

Standard Terms and Conditions of Delivery and Sale (STCDSs) of the Company Friedr. Freek GmbH for Commercial Transactions with Companies

(our Standard Terms and Conditions of Delivery and Sale and our Standard Terms and Conditions of Purchase are available for you to view and download in the Internet at any time. You can fetch the current version from www.freek.de)

1. Applicability of the Terms

- (1) Our Standard Terms and Conditions of Sale apply only to companies. They apply to all contracts, deliveries and other services, insofar as they have not been amended or excluded with the specific agreement of the seller. They also apply to all future business transactions with the purchaser.
- (2) Our STCDSs apply, to the exclusion of all others. They override purchaser terms of business. They are also not mandatory if they do not contradict our terms of delivery. The same applies if the purchaser does not once again specifically contradict them.
- (3) All agreements reached between the purchaser and ourselves for the purpose of performing this contract must be recorded in writing in this contract or in an amendment agreement.
- (4) Unless otherwise specified in these Terms and Conditions of Sale, the terms and definitions of INCOTERMS 2010 apply.

2. Conclusion of Contract

- (1) Technical data and other details in descriptions of services, operating instructions, information to users, prospectuses and similar do not constitute a warranty under § 276, para. 1, of the German Civil Code (referred to below by its German abbreviation, (BGB)).
- (2) We reserve the proprietary rights and copyright to illustrations, drawings, costings and other documents, including in electronic form. They must not be made accessible to third parties.
- (3) If the order is to be handled as an offer in accordance with § 145 BGB, we can accept it within 12 working days.
- (4) The data according to section (1) above, or in public statements made by us, provided by the producer or the producer's supporters (§ 434 I 3 BGB) only becomes part of the product descriptions if it is explicitly referred to in this contract.
- (5) Drawings and samples that we make available to the purchaser remain our property, and must not be given to third parties, or shown to them, or reproduced, without our specific agreement.
- (6) The delivery quantity stated in the order confirmation is an approximate value. Minor deviations of plus or minus one piece, or up to 10% of the order quantity, are permitted. The price is then calculated according to the supplied quantity, multiplied by the agreed item price.

3. Prices and Terms of Payment

- (1) Unless otherwise agreed, prices are ex works, exclusive of packaging. Additional expenditure, such as for taking out insurance, is at the expense of the purchaser and requires specific agreement.
- (2) The legally due value-added tax is not included in our prices. It is charged separately at the current legal rate on the day of invoice creation.
- (3) Sales price payments are due, without deduction, within 30 days after delivery of the goods and receipt of the invoice, or within 10 days after delivery with a deduction of 1% discount. They are to be made in cash or by bank transfer. They will be considered to have been made from the date on which the amount is released to us as available funds.
- (4) Other payment methods can only be used with special written agreement. Any costs arising on both sides as a result will be borne by the purchaser.
- (5) The purchaser only has a right to offset or retain payments against uncontested or legally established receivables or claims.

4. Delivery and Duties of Cooperation

- (1) The extent of our duty to supply derives solely from this contract. We reserve the right to make alterations to construction, shape and colour in response to improvements in technology or the requirements of the law, or which are brought about by advances in technology insofar as the alterations are insignificant or are reasonable for the purchaser.
- (2) If the purchaser is willing to accept partial deliveries, these can be made and invoiced for.
- (3) Delivery dates are given strictly on the assumption that the purchaser will cooperate in accordance with the contract. Our compliance with our obligation to deliver as agreed presupposes the timely and proper fulfillment of the obligations of the purchaser.
- (4) If we ourselves do not receive supplies, despite having placed appropriate orders with matching quantities with reliable suppliers, we are absolved of our obligation to supply and can withdraw from the contract.
- (5) If, after signing the contract, it becomes evident that the purchaser cannot provide an adequate guarantee of ability to pay, and that our entitlement to payment is at risk, we are entitled to refuse to make deliveries until the purchaser has made any outstanding payments or put up surety for them. We are entitled to withdraw from the contract if the payment or surety is submitted within 12 working days of a request to do so.
- (6) If the purchaser delays in calling for, accepting or collecting a delivery, or is responsible for delaying shipment or delivery, we are, irrespective of further claims, entitled to charge a flat rate cost for storage in accordance with the prevailing storage costs for the location, regardless of whether the goods are stored on our premises or with a third party. We are also entitled to charge reminder fees at a cost of Euro 15 per reminder and delay interest at the legal or standard bank rate. The purchaser is entitled to prove to us that no, or much less significant, damage has occurred following the delay.
- (7) In accordance with German export trade law, the purchaser is personally responsible for performing their own export control and checking the purchased articles.

