



GENERAL TERMS AND CONDITIONS FOR E-COMMERCE (GTC E-COMMERCE)

05.07.16

MAESTRANI Schweizer Schokoladen AG, CH-9230 Flawil



A GENERAL PROVISIONS

1. *Scope*

- 1.1. The General Terms and Conditions for E-Commerce (GTC E-COMMERCE) of Maestrani Schweizer Schokoladen AG (hereinafter: "Maestrani") apply to the sale and distribution of all chocolate products as well as to events and services related to said chocolate products provided by Maestrani for customers and clients (hereinafter for both: "Customers") over the internet (website www.chocolarium.ch). In particular, these GTC E-COMMERCE also apply to any proprietary web shop operated by Maestrani.

Events and services that are carried out and/or provided by Maestrani itself as well as events and services that are carried out and/or provided by third parties and sold over the internet by Maestrani fall into the scope of these GTC E-COMMERCE.

In particular, these GTC E-COMMERCE apply to all chocolate products (hereinafter: "products") as well as events and services (e.g. factory visits, possibly combined with visits to scenic and cultural places of interest, chocolate moulding courses, events and catering) which Maestrani sells or carries out and/or provides itself within the framework of its "Chocolarium" and which are bought and/or booked by Customers over Maestrani's website.

- 1.2. In the online ordering and/or booking procedure (hereinafter for both: "online order procedure") via the internet, Customers expressly agree to the applicability of the GTC E-COMMERCE of Maestrani by activating a corresponding button. At the same time they confirm that they have read the GTC E-COMMERCE. The GTC E-COMMERCE of Maestrani are expressly referred to and made available to the Customer when ordering via a corresponding link to the website www.chocolarium.ch.
- 1.3. The GTC E-COMMERCE of Maestrani take precedence over any of the Customer's pro-visions to the contrary.
- 1.4. Any deviations from the GTC E-COMMERCE of Maestrani shall apply only if they have been agreed in writing with the Customer or have been acknowledged by Maestrani in writing (Possible at specified times).

2. Conclusion of the contract and tickets

- 2.1. The conclusion of a contract with the Customer is performed online via the ordering procedure over the internet following agreement to the GTC E-COMMERCE of Maestrani (pursuant to Section 1.2 above) and by activating the corresponding button to purchase and/or book products, events and services offered over the internet by Maestrani, which the Customer has placed in their virtual shopping basket.
- 2.2. A contract is thereby concluded directly between Maestrani and the Customer with the sale and/or online distribution via the internet of chocolate products of Maestrani as well as of events and services, which are performed and/or provided by Maestrani itself.
In the case of the sale of events and services that are performed and/or provided by third parties, in particular travel, tour and vehicle companies, Maestrani simply acts as the proxy and/or under-writing agent in the name and for the account of the third-party organiser when processing online sales via the internet. Thus no contractual relationship is established between Maestrani and the Customer.
- 2.3. In the case of online bookings for events and services via the internet, the Customer acquires a transferable ticket that entitles him/her to take part in the event and/or to redeem the corresponding service. This ticket is valid for 1 (one) year and is either printed in paper form and sent by post to the Customer with a written confirmation of the order or sent to him/her as a print@home ticket by email using the email address registered during the online order procedure. Tickets for events and services can generally not be exchanged or refunded. The right of cancellation in cases pursuant to Section 18.2 below remains reserved.
- 2.4. Online product orders via the internet are confirmed by Maestrani in writing to the Customer on delivery of the products (pursuant to Section 3 below).
- 2.5. If the written form is required for legally relevant declarations, order confirmation or other agreements, fax and email are also deemed to be the written form.

3. Delivery

- 3.1. Order confirmation and delivery of the products bought by the Customer or of booked events and services are performed in accordance with the online order procedure.
- 3.2. Delivery of the ordered products and/or of the tickets for the booked events and services is made once payment has been credited to the company mandated with processing credit card transactions (see Section 5.1 below).
- 3.3. Any changes to the order confirmation requested retrospectively by the Customer must be made in writing in order to be binding. Any additional costs incurred as a result must be paid by the Customer.

