

TERMS AND CONDITIONS



GENERAL TERMS AND CONDITIONS *)

§ 1 Scope of application

1. These Terms and Conditions of Sale shall apply exclusively to entrepreneurs, legal entities under public law or special funds under public law within the meaning of Section 310 (1) of the German Civil Code (BGB). We shall only recognise terms and conditions of the customer that conflict with or deviate from our Terms and Conditions of Sale if we expressly agree to their validity in writing. Private customers can make use of the services, but must accept our stated conditions.

2. These Terms and Conditions of Sale shall also apply to all future transactions with the Purchaser, insofar as legal transactions of a related nature are concerned (as a precaution, the Terms and Conditions of Sale should in any case be attached to the order confirmation).

3. Individual agreements made with the purchaser in individual cases (including ancillary agreements, supplements and amendments) shall in any case take precedence over these Terms and Conditions of Sale. Subject to proof to the contrary, a written contract or our written confirmation shall be authoritative for the content of such agreements.

§ 2 Offer and conclusion of contract

If an order is to be regarded as an offer in accordance with § 145 BGB, we may accept it within two weeks.

§ 3 Documents provided

We reserve the property rights and copyrights to all documents – also in electronic form – provided to the customer in connection with the placing of the order, e.g. calculations, drawings, etc. These documents may not be made accessible to third parties unless we give permission to do so. These documents may not be made accessible to third parties unless we give our express written consent to do so. If we do not accept the orderer's offer within the period of § 2, these documents must be returned to us without delay.

§ 4 Prices and payment

1. Unless otherwise agreed in writing, our prices are ex works excluding packaging and plus value added tax at the applicable rate. Costs of packaging shall be invoiced separately.

Payment of the purchase price shall be made exclusively to the account stated overleaf. The deduction of a discount is only permissible with a special written agreement.

2. Unless otherwise agreed, the purchase price shall be payable immediately. Interest on arrears shall be charged at a rate of 8% above the respective base rate p.a. We reserve the right to claim higher damages for default.

3. Unless a fixed price agreement has been made, we reserve the right to make reasonable price changes due to changes in wage, material and distribution costs for deliveries that take place 3 months or later after conclusion of the contract.

§ 5 Rights of retention

The customer is only entitled to exercise a right of retention insofar as his counterclaim is based on the same contractual relationship.

§ 6 Delivery time

1. The commencement of the delivery period stated by us shall be subject to the timely and proper fulfilment of the obligations of the customer. We reserve the right to plead non-performance of the contract.

2. If the customer is in default of acceptance or culpably violates other duties to cooperate, we shall be entitled to demand compensation for the damage incurred by us in this respect, including any additional expenses. We reserve the right to assert further claims. If the above conditions are met, the risk of accidental loss or accidental deterioration of the object of sale shall pass to the customer at the point in time at which the customer is in default of acceptance or debtor's delay.

3. In the event of a delay in delivery not caused by us intentionally or through gross negligence, we shall be liable for each completed week of delay within the framework of a lump-sum compensation for delay amounting to 3% of the value of the delivery, but not more than 15% of the value of the delivery.

4. Further legal claims and rights of the customer due to a delay in delivery remain unaffected.

§ 7 Transfer of risk in case of shipment

If the goods are shipped to the customer at the customer's request, the risk of accidental loss or accidental deterioration of the goods shall pass to the customer upon dispatch to the customer, at the latest upon leaving the factory/warehouse. This applies regardless of whether the goods are shipped from the place of performance or who bears the freight costs.

§ 8 Retention of title

1. We retain title to the delivered goods until full payment of all claims arising from the delivery contract. This also applies to all future deliveries, even if we do not always expressly refer to this. We shall be entitled to take back the object of sale if the customer acts in breach of contract.

2. The purchaser is obliged to treat the object of sale with care as long as ownership has not yet passed to him. In particular, he is obliged to insure it adequately at his own expense against theft, fire and water damage at replacement value (note: only permissible in the case of the sale of high-value goods). If maintenance and inspection work has to be carried out, the customer shall carry this out in good time at his own expense. As long as ownership has not yet been transferred, the customer must notify us immediately in writing if the delivered item is seized or exposed to other interventions by third parties. Insofar as the third party is not in a position to reimburse us for the court and out-of-court costs of an action in accordance with § 771 of the German Code of Civil Procedure (ZPO), the purchaser shall be liable for the loss incurred by us.

3. The customer is entitled to resell the reserved goods in the normal course of business. The purchaser hereby assigns to us the claims against the customer arising from the resale of the goods subject to retention of title in the amount of the final invoice amount agreed with us (including value added tax). This assignment shall apply irrespective of whether the purchased goods have been resold without or after processing. The customer remains authorised to collect the claim even after the assignment. Our authority to collect the claim ourselves remains unaffected by this. However, we shall not collect the claim as long as the customer meets his payment obligations from the proceeds collected, is not in default of payment and, in particular, no application for the opening of insolvency proceedings has been filed or payments have not been suspended. [Note: This clause does not apply if no extended retention of title is intended].

4. The processing or transformation of the object of sale by the customer shall always be carried out in our name and on our behalf. In this case, the purchaser's expectant right to the object of sale shall continue to apply to the transformed object. If the object of sale is processed with other objects not belonging to us, we shall acquire co-ownership of the new object in the ratio of the objective value of our object of sale to the other processed objects at the time of processing. The same shall apply in the event of mixing. If the mixing takes place in such a way that the item of the customer is to be regarded as the main item, it shall be deemed agreed that the customer shall transfer co-ownership to us on a pro rata basis and shall keep the sole ownership or co-ownership thus created in safe custody for us. In order to secure our claims against the purchaser, the purchaser also assigns to us such claims against a third party which accrue to him through the combination of the reserved goods with a property; we accept this assignment already now.

5. We undertake to release the securities to which we are entitled at the request of the customer insofar as their value exceeds the claims to be secured by more than 20%.

§ 9 Warranty and notice of defects as well as recourse/manufacturer recourse

1. The purchaser's warranty rights presuppose that he has properly fulfilled his obligations to inspect the goods and give notice of defects in accordance with § 377 of the German Commercial Code (HGB).

2. Claims for defects shall become statute-barred 12 months after delivery of the goods supplied by us to our customer. The statutory limitation period shall apply to claims for damages in the event of intent and gross negligence as well as in the event of injury to life, body and health which are based on an intentional or negligent breach of duty by the user. (Note: in the case of the sale of used goods, the warranty period may be excluded altogether with the exception of the claims for damages mentioned in sentence 2).

Insofar as longer periods are prescribed by law in accordance with § 438 para. 1 no. 2 BGB (buildings and items for buildings), § 445 b BGB (right of recourse) and § 634a para. 1 BGB (construction defects), these periods shall apply. Our consent must be obtained before any goods are returned.

3. If, despite all due care and attention, the delivered goods show a defect which was already present at the time of the transfer of risk, we shall, at our discretion, either repair the goods or deliver replacement goods, subject to timely notification of defects. We shall always be given the opportunity to remedy the defect within a reasonable period of time. Claims under a right of recourse shall remain unaffected by the above provision without restriction.

4. If the subsequent performance fails, the customer may – irrespective of any claims for damages – withdraw from the contract or reduce the remuneration.

5. Claims for defects shall not exist in the case of insignificant deviations from the agreed quality, insignificant impairment of usability, natural wear and tear or damage arising after the transfer of risk as a result of faulty or negligent handling, excessive strain, unsuitable equipment, defective construction work, unsuitable foundation soil or due to special external influences which are not assumed under the contract. If the purchaser or third parties carry out improper repair work or modifications, there shall also be no claims for defects for these and the resulting consequences.

6. Claims by the customer for expenses incurred for the purpose of subsequent performance, in particular transport, travel, labour and material costs, shall be excluded insofar as the expenses increase because the goods delivered by us have subsequently been taken to a place other than the customer's place of business, unless the transfer is in accordance with their intended use.

7. the purchaser's right of recourse against us shall only exist insofar as the purchaser has not made any agreements with his customer which go beyond the legally mandatory claims for defects. Furthermore, paragraph 6 shall apply accordingly to the scope of the purchaser's right of recourse against the supplier.

8. In the Sample Gallery we provide video pairs for download. These are watermarked and explicitly for testing the ShotCompare Player only. Violations may result in legal consequences.

9. We cannot take any responsibility for the uploaded and shared videos. The uploaded videos should not have pornographic, racist, religious or blasphemous content, contents glorifying violence or criminal instructions, or discriminate against certain groups of people. However, if you are unintentionally harassed with offensive or illegal video, you are welcome to share the link with us, we will then take appropriate action in accordance with the law.

§ 10 Prelease or Beta Version.

