

# General Terms and Conditions of Business (GTC)

(effective from January 1st, 2024)



## 1. Scope of application

These General Terms and Conditions of Business (hereinafter referred to as "GTC") shall apply to all deliveries and services provided by Tyczka Trading Austria GmbH, (hereinafter referred to as "Tyczka"), unless otherwise agreed in individual contracts. Other terms and conditions of business are hereby expressly rejected; they shall only become part of the contract if expressly confirmed in writing by Tyczka. These GTC are an integral part of all contracts concluded between Tyczka and its contractual partners (hereinafter also referred to as "customer") for the deliveries or services offered by Tyczka. They shall also apply to all future deliveries, services or offers to the customer, even if they are not subject of a further separate agreement. This version of the GTC replaces all previous versions.

## 2. Offers

Offers made by Tyczka are subject to confirmation and non-binding, unless they are expressly marked as binding; they shall be understood to be a request to the customer to submit a contract offer. Unless otherwise agreed by the parties, the contract shall be concluded upon written confirmation by Tyczka (e.g., by letter, fax or e-mail) within two weeks (order confirmation).

Following the discussions of deliveries over the phone (spot transaction), Tyczka will send an order confirmation to the customer by e-mail within forty-eight hours. The corresponding legal transaction is concluded with the content described in the e-mail if the customer does not object within twelve hours after receipt of this order confirmation.

To the extent that a supply contract for a fixed period of time has been concluded in writing or in text form, the legal relationship between Tyczka and the customer is solely governed by the supply contract, including these General Terms and Conditions. The supply contract fully reflects all agreements between the contracting parties on the subject matter of the contract. Verbal commitments made by Tyczka prior to the conclusion of this contract are not legally binding, and verbal agreements between the contractual parties are replaced by a contract concluded in writing or in text form, unless it is expressly agreed that the verbal agreements are to remain valid in each specific case.

Any amendments or changes to the agreements, including the present General Terms and Conditions of Business, require text form to become effective.

Information provided by Tyczka concerning the subject of the supply or service (e.g., weights, dimensions, utility values) as well as illustrations of the same (e.g., drawings and illustrations) shall only count as approximations, unless the use for the contractual intended purpose depends upon precise compliance. They are no guaranteed quality specifications, but descriptions or identifications of the supply or service. Deviations that are customary in the trade and deviations that occur due to legal regulations

are permissible insofar as they do not impair the usability for the contractually intended purpose.

Tyczka expressly reserves the ownership or copyright of all offers and cost estimations submitted by Tyczka. Without the explicit consent of Tyczka, the customer may not make them accessible to third parties, disclose them, use them by himself or through third parties, or reproduce them, either as such or in terms of their content.

## 3. Payment; Delay

Invoices are due for payment immediately without deduction. Periodically recurring payments (in particular rent and instalment payments) for which Tyczka does not issue an invoice are due without deduction on the agreed date, at the latest at the end of the respective period. The receipt of payment by Tyczka is decisive for the timeliness of the payment.

It is excluded to set off Tyczka's claims for payment insofar as the matter does not concern the customer's counter-claims that are recognized by Tyczka, or which are undisputed or legally established.

Tyczka is entitled to charge a reminder fee of EUR 5.00 for each written reminder sent to the customer. The customer shall bear the bank charges for unauthorised return debit notes for which he is responsible.

If the customer has been in delay of payment at least twice within a period of two years, Tyczka may demand upfront payment for gas deliveries. If the customer is in delay with payment, Tyczka has the right to withhold other supplies or services and to extend already agreed delivery dates until the end of the delay. Further rights of Tyczka due to the default of the customer remain unaffected, in particular the right to terminate the contract without notice. Tyczka is entitled to choose the form of transmission of the invoice; the invoice can be sent by letter or electronically by e-mail. Compliance with the statutory provisions is confirmed.

## 4. Retention of title

The delivered goods remain the property of Tyczka until full payment of all claims of Tyczka, including interest, financing costs and other ancillary costs. If the delivered goods are mixed or blended with other goods, Tyczka acquires co-ownership of the new goods in proportion to the value of the goods delivered by Tyczka to the value of the new goods. The same applies in the case of consumption of the delivered goods during the production of the new item.