The right to make changes that result in an improvement in quality remains reserved; such changes can be made by Maestrani itself, insofar as they do not incur any extra costs.



4. *Preise*

- 4.1. Unless agreed otherwise in writing, Maestrani's prices for its products as well as for tickets for events and services are quoted net and duty unpaid (without deduction of any discounts, plus fees and costs for packaging, transport and insurance as well as any taxes, in particular VAT and charges of any kind).
- 4.2. The shipping costs are added by Maestrani to the cost of the goods and/or tickets for events and services during the online order procedure.

5. *Terms and conditions of payment*

- 5.1. Orders over the internet for products as well as for tickets for events and services of Maestrani must be paid for in advance using the designated credit cards that are recognised by Maestrani in the online order procedure.
- 5.2. The place of performance for payments is the headquarters of Maestrani (CH-9230 Flawil).

6. *Declaration of consent*

- 6.1. By agreeing on the applicability of Maestrani's GENERAL TERMS AND CONDITIONS OF BUSINESS FOR E-COMMERCE through pressing the relevant button, the buyer also agrees that his or her details may be stored and used by Maestrani for brand communication and product information purposes.

B. FURTHER PROVISIONS RELATING TO PRODUCTS

7. *Transfer of benefits and risk*

Benefits and risk when ordering products are transferred to the Customer at the time of delivery of the ordered products to the freight carrier designated and determined by Maestrani during the online order procedure and/or suggested by the Customer and selected by him/her.

8. *Transport and insurance*

- 8.1. Transport of the ordered products is carried out at the Customer's risk and expense.
- 8.2. The Customer must inform Maestrani in writing and without delay of any complaints in connection with the transport of the ordered products upon receipt thereof. Maestrani will then forward the complaints to the freight carrier concerned.

9. Delivery deadline

- 9.1.** The delivery deadline for the ordered products is stated during the online order procedure. Maestrani shall inform the Customer in good time and in writing by email of any delays in delivery.
- 9.2.** In the following cases the delivery deadline as stated in the order confirmation is extended to a reasonable degree:
- in the case of subsequent changes to the order by the Customer,
 - in the case of delivery problems that Maestrani cannot prevent, despite reasonable care, irrespective of whether these were caused by Maestrani itself, by the Customer or by a third party;
 - in the case of force majeure, such as epidemics, mobilisation, war, unrest, major operational disruptions, accidents, labour conflicts, late or deficient delivery of the necessary raw materials, semi-finished or finished products, measures or omissions by official bodies, natural events.

10. Delivery delays

- 10.1.** In the event of delivery delays for which Maestrani is demonstrably culpable, the Customer is entitled to demand compensation if the delay has demonstrably caused the Customer to suffer damage or loss. Compensation from the second week of the delay equals a maximum of 1 ‰ of the contract price for that part of the order that was delivered late. Compensation for delay is limited to a total of 1% of the contract price.
- 10.2.** Maestrani is entitled to avoid paying compensation for the delay by making a replacement delivery to the Customer within a reasonable grace period.
- If the delivery of the products by Maestrani is still not made during the reasonable grace period or if they have become unusable for the Customer due to the delay, or the delivery has been agreed as a fixed-date transaction (delivery at a precisely defined or by a precisely defined time) the Customer may withdraw from the contract without setting a new deadline, and waive the replacement delivery by demanding compensation for the delay.
- 10.3.** The regulations in Sections 9.1 and 9.2 above replace the statutory provisions governing delay pursuant to Art. 107 to 109 of the SCO (Swiss Code of Obligations). In particular, Maestrani shall not be liable to the Customer for any further damages due to delays in delivery, nor for any consequential loss or damage or lost profit. The rights under Art. 100 para. 1 of the SCO remain reserved.



