

## **General Terms and Conditions of Sale of Sump & Stammer GmbH International Food Supply**

### **§ 1 Contractual Partner, Scope, General Information**

1. All sales, services and offers of Sump & Stammer GmbH International Food Supply (Register Court AG Hamburg HRB 85798), represented by the managing director Alexander Sauter, Beim Schröderschen Hof 3, 21109 Hamburg (hereinafter "Seller") are based exclusively on of these General Terms and Conditions of Sale (GTC-S). These are part of all sales contracts that the Seller concludes with the Seller's contractual partners (hereinafter also referred to as "Buyer") for the goods offered by the Seller. They also apply to all future sales, services and offers to the Buyer, even if they are not separately agreed upon again.
2. Any terms and conditions of the Buyer or third parties do not apply, even if the Seller does not specifically object to their validity in individual cases. Even if the Seller refers to a letter that contains or refers to the terms and conditions of the Buyer or a third party, this does not constitute consent to the validity of those terms and conditions.
3. If the Seller acts as a freight forwarder for the Buyer, the GTC-S do not apply. The Seller provides freight forwarding services or transport contracts exclusively on the basis of the General German Forwarding Conditions 2017 (ADSp 2017).

### **§ 2 Offer and Contract Conclusion**

1. All offers of the Seller are subject to change and are non-binding, unless they are expressly identified as binding or contain a specific period of acceptance. The Seller can accept orders or commissions within 14 days of receipt (by sending an order confirmation, also in the form of a pro forma invoice) or by performing a service.
2. The legally binding conclusion of the sales contract is subject to the condition precedent that the Federal Office for Economic Affairs and Export Control, Frankfurter Straße 29 - 35, 65760 Eschborn, Germany, grants any necessary foreign trade permits for the sale, delivery, transfer and/or (re-)export of the goods for use by the Buyer or recipient.
3. The refusal, revocation or the invalidity of the export/re-export permits mentioned under § 2 Paragraph 2 due to an event that is beyond the reasonable control of the Seller, releases the Seller from the contractual obligations and from the payment of damages in relation to the delivery of the goods concerned. In addition, § 8 of these GTC-S applies.
4. Only the purchase contract, in at least text form, including these GTC-S, is decisive for the legal relationship between Seller and Buyer. This fully reflects all agreements between the contracting parties on the subject of the contract. Verbal promises made by the Seller prior to the conclusion of this contract are not legally binding and verbal agreements between the contracting parties are replaced by the contract concluded, at least in text form, unless they expressly indicate that they should continue to apply.
5. Additions and changes to the agreements made, including these General Terms and Conditions of Delivery, must be made in writing to be effective.
6. Information provided by the Seller on the subject matter of the service (e.g. dimensions, data) as well as the representations (e.g. drawings, images) is only approximately applicable,

unless the usability for the contractually intended purpose requires an exact match. They are not guaranteed characteristics, but descriptions or identifications of the goods. Customary deviations and deviations that occur due to legal regulations are permissible as long as the usability for the contractually intended purpose is not impaired.

7. The Seller reserves the right of ownership and/or copyright to all offers and cost estimates made by the Seller as well as drawings, images, brochures, catalogues and other documents and aids made available to the Buyer. Without the express consent of the Seller, the Buyer may not make these items available to third parties, either as such or in terms of content, or disclose them, use them itself, or reproduce them through third parties.

### **§ 3 Prices and Payment**

1. The prices apply to the scope of services listed in the order confirmation or in the pro forma invoice. Additional or special services will be charged separately. Unless otherwise agreed upon, the prices are in EUR ex warehouse in Hamburg, including packaging, excluding statutory VAT, and excluding customs duties, fees and other public levies for export deliveries.

2. If the agreed prices are based on the Seller's list prices and delivery is only to take place more than four months after the conclusion of the contract, the Seller's list prices valid at the time of delivery apply (less any agreed percentage or fixed discount).

3. Invoice amounts are to be paid within 10 days without any deduction, unless otherwise agreed upon, at least, in writing. The date of receipt by the Seller is decisive for the payment date. Payment must be made by bank transfer to the account specified on the invoice, quoting the invoice number. If the Buyer does not pay by the due date, interest of 5% per annum is to be paid from the due date on the outstanding amounts; the assertion of higher interest and further damages in the event of default remains unaffected.

