

GENERAL TERMS OF SALE AND DELIVERY

§1 Scope of application

1. Unified conditions exclusively apply between merchants.
2. The following conditions apply for all deliveries and services of the seller. The seller does not recognise the buyer's general terms and conditions unless the seller has expressly agreed to them in writing. This also applies if the seller performs services without reservation in the knowledge of conflicting or deviating terms and conditions.

§ 2 Place of fulfilment, delivery, and acceptance

1. The place of fulfilment for all services from the delivery contract is the place of business of the seller.
2. Goods are delivered from domestic warehouses. These shipping costs are borne by the buyer. The buyer can determine the carrier. The goods are to be sent unsecured. Notification of shipping can be arranged. Separate contract conditions or project conditions apply where relevant.
3. Packaging costs for special packages are borne by the buyer.
4. Partial shipments and goods sold as combinations must be sorted and ready for sale in good time, and are permissible.
5. If, due to the fault of the buyer, acceptance does not take place in time, the seller has the right to choose, after the expiry of a grace period of 14 calendar days, either to invoice the goods with an immediate due date (arrear invoice), to withdraw from the contract or to claim damages.

§ 3 Place of jurisdiction

The place of jurisdiction for any disputes arising from the business relationship between the seller and the client is, at the discretion of the seller, Philippsburg or the client's registered office. In these cases, however, Phillippsburg (town) shall be the exclusive place of jurisdiction for actions against the seller. Mandatory statutory provisions on exclusive places of jurisdiction shall remain unaffected by this provision.

§ 4 Subject matter of the contract

1. Goods are delivered on specific dates (working days or during a specific calendar week). All sales shall be concluded only with respect to specific quantities, articles, qualities, and at fixed prices. Both parties are bound hereto. Transactions on a commission basis shall not be effected.
2. Block orders are permitted and a time limit must be set at the conclusion of the contract. The acceptance period must be a maximum of 12 months

§ 5 Interruption to delivery

1. In the event of force majeure, industrial action for which one of the contracting parties is not responsible or other operational disruptions that are not their fault and which have lasted or are expected to last longer than one week, the delivery or acceptance period will be automatically extended by the duration of the hindrance, but by no more than 3 months. The extension will only become effective if the other party is immediately notified of the reason for the hindrance, as soon as it is clear that the stipulated deadline cannot be adhered to.
2. If the delivery or acceptance does not occur within the extended delivery or acceptance period in the cases specified in clause 1, the other contracting party can withdraw from the contract after a specified grace period of 14 calendar days.
3. Claims for damages are excluded in the cases of clause 1 if the respective contracting party has fulfilled its obligations pursuant to clause 1.

§ 6 Grace period for delivery

1. After expiration of the delivery period, an extended period of delivery of 14 business days occurs automatically without the need for notification. After expiration of this period, the buyer can withdraw from the contract in writing. Should the buyer wish to claim damages instead of performance, they must grant the seller a period of 4 weeks after expiration of the agreed delivery date in writing. Statutory regulations concerning the dispensability of setting a deadline (§ 281 Para. 2, § 323 Para. 2 BGB) shall remain unaffected.
2. The buyer's claims owing to delayed delivery are unenforceable before the expiry of the grace period for delivery, as long as § 8 (2) and (3) are not applicable.

§ 7 Notice of defects

1. In the case of obvious defects, complaints must be sent to the seller no later than 14 calendar days after receipt of goods. The buyer must notify the seller of any hidden defects immediately upon discovery.
2. After cutting or otherwise commencing processing of the delivered goods, any complaint about pending defects is excluded.
3. Minor, technically unavoidable deviations in quality, colour, width, weight, equipment or design do not constitute defects. This also applies to deviations customary in the trade, unless the seller has declared in writing that the delivery is true to sample.
4. On receipt of a justified complaint, the buyer, at their own discretion, has the right of repair or delivery of a replacement free of defects within 14 calendar days after receipt of goods. In this case, the seller shall bear the freight costs. If subsequent delivery fails, the buyer has the right to a reduced purchase price or to withdraw from the contract provided § 8 (2) and (3) are not applicable.
5. If notification of complaints is not completed within this time period, the goods are considered to be accepted.

§ 8 Compensation for damages

1. Damage claims on the part of the buyer are excluded unless otherwise stipulated in these conditions.
2. The exclusion in clause 1 shall not apply insofar as liability exists under the Product Liability Act (*Produkthaftungsgesetz*), in the case of intent, gross negligence on the part of owners, legal representatives or executive employees, in the case of fraudulent intent, in the case of non-compliance with an assumed guarantee, in the case of culpable injury to life, limb or health or in the case of culpable breach of essential contractual obligations; essential contractual obligations are those whose which enable the fulfilment of the contract and upon which the buyer may rely. However, claims for compensation due to the infringement of essential contractual obligations is limited to the foreseeable damage typical for the contract, unless there is another case mentioned in sentence 1.
3. The above regulations do not entail any change in the burden of proof to the disadvantage of the buyer.

§ 9 Payment

(1) The prices apply to the scope of services and deliveries listed in the order confirmations. Additional or special services shall be charged separately. The prices are quoted in EURO ex works & storage, plus packaging, the statutory value added tax, customs duty for export deliveries as well as fees and other public charges.