The goods may not be seized or transferred by way of security without the consent of Tyczka. The customer shall immediately notify Tyczka of any seizure or other encumbrance by third parties and provide Tyczka with the assistance necessary to protect its rights. In commercial transactions, the customer is entitled to resell the goods subject to retention of title in the ordinary course of business, insofar as they were not delivered to him as the end customer. In the course of commercial business, the customer

hereby assigns to Tyczka by way of security its claims from the resale of the goods subject to retention of title and, in the event of insolvency proceedings relating to the assets of a customer, its rights of exclusion and separation up to the amount owed to Tyczka.

## **5. Supply**

Tyczka is entitled to perform partial deliveries. Tyczka shall only be bound to certain delivery dates if a fixed transaction has been agreed in writing or in text form. Otherwise, Tyczka's statements regarding delivery periods or entry temperatures are non-binding.

By placing an order for the supply of LPG, the customer warrants that it will comply with all safety regulations applicable to the storage, refuelling and use of LPG and that the LPG supplied will only be used to supply and operate equipment and appliances which have been tested and are in good working order in accordance with the regulations during the periods provided for this purpose.

The quantities decisive for the calculation shall be determined for all goods in the supplying plant or supplying storage, in the case of supply by tanker lorries with suitable measuring equipment by means of these.

If the customer has to provide means of transport and transport containers, it must send these to the agreed filling facility on time and free of freight and charges at its own risk. Tyczka may return damaged means of transport and containers to the customer at the customer's risk and expense and instead provide and dispatch rented or its own means of transport and containers for a reasonable fee.

Tyczka is not liable for contamination of the goods or for other damage caused by unclean means of transport and containers of the customer or their other defective condition.

a) Supply by ship (inland waterway vessel/deep-sea vessel)

For supply by ship, special contract conditions agreed for the individual case shall apply.

b) Supply in rail tank wagon

Supply shall be made to the customer in rail tank wagons provided by Tyczka with a capacity of up to 45 t, carriage paid to the point of transfer of the railways used. Any delivery charges incurred from the transfer point shall be borne by the consignee.

If no deviating individual agreement or separate regulations have been made with regard to the lease, EUR 36.50 per commenced calendar day and rail tank wagon, irrespective of the type and size, shall be due for payment from the date of delivery at the transfer point until the arrival of the rail tank wagons at the receiving point designated by Tyczka. In any case, empty rail tank wagons shall be sent without delay to the receiving point designated by Tyczka. Any demurrage and other costs incurred for delayed acceptance and/or return shall be borne by

the customer. The customer who is in possession of a wagon shall be liable to Tyczka for any damage caused by loss of or damage to the rail tank wagon, unless he can prove that he is not responsible for the damage.

c) Supply in large-capacity road tanker

Supplies shall be made in large-capacity road tankers provided by Tyczka with a commercial capacity, carriage paid to the delivery point. Supplies shall only be made if sufficient liquefied petroleum gas storage tanks, suitable access routes and proper filling facilities are available at the customer's premises. The customer shall ensure that the access roads and the filling site can be safely accessed by a road tanker with a total weight of approx. 40 t and a vehicle length of approx. 15 m.

## **6. Compliance with legal requirements in the drop shipping business**

The customer shall ensure that in the drop shipment business the collector takes possession of untaxed energy product or energy product taxed at a reduced rate as his authorised representative.

The customer shall be responsible for ensuring that he and his buyer comply with all statutory and official regulations, in particular for the dispatch, storage and use of untaxed energy products or energy products taxed at a reduced rate.

## **7. Defects; Warranty**

The warranty period is one year as of delivery. This period shall not apply to claims for damages of the customer arising from injury to life, body or health or from intentional or grossly negligent breaches of duty by Tyczka or its vicarious agents, which shall in each case become statute-barred in accordance with the statutory provisions.

The supplied goods are to be inspected carefully immediately after delivery to the customer or to the third party designated by the customer. They shall be deemed to have been accepted by the customer with regard to obvious defects or other defects which would have been recognisable in the course of an immediate, careful examination, if Tyczka does not receive a notice of defect in text form within three working days after handover. In respect of other defects, the delivered items shall be deemed to have been accepted by the customer if Tyczka does not receive a notice of defect within five working days after the point in time at which the defect became apparent; if the defect was already apparent at an earlier point in time during normal use, this earlier point in time shall, however, be decisive for the commencement of the period for giving notice of defects. On Tyczka's request, a defective item of supply is to be returned to Tyczka freight charges prepaid. In the event of a justified complaint, Tyczka shall reimburse the costs of the most favourable shipping route; this shall not apply if the costs increase because the item to be shipped is located at a place other than the place of intended use.

The customer must give Tyczka the opportunity to inspect the item. For this purpose, the item must remain in its original condition.

In the event of material defects of the supplied goods, Tyczka shall first be obliged and entitled to rectify the defect or to make a replacement delivery at its discretion within a reasonable period of time. In the event of failure, i.e., impossibility, unreasonableness, refusal or unreasonable delay of the repair or replacement delivery, the customer may withdraw from the contract or reduce the purchase price accordingly.

If a defect is due to the fault of Tyczka, the customer may claim damages under the conditions set out in Clause 8. Any fault of Tyczka must be proven by the customer.

The warranty shall not apply if the customer modifies the supplied goods or has them modified by third parties without the consent of Tyczka and if the rectification of defects is thereby rendered impossible or unreasonably difficult. In any case, the customer shall bear the additional costs of remedying the defect resulting from the modification.

Tyczka does not guarantee that the supplied goods are suitable for the purpose intended by the customer.

#### **8. Liability; Compensation for damages**

Tyczka's liability for damages, irrespective of the legal reason, in particular due to impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties in contractual negotiations and tort, shall be limited in accordance with the provisions of this Clause 8, to the extent this depends on fault.

Tyczka shall not be liable for damages caused by simple negligence (except for personal injury) or for consequential damages and loss of profit.

To the extent that Tyczka is liable for damages in accordance with the preceding paragraph, such liability shall be limited to damages which Tyczka foresaw as a possible consequence of a breach of contract at the time of the conclusion of the contract or which Tyczka should have foreseen by exercising due care.

The aforementioned exclusions and limitations of liability apply to the same extent in favour of Tyczka's executive organs, legal representatives, employees and other agents.

Insofar as Tyczka provides technical information or consultancy services and if such technical information or consultancy services do not belong to the scope of services agreed in the contract, the provision of such technical information and consultancy services shall be deemed as being free of charge and excluded from all liability.

The limitations of this Clause 8 do not apply to Tyczka's liability for wilful misconduct, for guaranteed characteristics, for injury to life, body or health, for violation of main

contractual obligations or under the German Product Liability Act.

#### **9. Singular succession**

If the customer transfers goods or rights which form the basis of a contract with Tyczka to a third party, the customer is obliged to transfer all rights and obligations arising from the contract with Tyczka to the third party. At the same time the customer shall notify Tyczka of this transfer. Tyczka may consent to or object to the transfer of the contract within 60 days from becoming aware of it.

#### **10. Interference by third parties; Notification of changes**

If a third party interferes with rights or property of the customer or of Tyczka which are the subject matter of a contract with Tyczka, the customer shall inform Tyczka without delay. This applies in particular to enforcement measures directed against the customer, insofar as these may impair the rights or property of Tyczka.

The customer shall immediately notify Tyczka in text form of any change of name, company or address. The same applies to any case of legal succession or change in the legal form of the customer.

#### **11. Force majeure**

Circumstances and events for which Tyczka is not responsible and which prevent or substantially impede supply or performance shall release Tyczka from its obligation to perform for the duration of their effects. This applies in particular to cases of force majeure, such as fire damage, floods, strikes, lawful lockouts, official measures and epidemics (including epidemics and pandemics) insofar as a risk level of at least "moderate" is defined by the Robert Koch Institute, in the event of weather conditions which preclude the transport of dangerous goods or only permit it with unreasonable risk, as well as if the normal procurement or transport possibilities are no longer available due to civil disturbances, war or civil war events, riots, government interventions (in particular sanctions on suppliers). In such cases, Tyczka is entitled to supply with a corresponding delay, including an appropriate start-up period.

