



## **Timezone GmbH General Terms and Conditions**

### **General Terms and Conditions**

#### **Section 1 Scope**

1. The deliveries, services and offers of TIMEZONE GmbH (hereinafter referred to as the Seller) are made exclusively on the basis of these terms and conditions and between merchants. These shall therefore also apply to all future business relations, even if they are not expressly agreed again. These Terms and Conditions shall also apply if the Seller carries out the delivery to the Buyer without reservation in the knowledge that the Buyer's terms and conditions conflict with or deviate from these Terms and Conditions.

2. All agreements between the parties are set out in writing in these Terms and Conditions. Deviations from these Terms and Conditions are only effective if the seller confirms these deviations in writing.

#### **Section 2 Offer and conclusion of contract**

1. The Seller's offers are subject to change and non-binding. Declarations of acceptance and all orders by the Buyer, require the Seller's written or telex confirmation to be legally effective, which the Seller can issue within 14 days after receipt of the Buyer's declaration. The same applies to supplements, amendments and ancillary agreements.

2. Drawings, illustrations, dimensions, weights and other performance data are only binding if this is expressly agreed in writing. The colours of textiles may change during washing. The Seller reserves ownership and copyright for samples, drawings and similar information of a tangible and intangible nature - as well as in electronic form; they may not be made accessible to third parties.

3. The Seller's sales employees are not authorised to make verbal subsidiary agreements or to give verbal assurances that go beyond the content of the written contract concluded by the Seller. This also applies to the Seller's sales representatives.

#### **Section 3 Place of performance, delivery and acceptance**

1. The place of performance for all services arising from the delivery contract is the place of the Seller's commercial establishment.

2. Delivery of the goods shall be from the domestic factory. The shipping costs shall be borne by the Buyer. The Buyer may determine the carrier. The goods are to be sent uninsured. A delivery notification can be agreed.

3. Packaging costs for special packaging are borne by the Buyer.

4. If, due to the fault of the Buyer, acceptance does not take place on time, the Seller shall be entitled, at their discretion, after expiry of a grace period of 12 calendar days to be set, either to invoice the goods with immediate maturity (invoice for arrears) or to withdraw from the contract or to claim damages.

#### **Section 4 Delivery and performance time**

1. Delivery dates or deadlines, which may be agreed as binding or non-binding, must be in writing. In no case are they fixed transactions or fixed trade purchases.

2. Irrespective of the existence of other preconditions, the Seller shall only be obliged to deliver when all due liabilities of the Buyer from previous business relations have been settled.

3. The Seller shall be entitled to make partial deliveries and render partial services at any time.

4. Compliance with the Seller's delivery and performance obligations presupposes the timely and proper fulfilment of the Buyer's obligation.

5. If the Buyer is in default of acceptance, the seller is entitled to demand compensation for the damage incurred; the risk of accidental deterioration and accidental loss shall pass to the Buyer upon occurrence of the default of acceptance.

#### **Section 5 Interruption of delivery**

1. In the event of force majeure, industrial action for which one of the contracting parties is not responsible, exceptional pandemic situations and other operational disruptions for which it is not responsible and which have lasted or are expected to last longer than one week, the delivery or acceptance period shall be extended without further ado by the duration of the hindrance, but by no more than 6 weeks. The extension shall only come into effect if the other party is immediately informed of the reason for the impediment as soon as it can be foreseen that the delivery or acceptance deadline cannot be met.

2. If the delivery or acceptance has not taken place within the extended delivery or acceptance period in the cases mentioned in Clause 1, the other contracting party may withdraw from the contract after expiry of a grace period of 12 calendar days to be set.

3. Claims for damages are excluded in the cases of Clause 1 if the respective contracting party has fulfilled its obligation pursuant to Clause 1.

