

# Sump & Stammer GmbH International Food Supply

## **General Terms and Conditions of Sale and Delivery**

### 1. General

- 1.1 These General Terms and Conditions of Sale and Delivery shall apply to all our future offers and transactions for the supply of goods to natural or legal persons or incorporated partnerships carrying out commercial or independent professional activities when concluding legal transactions. These General Terms and Conditions of Sale and Delivery shall also apply to legal entities under public law and fund assets under public law.

The General Terms and Conditions of Sale and Delivery shall be acknowledged by the Buyer upon conclusion of the contract but no later than on receipt of the first delivery, and shall apply for the duration of the business relationship.

- 1.2 Any of the Buyer's deviating terms and conditions shall hereby be rejected, and shall also not be accepted during the execution of the contract. Other agreements, in particular guarantees, amendments and additional agreements, shall only apply if we have expressly declared our agreement with this.

### 2. Offers / Orders

- 2.1 Our offers in brochures, advertisements etc., including price information, shall always be subject to change and shall not be binding.
- 2.2 Our information and descriptions in brochures, advertisements etc. regarding the nature and characteristics of goods shall not be binding and shall not constitute any agreement or guarantee regarding quality [and characteristics].
- 2.3 The contract shall only come into force following our written order confirmation; if an order confirmation is not sent, then the contract shall in any case come into force with the delivery itself in terms of our invoice.
- 2.4 During the delivery period, we shall be entitled to make production-related changes to the goods without prior notice provided they do not include unreasonable changes from the Buyer's perspective.
- 2.5 We shall be entitled to make part deliveries.

### 3. Deliveries / Risk transfer / Delivery deadlines

- 3.1 Deliveries shall be executed from our warehouses in Hamburg or directly from the producer/trader. We reserve the right to deliver on a cash-on-delivery basis.
- 3.2 Our written invoice shall be decisive for the scope of the delivery. The determination of the quantities relevant for the invoice shall be carried out at the responsible dispatch location according to Clause 3.1 unless a delivery is made by us from another agreed location.
- 3.3 The performance risk shall transfer to the Buyer, even for part deliveries, as soon as we hand over the goods to the person responsible for their transport. This shall also apply even if we transport them ourselves.
- 3.4 Delivery deadlines require separate agreement. Delivery deadlines contained in offers shall not be binding. If a delivery deadline is agreed to in writing, it shall begin on the date the contract is concluded or, in the case of a telephonic or written order, on the date of our order confirmation, but this date shall not be before we have received any possibly agreed payment from the Buyer. To ensure the delivery deadline is met, it shall be necessary to transfer the goods in a timely manner to the person responsible for transporting them in accordance with Clause 3.3. Our compliance with the delivery deadline shall in any case assume the fulfilment of the Buyer's contractual obligations.
- 3.5 Should any obstacles or hindrances occur on our part or on the part of our suppliers and subcontractors for which we are not responsible, such as force majeure, state intervention, export and import bans, strikes, delay or failure of the delivery of essential commodities, materials or parts and power failure, then the delivery deadline shall be extended appropriately even for deliveries that are already delayed. If our suppliers or subcontractors are unable to supply us fully or partially, despite the fact that we have concluded our supplier contracts in a timely manner along with the necessary due diligence, then we shall be entitled to withdraw from the contract with the Buyer in this respect. Our possible liability shall be determined in accordance with Clause 6.
- 3.6 The Buyer shall only be entitled to withdraw in accordance with the various statutory provisions if we are responsible for exceeding the agreed delivery deadlines - whilst also taking into account the various statutory exceptions - and the Buyer has set us a reasonable deadline for delivery which is not met. Withdrawal shall be excluded if the Buyer is largely responsible for the circumstance that would entitle him to withdraw, or if the circumstance that we are not responsible for occurs at a time at which the Buyer is in default of acceptance.
- 3.7 If the delivery is delayed for reasons attributable to the Buyer, then the default of acceptance and transfer of performance risk shall arise as soon as we have informed the Buyer of the goods' readiness for delivery.
- 3.8. If the Buyer is in default of an acceptance of even a part delivery, we shall be entitled to withdraw from the entire contract or parts thereof and submit a claim for compensation instead of performance for the entire contract or parts thereof following the expiry of a deadline to be set by us of least 2 weeks.