4. Offsetting against counterclaims of the Buyer or the withholding of payments due to such claims is only permitted if the counterclaims are undisputed or have been legally established or result from the same order under which the service in question was performed.

5. The Seller is entitled to perform or provide outstanding services only against advance payment or security if the Seller becomes aware of circumstances after conclusion of the contract that are likely to significantly reduce the creditworthiness of the Buyer and through which the payment of the Seller's outstanding claims is endangered by the Buyer from the respective contractual relationship (including from other individual orders to which the same framework agreement applies).

6. In the case of goods for reimbursement according to market regulations, the price will already be reduced by the reimbursement.

### **§ 4 Delivery and Delivery Time**

1. Deliveries are made from the Hamburg warehouse or directly from the producer or dealer.

2. Deadlines and dates for deliveries and services promised by the Seller are always only approximate, unless a fixed period or date has been expressly promised or agreed. If shipment has been agreed upon, delivery periods and delivery dates refer to the time of

handover to the forwarding agent, carrier or other third party commissioned with the transport.

**3.** The Seller may - without prejudice to the Seller's rights from default of the Buyer - demand from the Buyer an extension of delivery and performance deadlines or a postponement of delivery and performance dates by the period in which the Buyer does not meet the Buyer's contractual obligations vis-a-vis the Seller.

**4.** The Seller is not liable for impossibility of delivery or for delays in delivery, insofar as these are caused by force majeure or other events that were not foreseeable at the time of the conclusion of the contract (e.g. operational disruptions of all kinds, difficulties in material procurement, transport delays, strikes, lawful lockouts, worker or raw material shortages, pandemics, riots, terror, war, difficulties in obtaining the necessary official permits, official actions or lack thereof, incorrect or late delivery by suppliers) for which the Seller is not responsible. If such events make performance significantly more difficult or impossible for the Seller and the hindrance is not just of a temporary nature, the Seller is entitled to withdraw from the contract. In the case of temporary hindrances, performance periods are extended and performance deadlines are postponed by the period of the duration of the hindrance plus a reasonable start-up period. If the Buyer cannot be expected to accept the delivery or service as a result of the delay, the Buyer may withdraw from the contract by means of an immediate written declaration to the Seller.

**5.** The Seller is only entitled to make partial deliveries if the partial delivery can be used by the Buyer within the scope of the contractual intended purpose, the delivery of the remaining goods ordered is ensured, and the Buyer does not incur any significant additional effort or costs as a result (unless the Seller agrees to assume these costs).

**6.** If the Seller defaults on a service or if a service becomes impossible for whatever reason, the Seller's liability for damages is limited in accordance with § 8 of these General Terms and Conditions of Delivery.

#### **§ 5 Place of Performance, Shipping, Packaging, Transfer of Risk, Acceptance**

**1.** The place of performance for all obligations arising from the contractual relationship is Hamburg, Germany, unless otherwise specified.

**2.** The method of dispatch and packaging are subject to the Seller's dutiful discretion.

**3.** The risk is transferred to the Buyer at the latest with the handover of the delivery item (whereby the beginning of the loading process is decisive) to the forwarder, carrier or other third party appointed to carry out the shipment. This also applies if partial deliveries are made or the Seller has taken on other services (e.g. shipping). If the dispatch or the handover is delayed due to a circumstance, the cause of which lies with the Buyer, the risk passes to the Buyer on the day on which the delivery item is ready for dispatch and the Seller has notified the Buyer of this.

**4.** Storage costs after transfer of risk are borne by the Buyer. In the case of storage by the Seller, the storage costs are (0.25)% of the invoice amount of the delivery items to be stored per week that has elapsed. The right to assert and provide evidence of additional or lower storage costs is reserved.

5. The shipment will only be insured by the Seller against theft, breakage, transport, fire and water damage or other insurable risks at the express request of the Buyer and at the Buyer's expense.

### **§ 6 Warranty, Material Defects**

1. The warranty period is one year from delivery. This period does not apply to claims for damages by the Buyer from injury to life, limb or health or from intentional or grossly negligent breaches of duty by the Seller or the Seller's vicarious agents, which lapse in accordance with the statutory provisions.

