

# GENERAL TERMS & CONDITIONS FOR RETAIL SALE

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## *Art. 1 General – Scope*

1. The agreement is subject exclusively to our terms and conditions of sale; conflicting terms and conditions or terms and conditions of the purchaser deviating from our terms and conditions of sale will not be accepted by us, unless we explicitly agreed to said terms and conditions in writing. Our terms and conditions of sale also apply if we execute the delivery without any reservation in the knowledge of terms and conditions of the purchaser conflicting with or deviating from our terms of delivery.
2. All agreements, undertakings, side agreements as well as changes to the terms and conditions agreed between ourselves and the purchaser for the purpose of execution of this contract require the written form and our written consent in order to be valid.
3. Our terms and conditions of sale apply towards contractors in terms of Art. 14 BGB [*German Civil Code*].

## *Art. 2 Order*

1. The order signed by the purchaser is binding. We have the right to accept said order within a period of 10 weeks via delivery of a confirmation of order or to send the goods ordered to the purchaser within this period. In the absence of acceptance of the order by us in the manner specified above, no contract is realized. The term commences upon acceptance of the customer's order by us or our sales agent.
2. Should the purchaser's order have been preceded by an offer on our part, said offer is non-binding.
3. The seller reserves the right to changes and deviations of the ordered goods provided that the object of agreement is not subject to changes which are deemed unacceptable to the purchaser. Any claims for damages against us on the basis of delivery of goods displaying acceptable deviations with respect to the order are excluded.

## *Art. 3 Prices – Terms of payment – Fine*

1. Unless the confirmation of order states otherwise, our prices are "ex works", excluding packaging, plus the VAT applicable at the time of invoicing.
2. The deduction of discount requires a separate written agreement. It is hereby agreed that, in case of delivery against cash on delivery or advance payment, no discount shall be granted in any case.
3. Unless the confirmation of order states otherwise, the purchase price is payable net (without deduction) within 10 days from the date of invoice. If the purchaser defaults on payment, we have the right to claim default interest of 8% above the applicable base rate of the European Central Bank p.a. If we are able to prove greater damages resulting from default in payment, we have the right to claim compensation for said damage. However, the purchaser has the right to prove to us that we did not suffer any, or suffered substantially lesser, damage as the result of the default in payment.
4. We reserve the right to perform delivery of the ordered goods against cash on delivery or against advance payment in the following cases:
  - a) the purchaser buys from us for the first time.
  - b) the purchaser has exceeded the agreed term of payment in previous transactions.
  - c) no limit has been granted to the customer by the company Firma Crefo Factoring Südwest GmbH & Co.KG, the limit has been exceeded or was cancelled, or the purchaser has revoked his agreement hereby declared of an assignment of receivables by us to the company Crefo Factoring Südwest GmbH & Co.KG.
5. For the purpose of determination of the purchase limit, information on creditworthiness is collected by external service providers such as Creditreform, D&B or Hermes Kreditversicherung. The customer expressly agrees to said collection of information in accordance with the current version of the BDSG [*Federal Data Protection Act*].
6. The purchaser is entitled to rights of set-off only if his counterclaims have been legally determined, are undisputed or accepted by us. Furthermore, he is entitled to the execution of a right of retention insofar as his counterclaim is based on the same contractual relationship. On the basis of this regulation, a deduction in the absence of a previously prepared credit advice is permissible only if the counterclaim has been legally determined, is undisputed or accepted by us in accordance with the above provision.
7. For each necessary reminder a lump sum of € 10.00 will be charged.

## *Art. 4 Partial delivery – Passing of risk – Delayed acceptance- Obligation to accept in case of minor defects – Terms of delivery*

1. Partial deliveries are permissible insofar as they are deemed acceptable to the purchaser.
2. Unless the confirmation of order states otherwise, delivery "ex works" is agreed. If the purchaser so wishes, the shipment shall be covered by transport insurance; the costs thus incurred are to be borne by the purchaser.
3. If, upon the purchaser's request, dispatch or delivery is delayed by more than one month following advice of readiness for dispatch, the purchaser may be charged a storage charge of 0.5% of the price of the goods to be delivered for each commenced month, however not more than 5% total. The contractual parties are at liberty to provide proof of higher or lower storage costs.
4. Deliveries must be accepted by the purchaser, even if they display minor and therefore approvable defects.
5. The adherence to agreed terms of delivery is subject to the timely receipt of any documents to be supplied by the purchaser as well as to the compliance with the agreed terms of payment.