We may designate the Services, or a feature of the Services, as a prerelease or beta version ("Beta Version"). A Beta Version does not represent the final product and may contain bugs that may cause system or other failure and data loss. We may choose not to release a commercial version of the Beta Version. You must promptly cease using the Beta Version and destroy all copies of the Beta Version if we request you to do so. In exchange for your use of a Beta Version, you agree that Frame.io may collect data regarding your use of the Beta Version to improve our products and personalize your experience, regardless of whether or not you have opted-out of data collection for non-Beta Versions. If you do not wish to have your usage tracked, you must discontinue your use of the Beta Version by uninstalling such Beta Version or utilizing a non-Beta Version of the Services. Any separate agreement we enter into with you governing the Beta Version will supersede these provisions.

§ 11 Miscellaneous

1. This contract and the entire legal relationship between the parties shall be governed by the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).

2. the place of performance and exclusive place of jurisdiction and for all disputes arising from this contract shall be our registered office, unless otherwise stated in the order confirmation (note: the use of the clause is inadmissible if at least one of the parties is a company not entered in the commercial register).

3. all agreements made between the parties for the purpose of executing this contract are set out in writing in this contract.

ANNEX

Notes

Although the prohibition of clauses in the catalogue of clauses in §§ 308, 309 BGB does not apply to general terms and conditions used vis-à-vis entrepreneurs within the meaning of § 14 BGB pursuant to § 310 (1) BGB, it cannot be automatically assumed that

the use of clauses such as those mentioned in §§ 308, 309 BGB vis-à-vis entrepreneurs is normally subject to the content review of §§ 305 et seq. BGB. Pursuant to section 307 (1), (2) no. 1 BGB, which also applies to the use of general terms and conditions vis-à-vis entrepreneurs, an unreasonable disadvantage of the contractual partner is to be assumed in case of doubt if the clause is not compatible with essential basic ideas of the statutory provision from which it deviates. According to case law, this leads to the fact that the clause prohibitions of §§ 308, 309 of the German Civil Code (Bürgerliches Gesetzbuch – BGB) also acquire indirect significance in commercial transactions through the interpretation of § 307 of the BGB.

The prohibitions of clauses in § 308 BGB are generally transferable to sales between entrepreneurs, because their scope for interpretation takes into account the special features of commercial transactions. In contrast, such a blanket solution is not possible in the case of the prohibitions of § 309 BGB, but the violation of § 309 is also an indication of the invalidity of the clause in the case of sales between entrepreneurs. In this case, it is advisable to have a legal expert examine the individual case before using the GTC.

Transparency requirement

This requirement means that, in case of doubt, a clause in GTCs is also unreasonably disadvantageous if it is not clear and understandable. This requirement means that non-transparent clauses per se are to be considered invalid, without the addition of a substantive unreasonable disadvantage to the contractual partner. Furthermore, this also means that the transparency requirement also applies to price clauses and clauses describing services, which are generally exempt from content control.

Warranty periods

The warranty period for contracts of sale and contracts for work and services is 2 years. The warranty period can be shortened by means of general terms and conditions as follows:

Duty to notify defects

For non-obvious defects the period of notice may not be set shorter than one year in the GTC. The period shall commence at the start of the statutory limitation period.

Reimbursement of expenses in case of supplementary performance

Pursuant to section 439 subsection 2 of the German Civil Code (BGB), the seller must bear the expenses necessary for the purpose of subsequent performance (e.g. transport, travel, labour and material costs). This obligation may not be excluded by general terms and conditions.

Limitation to supplementary performance

In the case of a defective item, the buyer may, at his discretion, demand the rectification of the defect or the delivery of a defect-free item as supplementary performance or, if the prerequisites are met, also compensation for damages. Only if the supplementary performance is unsuccessful, impossible or unreasonable can the buyer – secondarily – assert warranty rights: Rescission or reduction. Restrictions on supplementary performance alone are ineffective if the other party to the contract is denied the right to a price reduction if supplementary performance fails.

Limitations of liability

Any exclusion or limitation of liability for damages arising from injury to life, limb or health which are based on an intentional or negligent breach of duty by the user or an intentional or negligent breach of duty by a legal representative or vicarious agent of the user shall be ineffective.

Amount of interest on arrears

From the beginning of the default, the buyer shall owe the seller default interest in addition to the purchase price. If a consumer is involved in the purchase contract, either as buyer or as seller, the interest rate shall be 5% above the base rate. In the case of purchase contracts between entrepreneurs, the interest rate is increased to 8 % above the base interest rate by the reform of the law of obligations.

Errors and omissions excepted

Rules of use

1. The user is explicitly allowed only 1 user account per IP address. In case of violation, we reserve the right to block the account.
2. By accepting these terms and conditions, the user allows us to send him marketing emails. the user can object to this at any time by email.
3. Number of chat receiver users is limited to 3 participants.