2. The delivered items must be carefully examined immediately after delivery to the Buyer or to a third party appointed by the Buyer. With regard to obvious defects or other defects, which would have been recognizable upon an immediate, careful examination, delivered items are considered approved by the Buyer if the Seller does not receive a written notice of defects within 48 hours of delivery. With regard to other defects, the delivered items are deemed to have been approved by the Buyer if the Seller does not receive the notice of defects within 48 hours of the point in time at which the defect became apparent; if the defect was already apparent at an earlier point in time during normal use, this earlier point in time is decisive for the start of the notice period. At the request of the Seller, a rejected delivery item is to be returned to the Seller carriage paid. If the complaint is justified, the Seller shall reimburse the cost of the cheapest shipping route; this does not apply if the costs increase because the delivery item is located at a location other than the location of its intended use.

3. In the event of material defects in the delivered items, the Seller is initially obliged and entitled, at the Seller's choosing, to either repair or replacement delivery within a reasonable period. In the event of failure, i.e. the impossibility, unfeasibility, refusal or unreasonable delay of the repair or replacement delivery, the Buyer may withdraw from the contract or reduce the purchase price accordingly.

4. If a defect is due to the fault of the Seller, the Buyer can claim damages under the conditions specified in § 8.

### **§ 7 Customs, Market Regulation, Excise Tax and Foreign Trade Law**

1. When delivering goods to the Buyer or recipient of the goods, the Seller is not obliged to pay any import duties (customs duties, import/sales tax, excise taxes, other taxes) at the location of receipt and is also not obliged to clear customs at this location. This applies regardless of any agreed delivery terms (Incoterms).

2. The delivery of ship and/or travel needs or the delivery of reimbursement goods under market regulations is only permitted to ships that are entitled to purchase within the meaning of § 27 of the Customs Ordinance (ZollV). A lack of purchase authorization or other use by the Buyer/recipient entitles the Seller to reclaim the reimbursement amounts or any import duties incurred.

3. If the monitoring procedure applicable to the reimbursed goods is not terminated in accordance with the applicable provisions (market regulations), the Seller is entitled to reclaim the reimbursement plus any sanctions that may arise. This also applies in particular

in the event that the proof of export to be provided is not provided by the Buyer or is not provided within the deadlines.

**4.** Insofar as the Buyer or the legally permissible recipient has not fulfilled the obligations incumbent upon the Buyer or the legally permissible recipient to finalize Union transit procedures and/or joint transit procedures in accordance with customs law (NCTS) and/or to finalize electronic administrative documents for excise goods (EMCS) for goods that the Seller has delivered to the Buyer or the legally permissible recipient, or has not fulfilled these obligations properly, the Seller is entitled to request payment from the Buyer for any import duties incurred, including excise taxes or penalties.

**5.** The Buyer/recipient confirms that the delivered goods will not be re-exported or otherwise passed on nationally or internationally or transferred to a destination that is subject to a UN, EU or OSCE embargo, if this act would violate the provisions of this embargo.

**6.** The assertion of further damages in the event of a breach by the Buyer against the aforementioned Paragraphs 1 - 5 by the Seller remains unaffected.

### **§ 8 Liability for Damages due to Negligence**

**1.** The Seller's liability for damages, regardless of the legal basis, in particular for impossibility, delay, defective or incorrect delivery, breach of contract, breach of duties from the contract negotiations and tort, insofar as the Seller is at fault, is limited in accordance with this § 8.

**2.** The Seller is not liable in the event of simple negligence on the part of the Seller's organs, legal representatives, employees or other vicarious agents, unless there is a breach of essential contractual obligations (obligations, the fulfilment of which enable the proper execution of the contract in the first place and compliance with which the Buyer regularly relies on and should be able to rely on).

**3.** Insofar as the Seller is fundamentally liable for damages in accordance with § 8 Paragraph 2, this liability is limited to damages that the Seller foresaw as a possible consequence of a breach of contract when the contract was concluded, or that the Seller should have foreseen had the Seller exercised due care. Indirect damages and consequential damages resulting from defects in the delivered items are also only eligible for compensation if such damage is typically to be expected when the delivered items are used as intended.

**4.** In the case of liability for simple negligence, the Seller's obligation to pay compensation for property damage and further financial losses resulting therefrom is limited to an amount of 10,000,000.00 EUR (corresponding to the current coverage of the product liability insurance) per claim, even if this concerns a breach of essential contractual obligations.

**5.** The above exclusions and limitations of liability apply to the same extent in favour of the organs, legal representatives, employees and other vicarious agents of the Seller.