### 4. Notification of defects and rights in the event of a defect

- 4.1 Obvious defects must be notified immediately in writing no later than 48 hours after delivery. Concealed defects must be notified immediately in writing no later than 48 hours after they are discovered. Notwithstanding the above sentence, notification shall, however, be possible within 3 months from delivery of the goods.

- 4.2 In the event defective goods are delivered, we shall repair or replace the defective goods at our discretion. We shall acquire ownership of the replaced goods. If the replacement or repair work ultimately fails, the Buyer may request a reduction in price or to withdraw from the contract.  
Rights regarding replacements, repairs, withdrawals and/or claims for compensation shall not apply if the value or suitability of the goods supplied is only slightly reduced.
- 4.3 The Buyer is obliged to provide us with the opportunity to inspect and, where applicable, exchange any faulty goods.
- 4.4 In order to remedy any defects, the Seller must return the goods to us at our request. The goods must be complete, properly packed and labelled indicating the serial, order confirmation and invoice numbers. In addition a copy of the delivery note shall be attached. We shall be entitled at our discretion to remedy any defects also at the Buyer's premises.
- 4.5 All Buyer claims shall expire 3 months after delivery of the goods. This shall also apply to claims arising from any breaches of obligations which are unrelated to any material and/or legal defects. The statutory limitation periods shall apply with respect to wilful intent or fraudulent conduct and claims under the German Product Liability Law.
5. Prices and payment
- 5.1 The prices contained in the respective valid price list or in individual quotations shall apply. All prices shall apply from the dispatch location stated in Clause 3.1. The prices include the standard packaging of the goods. The Buyer shall bear all additional costs, in particular for shipment and transport insurance which we only conclude following express agreement.
- 5.2 Invoices shall be due ten days from the invoice date without any deduction. After the 10-day payment term has expired, we shall be entitled to claim interest on arrears in accordance with the statutory provisions of the Federal Republic of Germany. Payment shall be done by bank transfer to the account stated on the invoice with reference to the invoice number.
- 5.3 In the event the Buyer is in arrears, as well as for a justified concern of the Buyer's significant financial deterioration or inability to pay, we shall be entitled to suspend the delivery or choose to either demand payment for all claims, including those not yet due, or claims which have been deferred or those from bills of exchange, or request that appropriate collateral is provided. If the Buyer does not meet the demand for advance payment or guarantees within a reasonable period of time set by us, we shall be entitled to withdraw from all contracts and assert a claim for compensation.
- 5.4 With respect to refunded goods in accordance with the Common Market Law, the price is already reduced by the amount of the refund.
6. Liability
- 6.1 In the event of any acts of intent or gross negligence, or any acts of intent or gross negligence by our legal representatives or vicarious agents, and in the event of injury to life, body or health, we shall be liable toward the Buyer for any damages incurred.
- 6.2 Irrespective of their legal basis, we shall only be liable for the violation of essential contractual obligations for which we are culpable and which are indispensable for achieving the purpose of the contract. In such cases, provided no event stated Clause 6.1 is present, our liability shall be limited to any damage foreseeable at the time the contract was concluded.  
For each individual case, our liability is limited to three times the invoice amount of the relevant delivery.
- 6.3 Liability according to the Product Liability Act and other mandatory statutory provisions shall remain unaffected.
- 6.4 For the rest, liability shall be excluded.
7. Retention of title and security interests
- 7.1 We shall retain the title to the goods until full settlement of our claims against the Buyer arising from the business relationship, including any claims that may arise in future from contracts concluded simultaneously or at a later date (hereinafter referred to as "Retained Goods"). This shall also apply if individual or all our claims were included in a current account and the balance is drawn and recognised.
- 7.2 The Buyer shall be entitled to resell the goods in the ordinary course of business. The Buyer, however, herewith already now assigns all claims to us that arise from his customers or third parties as a result of the resale. If the Retained Goods are resold in an unprocessed state or, following processing or in combination with items exclusively owned by the Buyer, then the Buyer already now assigns claims to us that arise as a result of the resale in the full amount. If the Retained Goods are resold in an unprocessed state or in combination with items which do not belong to the Buyer, then the Buyer shall already now assign claims to us resulting from resale to the value of the Retained Goods along with all associated rights and with a priority over the rest. If a genuine or false open account relationship exists between the Buyer and the third party, or if such an open account is established later on, then the Buyer shall hereby assign claims to us from drawn balances or balances that are to be drawn in the future, the right to determine the current balance and the right to terminate a open account. We accept this assignment.  
The Buyer shall be authorised to collect these claims. Our authority to collect the claims shall remain unaffected hereof; however, we undertake not to collect the claims as long as the Buyer continues to meet his various payment obligations and other obligations. We can demand that the Buyer discloses the assigned claims and the relevant creditors, provides all information required for collection, surrenders the relevant documents, and notifies the creditors of the assignment.
- 7.3 The Buyer shall carry out a possible refinement or processing of the Retained Goods without this leading to any further obligations on our part. If the Buyer processes, refines, amalgamates or combines the Retained Goods with other