(2) If the prices agreed upon form the basis of the seller's list prices and delivery is planned for more than four months after the conclusion of the contract, then the prices from the most current seller's pricelist will be considered valid (with the arranged discounts in place).

(3) Invoice amounts are payable within fourteen (14) days without any deduction, unless otherwise agreed in writing. The date of receipt by the seller shall be decisive for the date of payment. Payment by cheque is excluded unless agreed separately in individual cases. If the client does not pay by the due date, then interest will be charged on the outstanding amounts at a rate of 5% per annum; the enforcement of higher interest rates and further damages in the event of default shall remain unaffected.

(4) Offsetting against counterclaims by the client or withholding payments due to such claims is only permitted if the counterclaims are undisputed, have been legally established or result from the same order under which the relevant delivery was made.

(5) The seller is entitled to carry out or provide outstanding deliveries or services only against advance payment or security, if after conclusion of the contract they become aware of circumstances which are likely to result in a significant reduction of the client's creditworthiness and which endanger payment by the client of the seller's outstanding claims from the respective contractual relationship (including from other individual orders to which the same framework contract applies).

§ 10 Offset and retention

The offsetting and withholding of due invoiced amounts is only permissible for undisputed claims or those reduced to final judgment, unless they are claims for damages closely relating to the buyer's claim for faultless fulfilment of the contract.

§ 11 Retention of title

1. The goods remain the property of the seller until full payment of all claims from deliveries of goods from the entire business relationship, including ancillary claims, and claims for damages. The retention of title remains even if individual claims of the seller are included in a current invoice and the balance is drawn and recognised.
2. If the goods subject to retention of title are combined, mixed or processed by the buyer to form a new movable item, this is done for the seller without any obligation for the seller arising from this. Through the combination, mixing or processing, the buyer does not acquire ownership of the new item pursuant to §§ 947 ff. of the German Civil Code (*Bürgerliches Gesetzbuch*). In the case of combination, mixing or processing with items that do not belong to the seller, the seller acquires co-ownership of the new item according to the ratio of the invoice value of its retained goods to the total value.
3. Insofar as a central settling agency is involved in the business transaction between the seller and the buyer and assumes the *del credere*, the seller shall transfer ownership to the central settling agency upon dispatch of the goods with the condition precedent of payment of the purchase price by the central settling agency. The buyer is only released after payment by the central settling agency
4. The buyer is only entitled to resale or further processing under consideration of the following conditions.

- a) The buyer may only sell or process the goods subject to retention of title in the ordinary course of business and insofar as their financial situation does not subsequently deteriorate significantly.
 - b) The buyer hereby assigns the claim with all ancillary rights from the resale of the reserved goods – including any balance claims – to the seller. The seller accepts this assignment.
 - c) If the goods are combined, mixed or processed and if the seller has obtained a share in ownership hereto amounting to the value of their invoice, they are entitled to the claim for the purchase price pro rata to the value of their rights to the goods.
 - d) If the buyer has sold the claim under genuine factoring, the buyer assigns the claim against the factor taking its place to the seller and passes on the sales proceeds to the seller in proportion to the value of the seller's rights to the goods. The buyer is obliged to disclose the assignment to the factor if they are more than 10 days overdue with the settlement of an invoice or if their financial circumstances deteriorate significantly. The seller accepts this assignment.
 - e) The buyer is authorised to collect the assigned claims as long as they meet their payment obligations. The direct debit authorisation expires in the event of late payment by the buyer or in the event of a significant deterioration in the buyer's financial situation. In this case, the seller is hereby authorised by the buyer to inform the receivers of the assignment and to collect the claims on their own behalf. For the assertion of the assigned claims, the buyer must provide the necessary information and allow the verification of this information. In particular, on request the buyer must provide the seller with a precise list of the claims to which they are entitled, with the name and address of the client, the amount of the individual claims, the invoice date, etc.
5. If the value of the security existing for the seller exceeds the seller's total claims by more than 10%, the seller is obliged to release securities of their choice at the buyer's request.
 6. Lien or transfer of the reserved goods or the assigned claims is not permitted. The seller must be informed immediately of any lien, stating the name of the lien creditor.
 7. If the seller takes back the delivery item in exercise of their right of retention of title, this shall not automatically constitute a withdrawal from the contract. The seller may satisfy themselves from the repossessed goods subject to retention of title by sale on the open market.
 8. The buyer shall store the reserved goods for the seller free of charge. The buyer must insure the reserved goods against the usual dangers, such as fire, theft and water, to the usual extent. The buyer hereby assigns to the seller the claims for compensation to which the buyer is entitled from damages of the above-mentioned kind against insurance companies or other parties liable to pay compensation, in the amount of the invoice value of the goods. The seller accepts this assignment.
 9. All claims as well as rights arising from the retention of title to all special forms stipulated in these terms and conditions shall remain in force until full release from contingent



liabilities (exchange of cheques), which have been entered into by the seller in the interest of the buyer. In the case of sentence 1, the buyer is generally permitted to engage in factoring for their accounts receivable. However, buyer shall inform the seller before incurring contingent liabilities.

§ 12 Applicable law

The law of the Federal Republic of Germany shall apply. The United Nations Convention on Contracts for the International Sale of Goods of 11.04.1980 is excluded.

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