**6.** If the Seller provides information or acts in an advisory capacity and this information or advice does not belong to the contractually agreed scope of services owed by the Seller, this is done free of charge and with the exclusion of any liability.

**7.** The restrictions of this § 8 do not apply to the Seller's liability for wilful behaviour, for guaranteed characteristics, for injury to life, limb or health or under to the Product Liability Act.

## **§ 9 Retention of Title**

- 1.** The retention of title agreed below serves to secure all current and future claims of the Seller against the Buyer from the supply relationship between the contractual partners, including outstanding balances from a current account relationship limited to this supply relationship.
- 2.** The goods delivered by the Seller to the Buyer remain the property of the Seller until all secured claims have been paid in full. The goods, as well as the goods covered by the retention of title which take their place in accordance with the following provisions, are hereinafter referred to as "Retained Goods".
- 3.** The Buyer shall keep the Retained Goods free of charge for the Seller.
- 4.** The Buyer is entitled to process and sell the goods subject to retention of title in the ordinary course of business until the enforcement event (§ 9 Para. 9) occurs. Pledging and transfer as collateral are not permitted.
- 5.** If the Retained Goods are processed by the Buyer, it is agreed that the processing takes place in the name of and for the account of the Seller as the manufacturer and the Seller directly owns the property or - if the processing is done from materials from several owners or the value of the processed item is higher than the value of the Retained Goods - acquires joint ownership (fractional ownership) of the newly created item in the ratio of the value of the Retained Goods to the value of the newly created item. In the event that the Seller does not acquire such ownership, the Buyer transfers the Buyer's future ownership or - in the above-mentioned ratio - co-ownership of the newly created item to the Seller as security. If the goods subject to retention of title are combined with other items to form a single item or are inseparably mixed and one of the other items is to be regarded as the main item, the Seller, if the main item belongs to the Seller, transfers to the Buyer proportional co-ownership of the unitary item in the ratio specified in p. 1.
- 6.** In the event of the resale of the goods subject to retention of title, the Buyer hereby assigns the resulting claim against the purchaser as security - in the case of co-ownership of the goods subject to retention of title, proportionally to the Seller. The same applies to other claims that take the place of the Retained Goods or otherwise arise with regard to the Retained Goods, such as insurance claims or claims from tort in the event of loss or destruction. The Seller revocably authorises the Buyer to collect the claims assigned to the Seller in the Buyer's own name. The Seller may only revoke this direct debit authorisation if the enforcement event occurs.
- 7.** If third parties access the Retained Goods, especially through seizure, the Buyer shall immediately inform them of the Seller's ownership and inform the Seller of this in order to enable the Seller to enforce the Seller's property rights. If the third party is unable to reimburse the Seller for the judicial or extrajudicial costs incurred in connection with this, the Buyer is liable to the Seller for these.
- 8.** The Seller shall release the goods that are subject to retention of title, as well as the items or claims that take their place if their value exceeds the amount of the secured claims by more than 50%. The choice of items to be released afterwards lies with the Seller.

**9.** If the Seller withdraws from the contract due to the Buyer acting in contravention of the contract - in particular in the event of default in payment - (enforcement event), the Seller is entitled to demand the return of the Retained Goods.

### **§ 10 Final Provisions**

**1.** If the Buyer is a merchant, a legal entity under public law or a special fund under public law, or if the Buyer does not have a general place of jurisdiction in the Federal Republic of Germany, the place of jurisdiction for any disputes arising from the business relationship between the Seller and the Buyer is the Seller's choice of either Hamburg, Germany, or the Buyer's registered office. In these cases, however, Hamburg, Germany, is the exclusive place of jurisdiction for lawsuits against the Seller. Mandatory legal provisions on exclusive places of jurisdiction remain unaffected by this regulation.

**2.** The relationships between the Seller and the Buyer are exclusively subject to the law of the Federal Republic of Germany. The United Nations Convention on Contracts for the International Sale of Goods of 11/04/1980 (CISG) does not apply.

**3.** Insofar as the contract or these GTC-S contain gaps, those legally effective provisions shall be deemed to have been agreed to fill these gaps, which the contractual partners would have agreed pursuant to the economic objectives of the contract and the purpose of these General Terms and Conditions of Delivery, had they had known about the gaps.