objects not belonging to the Buyer, we shall acquire joint ownership of the new objects in proportion to the value of the Retained Goods to the value of the other objects at the time of processing, refining, amalgamating or combining. If the Buyer acquires sole ownership of the new objects, then the contractual parties agree that the Buyer shall grant us joint ownership of the new objects proportionate to the value of the processed, handled, amalgamated or combined Retained Goods.

- 7.4 If liability for a bill is substantiated by us in connection with the payment of the purchase price by Buyer, the right of retention shall not expire before the bill is honoured by the Buyer as drawee.
  - 7.5 If the realisable value of the existing collateral exceeds the claims to be secured by more than 20%, we shall be obliged in this regard, if requested by the Buyer, to release the collateral.
  - 7.6 The Buyer may only transfer or pledge the Retained Goods as security with our express consent. In the event our security interests are affected by third parties, in particular with regard to the confiscation or seizure of the Retained Goods and/or claims assigned to us, the Buyer shall inform us without delay by sending us all documents available to him (e.g. such as the report on assets seized, etc.) and notify such third parties of our security interests. The Buyer shall be obliged to compensate us for any costs that arise as a result of any defensive action required attributable to any negative effect on our security interests.
  - 7.7 If the Buyer is in arrears in his payment of the purchase price, we shall be entitled to withdraw from the purchase without the need of a period of grace.
  - 7.8 In the event of the imminent cessation of payment, insolvency or negative information which indicates a significant deterioration in the Buyer's financial situation, we shall be entitled to take back the Retained Goods. The Buyer shall hereby irrevocably and unconditionally grant his consent to such surrender. The same shall apply in the event of enforcement actions, protests against the Buyer related to bills of exchange or cheques.
8. Customs duty and refunded goods
- 8.1. With respect to refunded goods, delivery shall only be permitted using eligible vessels within the meaning of Article 27 ZollVO [Zollverordnung = Customs Ordinance]. Any other use by the Buyer shall entitle us to reclaim the refund. The assertion of further damages shall remain unaffected.
  - 8.2. If the control copy T5 according to the implementation of the Customs Code Ordinance does not comply with the provisions of Regulation No. 612/2009 of 17 July 2009, we shall be entitled to reclaim the refund including any penalties that arise - where applicable. The assertion of further damages shall remain unaffected.
  - 8.3 In terms of Regulation No. 612/2009 of 17 July 2009, if the Buyer does not provide the required proof of export or does not provide it within the specified deadlines, we shall be entitled to reclaim the refund including any penalties that arise - where applicable. The assertion of further damages shall remain unaffected.
  - 8.4. If the Buyer does not meet his obligations under the Common Transit procedure and/or Community Transit procedure to provide the accompanying administrative documents (AAD) or electronic administrative documents (EAD) either or does not provide these within the specified period, we shall be entitled to a refund of any accrued import duties or penalties. The assertion of further damages shall remain unaffected.
9. Miscellaneous provisions
- 9.1 As proof of supplements to this agreement, amendments and add on's have to be done in written form.
  - 9.2 We may only offset these claims against undisputed or valid claims. The assertion of retention rights that do not relate to the same contractual relationship is excluded.
  - 9.3 In the event that individual provisions of these Terms and Conditions are or become invalid, this shall not affect the validity of the remaining provisions.
  - 9.4 The place of performance shall be our registered office. The laws of the Federal Republic of Germany shall apply with the exception of its provisions on international civil law. The United Nations Convention on Contracts for the International Sale of Goods is excluded. The exclusive place of jurisdiction shall be Hamburg. We shall, however, be entitled to take action at any other place of jurisdiction.