#### **Section 6 Additional delivery period**

1. After expiry of the delivery period, a subsequent delivery period of 12 calendar days shall be set in motion without explanation. After expiry of this period, the Buyer may withdraw from the contract by written declaration. If the Buyer wishes to claim damages instead of performance, they must set the seller a 4-week deadline in writing after expiry of the agreed delivery period. The statutory provisions on the dispensability of setting a time limit (Section 281 (2), Section 323 (2) BGB [German Civil Code]) shall remain unaffected.

2. Prior to the expiry of the subsequent delivery period, claims by the Buyer due to delayed delivery are excluded insofar as Section 8 clauses 2 and 3 do not apply.

#### **Section 7 Notification of defects**

1. In the case of obvious defects, notification of defects must be sent to the Seller within 12 calendar days of receipt of the goods at the latest. The Buyer must notify the Seller of hidden defects immediately after their discovery.

2. The warranty period is 12 months from delivery of the goods.



3. After cutting or processing the delivered goods in any other way, any complaint about obvious defects is excluded.
4. Minor, technically unavoidable deviations in quality, colour, width, weight, equipment or design do not constitute a material defect. This shall also apply to deviations customary in the trade, unless the Seller has declared in writing that the delivery is true to sample.
5. In the event of justified notices of defect, the Buyer shall have the right, at the Seller's discretion, to rectification of the defect or delivery of defect-free replacement goods within 12 calendar days after receipt of the goods. In this case, the Seller shall bear the freight costs. If the supplementary performance has failed, the Buyer only has the right to reduce the purchase price or to withdraw from the contract, unless Section 8 clauses 2 and 3 apply.
6. If a notification of defects has not been made in due time, the goods shall be deemed to have been approved.
7. Any liability of the Seller for normal wear and tear is excluded.
8. Only the direct Buyer is entitled to claims for defects against the Seller and these are not assignable.

#### **Section 8 Damages**

1. Claims for damages by the Buyer are excluded unless otherwise provided for in these Terms and Conditions.
2. The exclusion in Clause 1 shall not apply insofar as liability exists under the Product Liability Act, in the case of intent, gross negligence on the part of owners, legal representatives and 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, the fulfilment of which shape the contract, and on which the buyer can rely. However, a claim for damages due to breach of material contractual obligations shall be limited to the foreseeable damage typical for the contract, unless another case mentioned in sentence 1 exists.
3. A change in the burden of proof to the detriment of the Buyer is not associated with the above provisions.
4. Insofar as the Seller's liability is excluded or limited, this shall also apply to the personal liability of the Seller's employees, representatives and vicarious agents.
5. The statutory provisions shall apply to damages arising from injury to life, limb or health and to claims under the Product Liability Act.

#### **Section 9 Prices**

1. The Seller's price quotations are subject to change. The prices stated in the Seller's order confirmation plus the respective statutory value added tax shall be decisive. Additional deliveries and services will be charged separately.
2. Unless otherwise agreed, the prices are net ex distribution warehouse. The costs for packaging, postage, freight and cash on delivery charges shall be borne separately by the Buyer.

#### **Section 10 Payment**

1. Unless otherwise agreed, payment shall be made in advance.
2. If term payment has been agreed and the Seller becomes aware of circumstances that call the creditworthiness of the Buyer into question, in particular if coverage of the default risk is justifiably refused by the credit insurance or if the Buyer ceases to make payments, the Seller is entitled to call due the entire remaining debt, even if they have accepted cheques. In this case, the Seller is also entitled to demand advance payments or securities and to make the provision of the delivery or service dependent on the timely receipt of the advance payment or security.
3. The Seller shall be entitled - despite any provisions of the Buyer to the contrary - to first offset payments against the Buyer's older debts. They will inform the Buyer of the nature of the offsets made. If costs and interest have already been incurred, the Seller is entitled to credit the payment first to the costs, then to the interest and finally to the main service.
4. The decisive factor for the timeliness of the payment is the final credit entry on the Seller's account.

#### **Section 11 Payment after due date**

1. For payments after the due date, interest of 9 percentage points above the respective base interest rate within the meaning of Section 247 BGB [German Civil Code] shall be charged. In all other respects Section 288 BGB [German Civil Code] shall apply.
2. Before full payment of due invoice amounts including interest, the Seller shall not be obliged to make any further deliveries under current delivery contracts. The right to claim damages for delay is reserved.
3. In the event of a significant deterioration of financial circumstances, such as e.g. imminent insolvency or default in payment, the Seller may refuse services incumbent upon them for all delivery contracts based on the same legal relationship or withdraw from these delivery contracts after setting a grace period of 12 calendar days. For the rest, Section 321 BGB [German Civil Code] applies. Section 119 InsO remains unaffected.

#### **Section 12 Offsetting and retention**

Offsetting and retention of due invoice amounts is only permissible with undisputed or legally established claims, insofar as these are not claims for damages that are closely related to the Buyer's claim for defect-free fulfilment of the contract.

#### **Section 13 Invoicing**

Invoicing by the Seller shall be in accordance with the applicable statutory guidelines. Both parties agree that, at the Seller's option, invoices and reminders may be delivered in paper form to the address or in electronic form to the Buyer's e-mail address that has been given to the Seller by the Buyer. The Buyer may object to the delivery of invoices or reminders in electronic form at any time.

#### **Section 14 Retention of ownership**

1. The goods shall remain the property of the Seller until full payment of all claims arising from deliveries of



goods from the entire business relationship, including ancillary claims, claims for damages and encashment of cheques and bills of exchange. The retention of ownership shall also remain in force if individual claims of the Seller are included in a current account and the balance is drawn and recognised.

2. If the goods subject to retention of ownership are combined, mixed or processed by the Buyer to form a new movable item, this shall be done on behalf of the Seller without the Seller being obliged as a result. The Buyer does not acquire ownership of the new item pursuant to Section 947 et seq. BGB [German Civil Code] to the new item. In the event of combination, mixing or processing with items not belonging to the Seller, the Seller shall acquire co-ownership of the new item in proportion to the invoice value of its reserved goods to the total value.

3. Insofar as a central regulating body 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 regulating body upon dispatch of the goods with the condition precedent of payment of the purchase price by the central regulating body. The Buyer shall only be released upon payment by the central regulating body.

4. The Buyer is only entitled to resell or process the goods subject to the following conditions:

- a. The Buyer may only sell or process the reserved goods in the ordinary course of business, provided that their financial circumstances do 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 have been combined, mixed or processed and if the Seller has acquired co-ownership in the amount of its invoice value, they shall be entitled to the purchase price claim in proportion to the value of their rights in 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 its 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 authorisation to collect shall lapse in the event of default in payment by the Buyer or in the event of a significant deterioration in the financial circumstances of the Buyer. In this case, the Seller is hereby authorised by the Buyer to inform the customer of the assignment and to collect the claims. For assertion of the assigned claims, the Buyer must provide the necessary

information and permit verification of this information. In particular, upon request, they shall hand over to the Seller an exact list of the claims to which they are entitled, including the names and addresses of the Buyers, the amount of

individual claims, invoice dates, etc. The Seller shall be entitled to demand payment of the claims from the Buyer.

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. Pledging or transfer by way of security of the reserved goods or the assigned claims is not permitted. The Seller is to be informed immediately of any attachments, stating the attaching 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. They shall insure them against the usual risks, such as fire, theft and water, to the customary extent. The Buyer hereby assigns to the Seller their claims for compensation to which they are 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 (cheque-bills of exchange) entered into by the Seller in the interest of the Buyer. In the case of sentence 1, the Buyer shall in principle be permitted to engage in factoring for their accounts receivable. However, they shall inform the seller of any contingent liabilities before entering into them.

#### **Section 15 Applicable law, court of jurisdiction**

1. 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.
2. The invalidity of individual provisions of these Terms and Conditions shall not affect the validity of the remaining Terms and Conditions.
3. Rosenheim shall be the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship.

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**Version 12.21**