIGER accepts the order either by issuing an order acknowledgement or by making a delivery. WINTERSTEIGER is under no obligation to accept an order.
- 2.2. The Customer shall have to uphold its order for four weeks from the date on which the order is received by WINTERSTEIGER (commitment period). WINTERSTEIGER may accept an order even after this period has expired, provided that the Customer has not cancelled its order.
- 2.3. In the event of an order acknowledgement deviating from the order, the Customer must object to such a deviation in text form (e-mail is sufficient) within 5 working days (Monday to Friday, excluding public holidays) of receipt (by WINTERSTEIGER), otherwise the order acknowledgement shall be deemed to be an integral part of the contract.

**3. (Delivery) Dates and deadlines | Delivery proviso | Delay | Transfer of risks**

- 3.1. Binding delivery dates and/or deadlines will only be confirmed by the order acknowledgement. Any dates and deadlines previously indicated serve for initial orientation only.
- 3.2. WINTERSTEIGER shall have the right to make partial deliveries, with each delivery being considered an independent transaction.
- 3.3. WINTERSTEIGER shall not be obliged to keep goods and materials on stock and shall not have to bear the risk of procurement. If goods and materials are delayed or not available, the dates and/or deadlines will change accordingly and WINTERSTEIGER may choose to fulfil its obligations only partially or not at all (unilateral adaptation of the contract or contract termination). The Customer may not derive any claims against WINTERSTEIGER from such actions.
- 3.4. Events of force majeure shall be deemed to include all external and internal operational circumstances that cannot be foreseen or prevented by reasonable means. These include forces of nature (fire, earthquakes, landslides, etc.), wars, revolutions, riots, epidemics, pandemics, operational disruptions, authority measures, labour disputes, power failures, import and export restrictions, delivery delays by upstream suppliers, material shortages and similar events. These events shall not constitute a default and shall entitle WINTERSTEIGER to extend the delivery period accordingly or to rescind the contract. Any claims by the Customer from this title shall be excluded.

- 3.5. In the event of a delay in delivery by WINTERSTEIGER, the Customer may either demand fulfilment of or rescind the contract (only with regard to the products affected by the delay). The rescission must be notified in written form and shall only be legally effective if the Customer has previously expressly granted WINTERSTEIGER a reasonable grace period of at least 8 weeks and WINTERSTEIGER has culpably failed to deliver within this grace period.
- 3.6. Any delay in acceptance by the Customer shall be deemed as acceptance from the very start of the delay. Upon any delay in acceptance, the risk shall be transferred to the Customer.

WINTERSTEIGER shall be entitled:

- to utilise the products at its discretion, in particular to sell them to third parties, with debt-discharging effect, upon prior notification (except in the event of imminent danger or impossibility of notification), or
- to store the products, at its discretion, in a public warehouse, at the premises of WINTERSTEIGER or in any other safe manner, in any case at the risk and expense of the Customer. WINTERSTEIGER will inform the Customer without delay of the place of storage and provide useful relevant information, in particular on the amount of the costs incurred by the Customer in this regard.

#### **4. Customer's obligation to co-operate**

4.1. The Customer must carry out all necessary preparatory and co-operative actions within its sphere of responsibility in good time and at its own expense so as to enable WINTERSTEIGER to perform the contract in due and proper form (including warranties, etc.).

4.2. This obligation shall include but not be limited to:

- provision of information and details that WINTERSTEIGER needs for the manufacture, installation and start-up of its products, in particular if unusual or unexpected circumstances occur,
- preparation of the delivery and/or installation site,
- provision of all auxiliary and operating resources required for installation and/or start-up (e.g. lifting tools, energy supply, lubricants, compressed air, oil, fuel, water) as well as test materials,
- provision of an IT infrastructure (hardware and software) in line with the minimum specifications and safeguarding and maintenance according to the state of the art (e.g. regular system updates, firewall, virus scanners, secure passwords, etc.),
- provision of an internet connection having a sufficient band width and a secure VPN connection to the router output in the data centre utilised by WINTERSTEIGER, and
- obtaining the required permits from authorities falling within the Customer's realm of responsibility.