11. *Inspection of the delivery*

- 11.1. The Customer must inspect the delivery of products as soon as feasible in accordance with standard business practices. Maestrani must be informed immediately and in writing of any deficiencies, in particular with regard to the shelf life of the products delivered, even if these are discovered at a later point in time but before the expiry of the best-before date. If the Customer neglects to do this, the deliveries of Maestrani products shall be deemed to have been approved.
- 11.2. The Customer must keep the products that have been described as deficient available for a sample inspection once the complaint has been lodged.

12. *Warranty*

- 12.1. Maestrani hereby guarantees that the products it delivered comply with Swiss food legislation and the online order, that they do not have any deficiencies and that they have the characteristics stated in the online order or in the written confirmation. If the products delivered should prove to have deficiencies or if they do not possess the characteristics stated, they are deemed to be faulty.
- 12.2. "Characteristics stated" is understood to mean only those characteristics that are expressly designated as such in the online order procedure or in the order confirmations as well as any of Maestrani's instructions for use.

Such characteristics are in particular the best-before dates on Maestrani's products.

- 12.3. Entitlements and any claims for compensation due to deficiencies in the items expire pursuant to Art. 210 SCO at the end of two years (hereinafter: warranty period) following delivery to the Customer. Any warranty claims must be submitted within the warranty period (decisive: the date of the postmark on the appeal application or claim). Once the warranty period has expired all warranty claims (pursuant to Section 12 in the following) vis-à-vis Maestrani are time barred and/or excluded.

The best-before date for Maestrani's products is not extended by the warranty period of two years. If the best-before date for a product is reached before the end of two years from the date of delivery, Maestrani shall have no duty of liability if the written complaint is made after the expiry of the best-before date.

13. *Warranty claims*

- 13.1. The Customer is entitled to demand a replacement delivery for defective products and services of Maestrani.
- 13.2. If replacement delivery is not performed within a reasonable grace period, the Customer is entitled to request a reduction in the purchase price or a change to the delivery agreement.

14. Exclusion of liability and warranty

14.1. Maestrani is not liable and provides no warranty:

- in the event of late or non-performance of an inspection of the delivered products as well as late claims by the Customer regarding defects (see sections 10.1 and 11.3);
- for damages for which Maestrani is demonstrably not responsible, such as incorrect transport, incorrect handling or packaging of the delivered products by the Customer or third parties;
- for the shelf life of the product once the best-before date has passed;
- after the expiry of the warranty period pursuant to Section 11.3;
- in the cases stated in sections 13.2 to 13.4.

14.2. Maestrani is not liable and provides no warranty for damage that occurs due to incorrect storage of the products.

If there are no written specifications regarding storage, the optimum conditions for correct storage are cool, dry and clean storage at 18° C (64° F) and max. humidity of 60% as well as out of direct sunlight and avoiding any local sources of heat.

14.3. Maestrani is not liable and provides no warranty if the Customer or a third party modifies the products delivered by Maestrani, unless the Customer can prove that the fault is not due to the modification.

14.4. The liability and warranty claims of the Customer vis-à-vis Maestrani for delivered products are governed definitively in these GTC E-COMMERCE. The Customer shall have no further claims, or claims of a different kind in whatever capacity, and all such claims are explicitly excluded. In particular, Maestrani is not liable for any consequential loss or damage or lost profit.

Statutory warranty provisions (199 SCO) and liability pursuant to the Federal Law on Product Liability (PrHG) remain reserved.

C. FURTHER PROVISIONS FOR EVENTS AND SERVICES

15. Scope of services

Customers ordering events and services offered by Maestrani as well as the events and services sold by Maestrani on behalf of third parties receive the right to receive the services as well as the right to attend the booked event with the ticket they have acquired (pursuant to the order confirmation and/or the details printed on the ticket). Access and attendance rights are subject to the proviso that the Customer as event participant fulfils the access and/or age requirements for the event concerned. If there should be any such requirements, they are set out in the description of the event at www.chocolarium.ch

16. *Duties of the Customer and the person acquiring the ticket*

- 16.1. Copying, changing or counterfeiting tickets in order to take part in events and receive the services of Maestrani or of third-party organisers is strictly forbidden. Tickets must be protected from dirt and damage.
- 16.2. Print@home tickets may only be printed once.
- 16.3. Customers ordering events and services from Maestrani or from third-party organisers hereby undertake as event participants, and in particular as course participants, to observe all the instructions regarding safety and behaviour as well as all Maestrani's directives on this subject or those of the third-party organiser, which they are given in writing or orally by Maestrani and/or the third-party organiser or their ancillary staff before, during or after the event or course.



17. *Refusal of service, exclusion from service*

- 17.1. Maestrani or third-party organisers are authorised a) to refuse entry to the event to Customers and ticket holders or b) to eject a Customer from the event whilst it is in progress if the Customer as visitor to the event does not fulfil the entry conditions, in particular the age limit set for the event in question, or if the Customer does not follow the instructions regarding safety and conduct of Maestrani and/or the third-party organiser despite being requested to do so by Maestrani or the third-party organiser or their ancillary staff. This refusal shall not entitle the Customer to compensation.
- 17.2. The first holder of a print@home ticket shall be granted entry to the event after which the ticket is blocked to prevent further entry.
- 17.3. Print@home tickets are checked by machine at the start of the event. If the barcode on the ticket cannot be read by the electronic entry system and the barcode number is illegible the Customer fundamentally has no right to enter the event. If a Customer is turned away for this reason there is no entitlement to compensation.

18. *No liability for the accuracy of the event details*

- 18.1. Due to faults that cannot be excluded in the ticketing system caused by data transfer errors, technical disruptions or illegal interference by third parties, Maestrani accepts no liability for the accuracy and completeness of the advertised and/or posted event details for its own events or for the events of third-party organisers at www.chocolarium.ch
- 18.2. Customers ordering tickets for Maestrani's events or events of third-party organisers do, however, have a right of cancellation vis-a-vis Maestrani and/or third-party organisers if the ticket was ordered based on the posting of demonstrably incorrect event details and therefore verifiably relevant data (date, prices, venues) for purchasing tickets had to be subsequently changed by Maestrani as the organiser or by the third-party organiser. The right of cancellation can be exercised during the validity of the ticket affected by the change up to a maximum of 7 days before the date of the event advertised on the internet (in the case of a written right of cancellation the date of the postmark shall be decisive). By exercising the right of cancellation, the Customer is entitled to a refund of the ticket price as described in section 20 para. 3 below.

19. *Liability for catering events*

- 19.1.** In the event of complaints at catering events with regard to the food and drinks served and/or provided for the guests, the Customer must complain immediately to the representatives of Maestrani present and must also present these complaints that were made orally in writing within the following three working days (the date of the postmark is decisive) to Maestrani and/or lodge them against Maestrani in writing. If the Customer fails to do this, the services of Maestrani provided at catering events shall be deemed to have been approved.
- 19.2.** In addition, warranty for the food and drinks served and/or provided for the guests at catering events is governed *mutatis mutandi* as in Points 11 to 13 above for the products of Maestrani.

20. *Postponements and cancellations of events*

- 20.1.** If a Customer cancels his/her participation in an event that he/she has booked, said Customer does not have any right to return or exchange his/her ticket for this event, irrespective of the reason for the postponement. The Customer concerned retains the opportunity and his/her right to participate in the same event on another standard date in accordance with Maestrani's offer on the internet for the duration of the validity of the ticket.
- 20.2.** If an event that the Customer has booked is cancelled or postponed by Maestrani or a third-party organiser, the Customer is fundamentally also not entitled to exchange or return his/her ticket, irrespective of the reason for the postponement, insofar as for the remainder of the validity of the ticket it is possible for him/her to participate in the postponed event on another standard date in accordance with Maestrani's offer on the internet and/or on a substitute date proposed by Maestrani and/or a third-party organiser. However, the Customer affected by the cancellation or postponement retains the right to provide evidence that from a time perspective it is no longer possible or reasonable for him/her to participate in the same event during the remaining validity of the ticket on a different date in accordance with Maestrani's offer on the internet and/or on a substitute date proposed by Maestrani and/or a third-party organiser.