## *Art. 5 Rights in case of defects*

1. If the purchaser is a merchant in accordance with Art. 1 HGB [*Commercial Code*], he must have properly fulfilled his obligations to inspect the goods received and to give notice of defects in accordance with Art. 377 HGB in order to be able to assert any rights due to defects.
2. If the object of purchase displays a defect that we are responsible for, we are entitled to choose to either eliminate the defect or to send a replacement at our discretion. In case of elimination of defect we are obliged to bear all costs in connection with expenditures, in particular transport, infrastructure, labor and material costs, required for the elimination of defects, provided that there is no increase in said costs due to the object of purchase having been taken to a different place from the place of fulfillment.
3. The purchaser, in the context of the legal provisions, has the right to withdraw from the contract if we – taking into consideration the legal exceptions – allow a reasonable deadline set towards us with regard to the rectification or replacement due to material defect to pass without result. In case of a minor defect, the purchaser is only entitled to a reduction of the contract price.
4. The return of defective goods is permissible only following assignment of a return number. We are obliged to provide such return number immediately upon request.
5. Unless otherwise specified below, any further claims on the part of the purchaser – regardless of the legal reasons – are excluded. We are therefore not liable for any defects that have not arisen on the object of delivery itself; in particular, we are not liable for lost profit or other financial losses on the part of the purchaser. The exclusion of liability does not apply to physical injuries, damage to health or loss of life of the contractual partner.
6. The preceding indemnification does not apply insofar as the cause of damage is based on intent or gross negligence. It also does not apply if the purchaser asserts claims for damages due to non-fulfillment due to lack of a promised quality.
7. If a defect is based on the merely negligent violation of an essential contractual obligation or on the merely negligent violation of an obligation whose fulfillment constitutes a necessary prerequisite for the performance of the contract and upon whose observance you as the purchaser may rely on a regular basis, we are also liable for such damage. The same applies if you are entitled to damages in place of performance. However, our liability for damages is limited to foreseeable and typically occurring defects.
8. The time limit for the assertion of claims for damages is 1 year, calculated from the time of passing of risk. Said time limit constitutes a statute of limitation and also applies to claims for compensation of consequential damages insofar as no claims based on unlawful act are asserted. Withdrawal or abatement is ineffective in accordance with Art. 218 BGB if the warranty rights of the purchaser according to Art. 5 Item 8 p. 1 are time-barred.

## *Art. 6 Joint and several liability*

1. Further liability other than that provided for by Art. 5 Par. 5 is – irrespective of the legal nature of the asserted claim - excluded.
2. The provision according to Par. 1 does not apply to claims according to Art. 1, 4 product liability law nor to cases of inability or impossibility.
3. Insofar as liability on our part is excluded or limited, this also applies to personal liability of our employees, workers, associates, representatives and agents.

## *Art. 7 Reservation of title*

1. We reserve the title to the object of purchase until receipt of all payments from the contract. In case of conduct on the part of the purchaser which is in violation of the contract, in particular in case of default in payment, we have the right to reclaim the object of purchase. The reclaiming of the object of purchase by us does not constitute a withdrawal from the contract, unless we expressly stated so in writing. The attachment of the object of purchase by us always constitutes a withdrawal from the contract. Following the reclaiming of the object of purchase, we are entitled to its liquidation. The liquidation proceeds are credited against the liabilities of the purchaser, less reasonable liquidation costs.
2. In case of attachments or other third-party interventions, the purchaser must immediately inform us in writing in order for us to be able to take legal action in accordance with Art. 771 ZPO [*Code of Civil Procedure*]. If the third party is unable to compensate us for the judicial and extrajudicial costs of a lawsuit in accordance with Art. 771 ZPO, the purchaser is liable for the loss suffered by us.