4.3. WINTERSTEIGER will inform the Customer in due time concerning any special requirements, and the Customer will inform WINTERSTEIGER in due time concerning any special circumstances, requirements and safety risks existing on site.

4.4. WINTERSTEIGER shall not have to perform any affected services for as long as the Customer does not fulfil its obligations to co-operate or does not fulfil them in due time. In such a case:

- WINTERSTEIGER shall not be in breach of contract,
- WINTERSTEIGER shall not be in default,
- the agreed dates / deadlines shall be postponed/extended accordingly, and
- WINTERSTEIGER shall not assume any liability in this regard.

If, due to a delay in co-operation, a service cannot be provided by WINTERSTEIGER or can no longer be provided at the agreed terms (price increases, lack of personnel, shortage of raw materials, etc.), WINTERSTEIGER shall be entitled to rescind the contract. This notwithstanding, WINTERSTEIGER will endeavour to find an amicable solution. The Customer shall be liable for all resulting disadvantages (including interest in fulfilment).

#### **5. Prices | Payment terms | Default in payment | Collaterals**

5.1. Unless otherwise agreed, the freight cost, customs duties, postage, packing and insurance costs as well as other expenses shall be charged separately and in reasonable amounts.

5.2. If no specific terms of payment have been agreed, invoices must be paid by bank transfer without any deductions and free of charge, without exception, within 30 days from the date of

invoice, so as to have a debt-discharging effect. Payments shall be deemed to have been effected as and when they are irrevocably credited to the account of WINTERSTEIGER. Payments shall be made at the cost and risk of the Customer.

- 5.3. WINTERSTEIGER may unilaterally adapt the prices to a reasonable extent, if the pricing bases change for grounds for which WINTERSTEIGER cannot be held responsible (e.g. proved changes in legal provisions, increases in the prices of raw materials / intermediate products or other changes in the market place.)
- 5.4. The Customer shall automatically be considered in default of payment if it fails to effect the payment in due time. In the event of a default in payment, interest on arrears shall be payable at the statutory rate, but at least in the amount of 12% per annum, with the Customer having to bear the necessary reminder and collection costs. WINTERSTEIGER may also claim additional damages.
- 5.5. Instalments or partial payments are subject to a separate agreement. In the case of instalments or partial payments, any default in just one payment shall result in the immediate maturity of all payments.
- 5.6. In justified cases, in particular in the event of a deterioration in the Customer's financial situation or its payment history, WINTERSTEIGER may, at any time (also after conclusion of contract), request that appropriate collaterals be provided, and demand that payment of all amounts (even those not yet due) be made without delay. WINTERSTEIGER shall not be obliged to supply services to the Customer before the provision of such collateral, and any dates and deadlines agreed upon shall be postponed / extended accordingly. Any claims for compensation by the Customer shall be excluded.

## **6. Offsetting | Withholding | Refusal of performance**

- 6.1. The Customer may not offset any of its claims against WINTERSTEIGER unless these claims have been expressly recognized or have been ascertained by a court with legally binding effect.
- 6.2. The Customer shall have no withholding rights and no right to refuse payment.

## **7. Compliance | Sanctions**

- 7.1. The Customer must inform WINTERSTEIGER without delay if it is or could be subject to restrictions due to national or international sanctions or similar restrictions. In this case, WINTERSTEIGER may immediately rescind the contract without the Customer being entitled to any claims resulting therefrom. The Customer shall indemnify and hold WINTERSTEIGER harmless in this regard.
- 7.2. The use or installation of WINTERSTEIGER's products in or in connection with applications (systems) that could be used for military and/or armament purposes - in particular in nuclear, biological or chemical weapons or booster rockets - shall not be permitted without WINTERSTEIGER's verifiable prior consent.
- 7.3. WINTERSTEIGER has set forth other compliance and sanction requirements which the Customer must observe at [240108-prospekt-code-of-conduct.indd](#).

## **8. Reservation of title**

- 8.1. WINTERSTEIGER shall retain the title to the products until full payment of the entire amount owed. The Customer must take all measures (marking, entry in registers, etc.) at its own expense so as to ensure (in compliance with the legal provisions applicable at the place of the location) that WINTERSTEIGER's ownership of its products is not lost and its ownership rights are enforceable.
- 8.2. If the Customer fails to pay on time, WINTERSTEIGER shall have the right to recover (take possession of) the products immediately, without prejudice to any other legal remedies. The Customer shall grant WINTERSTEIGER the right of access to its business premises for this purpose and shall waive all rights of notification or hearing prior to the seizure of the products as a result of default in payment.

## **9. Handing over**

- 9.1. The date on which the products are handed over shall depend on whether start-up services have been agreed. This fact also determines the nature, content and scope of the handover.

- 9.2 If no start-up services have been agreed, the date of acceptance of the product by the Customer shall be deemed to be the handover date, and any take-over by the Customer or its carrier shall be deemed as acceptance.
- 9.3 If start-up services have been agreed, the date of the start-up certificate signed by both parties, or the actual start-up by the Customer, whichever is earlier, shall be deemed to be the handover date. If the Customer refuses to sign the start-up certificate without justification, the date of refusal shall be deemed to be the handover date. Any deficiencies listed in the start-up certificate shall be remedied by WINTERSTEIGER and shall not prevent a handover.

## 10. Use | Machine safety

- 10.1. The Customer shall be responsible for the proper use and safe operation of the products (machine safety); they may only be used for the purpose intended by WINTERSTEIGER or for the usual/customary purpose clearly resulting from the type of product. The Customer must follow the operating instructions and other instructions for use drawn up by WINTERSTEIGER, carry out suitable training, instruction and documentation measures and, as a minimum requirement, comply with the specifications drawn up by WINTERSTEIGER (in particular operating instructions, safety data sheets, etc.). The Customer shall be solely responsible for selecting the right product meeting the specific requirements of the intended purpose. WINTERSTEIGER shall have no obligation to test for, or warn about, other or special purposes or conditions of use. Moreover, WINTERSTEIGER shall not have to check (i) whether the Customer's documents, information and data relating to the product and/or its intended purpose are clear, correct and complete and (ii) whether the product is commercially and technically exploitable for the Customer, in particular with regard to the product's compatibility with the Customer's systems. The Customer shall be liable for compliance with industry-specific standards, safety regulations, conditions of use, patents, etc. falling within its realm of responsibility.
- 10.2. The Customer's unlimited responsibility to ensure the safe operation (use) of the products shall also cover
- its own risk assessment,
  - implementation of any necessary individual protection measures,
  - regular check-up of all safety equipment,
  - exclusive use of the products by trained specialized personnel, and
  - avoidance of misuse of the products.
- 10.3. Machine safety is not covered by WINTERSTEIGER's scope of services. Any assistance that WINTERSTEIGER may provide in this regard shall be considered a non-binding recommendation and shall not entail any liability on the part of WINTERSTEIGER.
- 10.4. The Customer shall be under the obligation to instruct its staff and, if required, also third parties concerning their duties under the present **Clause 10**.

## 11. Warranty

- 11.1. WINTERSTEIGER warrants that the products, in addition to the properties usually assumed, correspond to the agreed specifications and the state of the art at the time of handover and are free of defects in this respect.
- 11.2. The product specifications shall be those set forth in the contract, the operating instructions and the technical data sheets. Other specifications and properties must be agreed in writing. Verbal statements, advertising claims, public announcements and other information about the product properties (in brochures, on the website, etc.) and the like shall be non-binding. The products comply with the statutory provisions in force at the registered office of WINTERSTEIGER.
- 11.3. WINTERSTEIGER shall not be liable for
- selecting a product that meets the Customer's requirements in terms of intended purposes, functionality and/or suitability for purposes other than those agreed in Clause 10.1.,
  - normal wear and/or tear (including corrosion),
  - improper or incorrect handling, use, installation, storage, operation, dispatch etc., or improper or incorrect upkeep/maintenance, or lack of upkeep/maintenance,
  - modifications carried out by the Customer itself or a third party, or other impairments, unless the Customer provides proof that the defects or damage were not due to such modifications,

- normal errors (such as software errors) that do not cause any impairment of use,
- acceptable changes in shape, design, equipment or the colour shade, provided that the function of the product is not impaired, and
- material defects of products that are not brand new (i.e., used products), and
- damage or defects that can be attributed to the use of unsuitable third-party material by the Customer.

The Customer shall not be entitled to derive any rights from any symbols or figures (in particular, those used to designate the product) WINTERSTEIGER uses in its proposal, in the order acknowledgement, in annexes to the contract or otherwise.

- 11.4. WINTERSTEIGER's products have been tested for use with the consumables recommended by WINTERSTEIGER (e.g. saw blades). These consumables are listed in WINTERSTEIGER's current product catalogue, in the operating instructions or on a sticker on the product. The use of materials other than the original or recommended consumables ('third-party material') may result in disruptions of the proper operation or proper functioning of the product, excessive wear, damage to the product or to the materials processed with the product or other undesirable consequences. WINTERSTEIGER's warranties and representations regarding the usability of products do not cover their use together with consumables other than those recommended.
- 11.5. The warranty period shall be (i) 12 months or (ii) 2,500 operating hours, whichever is earlier, in each case calculated from the handover date. If remedial actions are taken or the goods are replaced, the initial warranty shall not begin to run anew.
- 11.6. Warranty services will not be provided at any place other than the agreed place of performance. The Customer shall have to defray any extra costs resulting from the transport of a product to another place. If technically feasible, warranty services can be provided by means of remote maintenance, remote diagnosis or similar (if necessary, via remote access) (collectively referred to as "remote maintenance"). To allow troubleshooting and remedying defects by means of remote maintenance, the Customer must ensure that the electronic services required for trouble-free remote maintenance are installed and in operation in accordance with (i) the general state of the art and (ii) the technical specifications of WINTERSTEIGER, and, in particular, that the product is connected to the internet. Whenever remote maintenance is used, the Customer must, at all times and without limitations, observe all of WINTERSTEIGER's (safety) instructions and instructions on how to proceed, and instruct its staff accordingly.
- 11.7. The Customer shall have to inspect the products for any defects/deficiencies and for completeness immediately after the handover.
- 11.8. Notice of defects/deficiencies or any incompleteness ascertainable at the time of handover must be given in writing without delay but within 7 work days from the handover date, at the latest (notice of defects).
- 11.9. Notice of defects/deficiencies which are only ascertainable at a later date must be given in writing within 7 days from discovery. The Customer shall have to provide evidence of the time of discovery. If the defect/deficiency is not ascertained immediately for reasons for which the Customer is responsible, e.g. because the product is not used until a later date, the defect shall be deemed to have existed already at the time of handover.
- 11.10. If no notice of defects/deficiencies is given in good time, the products delivered shall be deemed to have been approved. In this case, the Customer shall have no right to assert any legal claims arising from defects.
- 11.11. Under the warranty, defective products shall, at WINTERSTEIGER's discretion, be remedied (repaired) free of charge or replaced by defect-free products. WINTERSTEIGER shall be entitled to make at least three attempts at rectification within a reasonable period of time. In the event of refusal or unsuccessful rectification, the Customer shall be entitled to claim a price reduction or (in the case of major defects) terminate the contract in accordance with the applicable legal provisions. No further claims (in particular for a reduction in value) shall be permissible. The Customer shall not be reimbursed for any expenses incurred by it in connection with the warranty.
- 11.12. The Customer may only rectify defects itself (or have them rectified) in consultation with WINTERSTEIGER if there is an unavoidable risk to operational safety or if disproportionate damage may occur and the defects could not be removed by WINTERSTEIGER in due time. In this case, WINTERSTEIGER shall reimburse the Customer for any reasonable external

expenses. In no other case shall any such performance by the Customer or third parties be permitted.

11.13. Any obligation to update digital services and goods containing digital elements shall be excluded (Austrian Consumer Warranty Act, Section 1, para. 3).

11.14. The provisions of Clause 11 shall apply mutatis mutandis to any claims for damages that the Customer may assert on account of a defect/deficiency.

## **12. Other liabilities (compensation for damages)**

12.1. WINTERSTEIGER's liability for

- personal damage,
  - wilful acts, and
  - cases of legally mandatory unrestricted liability, e.g. product liability,
- shall be unlimited.

12.2. Beyond that, WINTERSTEIGER

- shall NOT be held liable in cases of minor negligence and
- shall only be liable for a maximum amount of EUR 150,000.00, or up to the total price of the product concerned, whichever amount is higher, in cases of gross negligence.

12.3. The Customer must prove that WINTERSTEIGER is at fault and provide evidence of the cost actually incurred.

12.4. Any liability of WINTERSTEIGER for

- indirect damage and consequential damage,
- pure financial losses
- operational interruptions
- loss of data or impairment of data and information (in particular also in case of an infringement of the Customer's specific duties, such as connection failures, system safety, etc.)
- loss of profit

shall be excluded.

12.5. Any claims against WINTERSTEIGER must be legally exerted within one year from the discovery of the damage.

12.6. The provisions of the present **Clause 12** shall also apply to any employees and agents and other persons working for WINTERSTEIGER.

## **13. Special rules applying to digital services**

13.1 Unless expressly stated in the specifications or services description, the products and the data generated automatically by the products are not designed to provide information about necessary maintenance work or intervals, or to perform other safety-critical tasks or tasks related to the lives of humans. WINTERSTEIGER shall not assume any liability (including any warranty obligations) for the accuracy, completeness, usability and usefulness of such data (including data on the state of machines (machine components) and material, maintenance cycles, etc.).

13.2. The Customer agrees that digital services (e.g., remote maintenance) are dependent on external circumstances (e.g., third-party providers such as telecommunications network operators or mobile phone providers; interruptions of the power supply; other technical faults) and are generally not available at all times. Moreover, the availability of digital services may be temporarily restricted or interrupted for other reasons (e.g., necessary technical measures; emergency maintenance; updates; hardware or software errors; loss of internet connection; other internal technical faults). Unless otherwise agreed (e.g., for service levels), WINTERSTEIGER shall assume no liability (including any warranty obligations) for all digital services being available at all times and free of errors. In the event and for the duration of such a disruption, WINTERSTEIGER shall not be obliged to provide digital services. At no event may the Customer retain or curtail the remuneration agreed for these services. Such a curtailment would only be permissible if WINTERSTEIGER were unable to make up for the services concerned and if more than 25% of the contracted services were concerned. Should the disruption fall within WINTERSTEIGER's sphere of responsibility, WINTERSTEIGER will endeavour to rebuild availability as quickly as possible with an economically justifiable input.

WINTERSTEIGER cannot be held liable or provide any warranty for any damage, loss (including data losses) or operational disruptions resulting from interruptions or disruptions of the technical availability of digital services not caused by WINTERSTEIGER.

- 13.3. Notwithstanding sub-clause 11.13, WINTERSTEIGER may, at its own discretion, carry out updates and/or upgrades of the product.
- 13.4. The other provisions of the present TERMS AND CONDITIONS shall apply accordingly.