#### **12. Technical regulations; Safety provisions**

For delivery of gases, the customer shall comply with the regulations governing the handling of gases, in particular the provisions on occupational health and safety and accident prevention, including the relevant implementation rules, as well as the generally recognised rules of technology. Should Tyczka come to the conclusion that the conditions for the supply of goods and services to the customer could be unsafe, Tyczka may suspend its contractual (supply) obligations until the safety problem has been remedied by the customer.

#### **13. Miscellaneous, Place of jurisdiction**

If any provision of these General Terms and Conditions is or becomes invalid or void in whole or in part, this shall not affect the validity of the remaining provisions. In this case, the invalid clause shall be replaced by a clause that

comes as close as possible to the invalid clause. The same shall apply in the event of (regulatory) gaps in the provisions.

Tyczka is entitled to unilaterally amend these GTC for good cause, e.g., due to new technical developments, changes in jurisdiction or laws or other equivalent reasons. Tyczka shall inform the customer of any amendment at least in text form (e.g., by e-mail), stating the content of the amended provisions. The amendment shall become part of the contract if the customer does not object in text form to Tyczka's inclusion in the contractual relationship within six weeks after dispatch of the notice of amendment. The objection to the inclusion of the amended GTC does not constitute a termination of the contractual relationship by the customer. In the event of an objection by the customer, Tyczka has the right to terminate the contractual relationship.

The place of jurisdiction is Innsbruck if the customer is a merchant, a legal entity under public law or a special fund under public law. The same shall apply if the party against whom legal action is to be brought relocates its domicile or habitual residence outside the area of application of the German Civil Code after conclusion of the contract or if its domicile or habitual residence is unknown at the time the lawsuit is filed.

Tyczka collects and processes personal data in compliance with the relevant regulations (EU General Data Protection Regulation (GDPR) / DSGVO and German Federal Data Protection Act (BDSG)). Further information on the processing of personal data can be found in the data protection declaration on the Tyczka website ([www.tyczka-trading.de](http://www.tyczka-trading.de)).

Should Tyczka render any services prior to customer's payment (e.g., in the case of an order on account or purchase on account), Tyczka reserves the right to check the creditworthiness of the customer at any time on the basis of its legitimate interest in avoiding a default of payment.

If the credit assessment reveals doubts as to the creditworthiness of the customer which jeopardise the performance of the contract, all claims of Tyczka against the customer shall become due for payment immediately. In this respect Tyczka is also entitled to revoke with immediate effect payment terms or deferrals granted and to perform (further) deliveries only against upfront payment. The same applies if, according to the circumstances of the individual case, there is reason to assume that the customer will not fulfil its payment obligations or will not fulfil them in time. If upfront payment is requested, the customer shall be expressly informed of this.

If the customer has submitted a statement of assets or filed a request for opening of insolvency proceedings, Tyczka is entitled to withdraw from all closed contracts without notice.

As far as such data from other contractual relationships of the customer are transmitted to agencies during the term of the contract, Tyczka may also obtain information on this. Such data shall only be stored if and to the extent that this is necessary to protect the legitimate interests of Tyczka, of a customer of the credit agencies or of the general public and if this does not impair the customer's legitimate interests.

All intellectual property rights in drawings, specifications, data and data sheets and all other information and documents provided to the customer, irrespective of the medium, shall remain with Tyczka.

The contracting parties are obliged to maintain secrecy about the content of the contract and all commercial and technical details connected with it and not to pass on information of this kind to third parties.

The legal relationship between the parties shall be governed by the laws of Austria, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

For consumers, the European Commission provides a platform for online dispute resolution, which can be found at <https://ec.europa.eu/consumers/odr>. Tyczka prefers to resolve its customers' concerns directly with them. We are not willing or obliged to participate in a dispute resolution procedure before a consumer arbitration board. Please contact us directly if you have any questions or problems.

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**Mineral oil tax notice (Sec. 60 Austrian Mineral Oil Tax Act)**

a) Sec. 3 Para. 1 No. 8 Austrian Mineral Oil Tax Act  
Tax-privileged energy product! May not be used as fuel unless such use is permitted under the Austrian Mineral Oil Tax Act!

Any use other than as fuel has consequences under tax and criminal law! In cases of doubt, please contact your competent customs office.

b) Sec. 4 Para. 1 No. 9 Austrian Mineral Oil Tax Act  
Tax-free energy product! May not be used as fuel or heating fuel or to produce such substances!