In the case of third-party events the Customer does not have any exchange or cancellation rights *vis-à-vis* Maestrani and any exchange or return of the ticket must be requested directly from the third-party organiser by the Customer.

- 20.3.** If an event organised and offered on the internet by Maestrani is definitively cancelled by Maestrani or a third-party event is definitively cancelled by the event organiser, such that the event cannot be attended during the remainder of the validity of the ticket, the Customer with a ticket for this event has the right to exchange or return his/her ticket for this event, irrespective of the reason for the cancellation. If the Customer affected decides to exercise his/her right of return, he/she will be reimbursed by Maestrani the price of the ticket and the postage costs for a Maestrani event that was ordered online.

In the case of third-party events the Customer does not have any cancellation rights *vis-à-vis* Maestrani and any refunds must be requested by the Customer directly from the third-party organiser.

21. Exclusion of liability

- 21.1.** Maestrani shall be liable with regard to its own events and services vis-à-vis the Customer for any loss or damage that was caused by Maestrani and/or its employees and ancillary workers in the course of performing such events and services, subject to Art. 100 para. 1 SCO (Swiss Code of Obligations), only insofar as covered within the framework of Maestrani's business liability insurance.
- 21.2.** Where Maestrani only operates as a proxy, i.e. as an underwriting agent in the name and for the account of the third-party organiser vis-à-vis the Customer, any liability of Maestrani for any loss or damage that the Customer suffered as a participant in the third-party event before, during or after participating in the event of the third-party organiser is excluded, irrespective of whether this damage was caused by the third-party organiser, by its ancillary workers or by third parties.
- 21.3.** Liability and warranty claims (pursuant to Section 17. to Section 19. as well as Section 20.1. and 20.2. above) of the Customer vis-à-vis Maestrani and third-party organisers of events and services are governed definitively in these GTC E-COMMERCE. The Customer shall have no further or other claims in whatever capacity, and all such claims are explicitly excluded. In particular, Maestrani and the third-party organiser are not liable for any consequential loss or damage or lost profit.

Statutory warranty provisions (199 SCO) and liability pursuant to the Federal Law on Product Liability (PrHG) remain reserved.

D. FINAL PROVISIONS

22. Transfer of rights

The parties are not permitted to transfer any rights and obligations arising from this contract to third parties without the prior written authorisation of the other party.

23. Severability clause

- 23.1.** If individual provisions in these GTC E-COMMERCE of Maestrani with Customers should be invalid, the remainder of the provisions shall remain fully valid. Invalid provisions must be replaced by provisions that most closely reflect the legal meaning and the intended purpose of the ineffective and/or invalid provision.
- 23.2.** The same regulation governing partial invalidity applies in the case of a loophole in the contractual regulations.

24. *Applicable law*

All legal relationships between Maestrani and also third-party organisers and Customers are subject exclusively to Swiss law, with full exclusion of conflict of law provisions and exclusion of the UN Convention on Contracts for the International Sale of Goods of 11 April 1980 (Vienna Sale of Goods Convention).

25. *Jurisdiction*

Any disputes between Maestrani and/or third-party organisers and customers concerning ordered goods and booked events and services must be brought before the courts at the domicile of Maestrani. All other courts are excluded. Maestrani and third-party organisers are entitled to submit requests for arbitration and complaints against customers to the arbitration authorities and/or the courts at the headquarters of Maestrani.