#### **14. Software licences | Updating**

- 14.1. WINTERSTEIGER grants the Customer a non-exclusive, non-transferable, worldwide right to use software components possibly included in the product, as well as the associated documentation (the “software”), in an unmodified form within the scope of operation of the product for which the software is intended, unless otherwise agreed in writing between the parties. This right shall be granted for an unlimited time.
- 14.2. The Customer shall not have the right to grant user rights or licences to its associated companies as defined in Article 189a, no. 8 of the Austrian Companies Code, or to third parties.
- 14.3. The Customer may not use the software beyond the intended framework and purpose of use. The right of use shall be limited to the product designed for such use.
- 14.4. The Customer may not obtain the software and the associated source code, in particular by observing, examining, decompiling, disassembling or testing, or engage in any other form of reverse engineering.
- 14.5. The Customer must not distribute, sell, rent, lease, sublicense, make available for download, make publicly accessible or surrender copies of the software to third parties.
- 14.6. The Customer undertakes not to remove or change any manufacturer information, in particular, copyright notices, without the prior express consent of WINTERSTEIGER. In addition, the Customer shall be under the obligation to safeguard that WINTERSTEIGER’s intellectual property rights are reasonably protected.
- 14.7. WINTERSTEIGER and/or the software supplier shall retain all other rights related to the software and its documentation, including copies thereof.
- 14.8. The Customer acknowledges that software can be the target of virus attacks even if the greatest possible care is taken, or that its proper functioning can be restricted without any action or fault on the part of WINTERSTEIGER. The Customer shall take this into account in a suitable manner when using the product and/or the software, in particular with regard to data backups.
- 14.9. Any new versions, updates, upgrades or other replacements of the software that WINTERSTEIGER may issue after the conclusion of the contract shall also be subject to the above-cited rights and obligations.

#### **15. Machine data**

- 15.1. Certain electronic components within the product can generate information such as control data, sensor data and raw data of the machine. This information does not contain personal data, but is of a technical nature (“machine data”). WINTERSTEIGER will use these data to optimise certain features, and possibly to develop new products. These data also serve as basis for the performance of digital services (e.g., remote maintenance, monitoring). Machine data are generated within the product itself (especially in the course of its use), but their generation may also be initiated by WINTERSTEIGER. Machine data will be processed in an anonymised form, meaning that they will be merely allocated to the product without any references to persons.
- 15.2. Devices such as IoT hardware or a permanently installed SIM card allocated to the product, enabling remote access to machine data, may be permanently installed in the product. WINTERSTEIGER shall not make any functional changes to the product or change any properties of the product as a result of such remote access or the installations required for this purpose. It is currently not possible to selectively activate or deactivate the transfer of individual machine data.
- 15.3. WINTERSTEIGER may trigger the generation of machine data, which it will subsequently process, save, use and exploit. This also includes a possible disclosure to third parties, in particular if required for storing machine data. The term “third parties” shall not apply to

WINTERSTEIGER's associated companies, which are considered to be part of WINTERSTEIGER.

- 15.4. Ownership of all machine data, in particular the intellectual property rights in the results derived therefrom (especially databases), shall be deemed to be created and retained exclusively by WINTERSTEIGER. In addition, WINTERSTEIGER shall be entitled to the exploitation rights and/or exclusive, irrevocable, temporally and spatially unlimited rights of use of machine data and all results derived therefrom.
- 15.5. The Customer expressly grants WINTERSTEIGER the necessary right of remote access to the machine including all necessary (hardware/software) installations required for the purposes mentioned. The Customer shall not remove, change or otherwise manipulate the installations (hardware/software) required for remote access without prior authorisation.