## *Art. 8 Restriction of use of the delivered goods; restriction of clientele; contractual penalty*

1. **The purchaser shall purchase the goods from our product range exclusively from us.** We only deliver to selected retailers – i.e. no pure internet retailers – whose stores must be in line with the sophisticated image of the branded products sold with regard to equipment, store location, layout of the presentation area, space, shop windows, appearance and advice services of the staff employed, outdoor advertising and other available assortment. Therefore, on principle, the purchaser must offer or display the goods delivered on the basis of his order for sale only in the stores designated in the order and approved by us in writing. **The purchaser shall not actively conclude any transactions with customers on an upstream or equal market level (wholesalers, intermediaries and other retailers). Active sales to these groups of customers, which we exclusively reserve for ourselves, are permissible only with our prior consent.**

2. The purchaser shall design any domains registered and/or used by him or sites and presentations on electronic marketplaces (such as eBay) informatively, always coordinate with us prior to execution and provide proof of the design by submitting convincing documents upon our request. In so doing, the purchaser is obliged to adhere to the legal regulations, in particular the imprint duty, and is required to provide evidence of said adherence to us upon request. The purchaser shall inform us of the names under which he deals on electronic marketplaces (such as eBay names) without delay. The obligations regarding coordination and information do not expire by the purchaser attempting to avoid such obligations through other designs such as series-connected links or the employment of third parties.

3. If the purchaser violates the obligations agreed in this Art. 8, a contractual penalty of EUR 5,001.00 becomes due. **Goods of the brands sold by us which were not introduced onto the EEA market by us will be considered as forgery.** Selling such goods also leads to a contractual penalty. A contractual penalty is credited against claims for damages – whose assertion we reserve in addition. The purchaser is at liberty to prove to us that a lesser damage has occurred as a result of his violation of the prohibitions.

4. In case of a violation of the prohibition of this Art. 8, we are entitled, at our discretion, to cancel the contract with immediate effect and/or to refrain from the delivery of still outstanding partial deliveries.

5. The purchaser is aware of the fact that the goods delivered to him are marked in such a way as not to be noticeable to the customer in order to monitor the observance of these prohibitions.

6. With regard to the provisions of this Art. 8, these terms and conditions of sale shall supersede and replace any previous agreements stating otherwise.

#### *Art. 9 Cancellation charge*

1. In case the goods are not accepted or not exported for reasons that are the responsibility of the purchaser, we have the right to cancel the order. The purchaser undertakes to pay us a lump sum of 40% of the value of the order as liquidated damages in case of cancellation, where the purchaser is at liberty to prove that a lesser damage has in fact occurred. The same applies if, on the basis of a request for cancellation on the part of the purchaser, a termination agreement was concluded between him and us.

2. Unless an order was cancelled in accordance with Item 1 or a termination agreement concluded, the purchaser is obliged to pay for any non-accepted or returned goods that are without defect in full despite his returning the goods. Storage is effected at the risk and for the account of the purchaser.

#### *Art. 10 Non-assignment clause*

Insofar as the commercial transaction is not a mutual one, the rights of the purchaser from the contracts concluded with us are transferable, in particular assignable, only with our consent.

#### *Art. 11 Protected brands and logos*

1. The purchaser may use the protected logos and brands of the textiles delivered to him outside of the delivered goods in any form and manner only with our express written consent.

#### *Art. 12 Data protection*

The purchaser agrees that his company and personal data provided to us in the context of the business relationship are saved and automatically processed in an EDP system.

#### *Art. 13 Place of jurisdiction – Place of fulfillment*

1. If the purchaser is a dealer, place of jurisdiction shall be Saarbrücken; however, we also have the right to institute proceedings against the purchaser before the court of his place of residence. In case of an assignment of claims to the Crefo Factoring Südwest GmbH & Co.KG, place of jurisdiction shall be Aalen.

2. Unless stated otherwise in the confirmation of order, our registered office is the place of fulfillment.

3. With regard to the contractual relationships, German law under the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG) applies.

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Date, customer signature: