

# General Sales, Delivery, and Payment Terms

## § 1 Scope of Validity

1. These conditions apply exclusively for all transactions with Eugen Gutmann GmbH. We do not recognize any conditions on the part of the Purchaser which are contradictory to or deviating from our conditions without explicit written approval. Our sales, delivery, and payment terms also apply if we know about contradictory or deviating conditions of the Purchaser and unconditionally carry out the delivery to the Purchaser.
2. These terms and conditions of business apply exclusively to entrepreneurs, that is to natural or legal persons or judicable partnerships with whom a business relationship is being maintained and who exercise a commercial or independent activity.
3. Our sales, delivery, and payment terms also apply for all future transactions with the Purchaser.

## § 2 Quotations

1. Our quotations are non-binding in all parts.
2. We retain the property rights and copyright for figures, drawings, calculations, and other documents. The cited documents may not be made accessible to third parties without our explicit written approval.

## § 3 Prices and Terms of Delivery

1. Provided that nothing else is otherwise contractually agreed upon, our prices apply ex factory excluding packaging, freight, postage, and insurance. Price changes are only permissible if more than three months lie between the conclusion of the contract and the scheduled date of delivery, and if the decisive conditions for the price calculation have changed within this time period. The price on the day of delivery is then valid.
2. If a time period of up to three months lies between contract conclusion and the scheduled delivery date, then in any case the price on the day of the contract conclusion is the valid price.
3. All prices cited by us are net prices; they should be regarded excl. the applicable statutory value-added tax on the day the invoice is issued.
4. The Purchaser also comes into arrears without warning from the Seller if he does not settle the purchase price within 30 days after the invoice or an equivalent payment account is due. If the Purchaser goes into arrears with a payment, the Seller is entitled to demand interest of 8% above the respective base lending rate of the European Central bank (ECB) from the affected time onwards. The Seller reserves the right to claim evidence of greater damage.5. The Purchaser can only compensate with counterclaims if the counterclaim is uncontested or determined to be legally binding or is recognized by us. A right of retention by the Purchaser is precluded insofar as it is not based on the affected individual contractual relationship. Furthermore, the Purchaser in the assertion of claims of a right of retention is authorized only to the extent that his counterclaim is based on the same contractual relationship as the pecuniary claim.

## § 4 Delivery and Delivery Time

1. The beginning of the delivery time specified by us fundamentally presupposes the clarification of all technical questions and details of execution.
2. Our delivery commitment is moreover conditional on the timely and proper fulfilment of the obligations of the Purchaser (e.g. requirement of the Purchaser to provide documents, drawings, patterns, approvals, releases, etc.).
3. If noncompliance to the agreed-upon delivery deadline is due to force majeure, e.g. war, natural elements, etc., or events such as labor strikes, etc., then the delivery deadline extends correspondingly.
4. If the Purchaser enters into default of acceptance, then we are entitled to demand that the ensuing damage be compensated. Further demands remain reserved. If according to Article 281 of the German Civil Code (BGB) compensation for damage is demanded instead of the performance, then we are entitled to request 20% of the sales price as compensation. Additional claims for damages remain reserved.

## **§ 5 Transfer of Risks**

1. Provided that nothing else is stipulated in the contractual agreements, delivery shall be ex factory. This is also the case if, upon request of the Purchaser, the purchased item is sent to another address. With the transfer of the purchased item, the risk then goes from the carrier to the Purchaser.
2. Provided that the Purchaser so desires, the delivery is covered by transport insurance; these incurred costs are borne by the Purchaser.

## **§ 6 Deficiency Warranty**

1. With regard to Purchaser warranty rights, we assume that he has properly complied with his examination of defects and obligation to notify according to Articles 377, 378 of the German Commercial Code (HGB). These articles correspondingly apply if we render an outsourcing service for the Purchaser.
2. Insofar as there is a deficiency in the purchased item, we must always primarily be given the opportunity to supply the supplementary performance according to Article 439 German Civil Code (BGB).
3. If we are not prepared or not in the position or delayed beyond appropriate deadlines to carry out the supplementary performance for reasons which we must defend, or the supplementary performance fails for other reasons, then the Purchaser is entitled to withdraw from the contract or to demand a reduction of the purchase price (diminishment) at his discretion.
4. Unless otherwise stated below, further demands of the Purchaser - irrespective of the legal basis - are precluded. We are therefore not liable for damages which have not arisen from the delivery item itself; we are especially not liable for lost profit or other financial losses of the Purchaser.  
The above exclusion of liability does not apply insofar as the cause of loss is based on intent or gross negligence as well as in cases involving injury to life, limb, or health. They furthermore do not apply if we have taken over a guarantee for the condition of the item or its storage life.
5. Defect guarantee entitlements lapse after one year from delivery of the goods. Individual agreements with contractors are possible.

## **§ 7 Reservation of Ownership**

1. We reserve the rights of ownership on the purchased item up to the complete settlement of the purchase price including the attendant costs (packaging, freight, etc.). In the event of behavior of the Purchaser contrary to contract, especially on delay of payment, we are entitled to withdraw from the purchase contract and to cancel the purchased items. After the retraction of the purchased items, we are entitled to utilize it; after deduction of the appropriate utilization costs, the remaining revenue is offset with the Purchaser's liabilities.
2. The Purchaser is obligated to inform us without delay of access to unpaid goods, for instance in the event of an attachment.
3. The Purchaser is entitled to further dispose of the goods in the regular course of business. He already now assigns us all receivables to the extent of the invoice amount which accrues to him by the resale to third parties. We hereby assume this assignment. After the assignment, the Purchaser is empowered to collect the claim. We reserve the right to collect the receivables ourselves as soon as the Purchaser does not properly comply with his payment obligations and falls into arrears.
4. The Purchaser remains entitled to collect the claim within the scope of the proper course of business. This entitlement ceases if the Purchaser does not comply with his payment obligations from the collected revenues or if he is in arrears. It furthermore ceases if an application for the opening of insolvency or settlement proceedings on the assets of the Purchaser is made or if the Purchaser ceases his payments.  
In these cases we are entitled to collect the assigned claim ourselves. The Purchaser is obligated to grant us all required information for collection and to hand over the accompanying documents. In this case, the Purchaser is further obligated to inform the debtor (third parties) of the assignment.

## **§ 8 Place of Performance, Applicable Laws, and Legal Venue**

1. Insofar as contractually not otherwise agreed upon, the place of performance is the registered office of our company.
2. The laws of the Federal Republic of Germany are exclusively applied for all business relations with us. The applicability of the CISG (UN law relating to the sale of goods) is precluded.

3. Exclusive legal venue for all disputes from this contract is Stuttgart. This is also the case if the Purchaser has no general legal venue or residency or ordinary presence in Germany at the time an action is filed.

4. Should individual provisions of the contract with the Purchaser, including these General Terms of Sale, Delivery, and Payment, become entirely or in part inoperative, then the validity of the remaining provisions is not affected. Entirely or partly ineffective provisions shall be replaced by a provision whose economic effect comes nearest to the inoperative provision.

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