## **16. References | Intellectual property rights**

- 16.1. Until further notice, the Customer agrees to WINTERSTEIGER's using of the Customer's name and logo as a reference customer. The Customer may use WINTERSTEIGER's name and logo in reference lists, etc., upon prior written authorisation.
- 16.2. WINTERSTEIGER grants the Customer the necessary intangible rights to use the product in accordance with the contract. The Customer must observe the licence conditions applicable at the time when the contract is concluded and shall not acquire any exclusive rights.
- 16.3. Property rights may not be passed on by the Customer unless this is required for the purpose of using the product.
- 16.4. The Customer shall be barred from wholly or partly copying digital services or goods containing digital elements, from translating them to another language, from disassembling them, compiling them subject to Section 40e of the Austrian Copyright Act, from reverse engineering them, separating them or changing them in any other manner.
- 16.5. WINTERSTEIGER shall retain all ownership and property rights of its products, digital services and products containing digital elements, including all rights in the results achieved in the course of developments made jointly with the Customer. For this purpose, WINTERSTEIGER shall retain all intellectual property rights, in particular copyrights, in the product (including software created by WINTERSTEIGER) and related documents and know-how created by WINTERSTEIGER, including but not limited to drawings, drafts, plans, specimens and operating instructions associated therewith, which were either included in the delivery or in the proposal or which otherwise came into the Customer's sphere of control (e.g., were provided by WINTERSTEIGER for downloading, printing and saving). The software, any documents and the know-how must not be processed, reproduced or otherwise used or made accessible to or passed on to third parties without WINTERSTEIGER's consent and must be returned upon request. In the event of a breach of this obligation, the Customer shall be obliged to hold harmless and indemnify WINTERSTEIGER, including against third-party claims.
- 16.6. If WINTERSTEIGER has granted the Customer an individual contractual right to process and modify software or its source code, and if (i) the Customer or (ii) the Customer and WINTERSTEIGER jointly make modifications, additions or improvements thereto, WINTERSTEIGER shall be exclusively entitled to the newly created intellectual property rights in the modified, supplemented or improved software and any results and derived works created by exploiting the intellectual property rights associated with the subject matter of the contract. In these cases, the Customer shall receive a free, non-transferable, non-sublicensable, worldwide licence to use these derived works and the associated intellectual property rights for its own use for an unlimited time. The Customer shall not be entitled to use, exploit, mime or appropriate the intellectual property rights for any purpose other than the purpose(s) agreed with WINTERSTEIGER. The Customer shall expressly not be entitled to apply for industrial property rights, in particular trademarks, designs, patents or utility models, on the basis of any such intellectual property created.

## **17. Data protection**

- 17.1. Both parties shall process personal data in accordance with the provisions of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection



Regulation - 'GDPR'), as well as the applicable national data protection laws. Each party shall be considered independently responsible within the meaning of Art. 4(7) GDPR, unless otherwise agreed by contract. WINTERSTEIGER's privacy policy is set forth at [Wintersteiger - Privacy](#).

- 17.2. General information on the processing of product data, related services data and non-personal data is provided by WINTERSTEIGER at [Wintersteiger - Privacy](#).

## **18. Applicable law | Legal venue**

All contracts and all business contacts related thereto shall be subject to the substantive law of the Republic of Austria, excluding the UN Convention on Contracts for the International Sale of Goods (CISG) and the conflict-of-law rules of private international law. The exclusive legal venue shall be the competent court for A-4910 Ried im Innkreis.

## **19. Miscellaneous**

- 19.1. Legally relevant declarations and notifications made by the Customer must be made in writing.
- 19.2. The written form requirement shall be deemed sufficient
- if the document is signed electronically, e.g. via DocuSign or
  - if the document is transmitted by digital means, e.g. a scan of a document signed in the original.
- 19.3. The headings in the present TERMS AND CONDITIONS shall only serve to achieve clarity and shall not serve for interpretation purposes.
- 19.4. Should individual clauses of these TERMS AND CONDITIONS and/or the contracts be ineffective in whole or in part, this shall not affect the validity of the remaining provisions. Any ineffective provisions shall be replaced by provisions that meet the economic purpose of the ineffective provisions to the greatest extent possible. The same applies to any loopholes.
- 19.5. WINTERSTEIGER reserves the right to make unilateral, customary and foreseeable changes or updates to the TERMS AND CONDITIONS (including changes related to ongoing transactions); the Customer agrees to these in advance.