5. Delays in Delivery

- (1) The delivery deadline will be extended as required if we are unable to make a delivery by the agreed deadline as a result of circumstances beyond our control, at our premises or those of our suppliers. We shall inform the purchaser about such an eventuality without delay. Both parties are entitled to withdraw from the contract if the hindrance lasts longer than one month after the agreed deadline. Any further claims against us, due to our having exceeded the delivery deadline through no fault of our own, are excluded.
- (2) In the event of a delay in delivery, the purchaser is entitled to request flat-rated damages for delay worth 1.5 % of the delivery value per complete week, to a maximum of 10 % of the delivery value. The purchaser can also set a reasonable period of grace, in writing, which must be at least 15 working days. If this period passes with no result, the purchaser is entitled to withdraw from the contract or has the right to require the payment of damages instead of the performance. The liability for compensation is limited to 50 % of the damage that has occurred.
- (3) Para. 2 does not apply if the delayed performance is due to deliberate negligence, gross negligence or fundamental negligence. It also does not apply insofar as a commercial transaction for delivery by a fixed date has been agreed.

6. Place of Performance and Transfer of Risk

Place of performance is our company headquarters. Unless otherwise agreed in the order confirmation, delivery is "ex works". We make all deliveries at the risk of the recipient, even for carriage paid deliveries. As a matter of general principle, we do not insure the goods. The duty to deliver is considered to have been completely fulfilled as soon as the goods are handed over to the shipping company or leave our site.

7. Defects of Quality

- (1) With regard to defects of quality, the purchaser is initially required to comply with the statutory inspection and complaint obligations of § 377 HGB.
- (2) The purchaser cannot derive any further rights from defects of quality which do not, or only immaterially, impair the value and fitness of the goods for the purpose recognisable by us.
- (3) If a defect of quality is identified in the goods during the transfer of risk, we have the right to provide additional fulfilment and are, indeed, obliged to do so. This rectification shall be achieved by rectifying the defects or by a replacement delivery, as we choose. We will bear the rectification costs, in particular transport, travel and labour costs and costs of materials. If these costs amount to more than 50% of the value of the delivery, we are entitled to refuse to rectify the defects.
- (4) If the damages are the result of a culpable breach of a major contractual duty on our part, or a "cardinal duty", we shall only bear liability for the damages typically associated with this kind of contract.
- (5) Any other contractual and criminal claims by the purchaser are excluded. In particular, we accept no liability for damages not caused to the delivery item itself, or to claims for loss of profit or other financial losses on the part of the purchaser.
- (6) The above provisions shall not apply to pre-owned goods. We do not accept any liability for defects of quality, except in cases of deliberate negligence, or gross negligence.
- (7) § 478 BGB remains unaffected by paras. 2 – 6 above.

8. Other Liability for Compensation

- (1) The provisions in section 7, paras. 5 – 7 above also apply to claims for damages due to other breaches of duty.
- (2) In the case of any breach of a pre-contractual obligation or an impediment to performance which already existed when the contract was concluded (§§ 311 II, 311a BGB), our obligation to provide compensation shall be confined to the negative interest.
- (3) The provisions in section 7, paras. 5 – 7 apply accordingly for our delinquency liability.
- (4) If our liability is excluded or limited, it also applies to the personal liability of our employees, workers, co-workers, representatives and authorized representatives.
- (5) The liability of Friedr. Freek GmbH is limited to a maximum of twice the goods value of the supplied products.

9. Expiry of Rights

- (1) The purchaser's right to demand rectification or replacement expires one year after delivery of the goods, subject to § 438 No. 2, 479 BGB (time-barring). Accordingly, the right to withdrawal and reduction of the purchase price shall be ruled out according to the statutory provisions.
- (2) The limitation period for claims for damages is one year, subject to § 438 No. 2, 479 BGB.
- (3) In the case of claims based on the law on liability for the product (ProdHaftG) and in cases of deliberate negligence, or gross negligence, the expiry of rights according to legally defined time-barring applies.

10. Retention of Title

- (1) We shall retain ownership of the delivered goods until complete payment of all claims from the business relationship with the purchaser, including claims arising in future from contracts signed at the same time, or later, has been made. This also applies if claims have been included in an ongoing invoice and the balance has been struck and approved.
- (2) The purchaser is entitled to sell or process the goods in the normal course of business. The purchaser performs any processing on our behalf and this shall not give rise to any obligations on our part. In the case of processing, combination or commingling of the goods to which we retain title with other goods by the purchaser, we shall be entitled to a share of ownership in the new article created. In the case of processing, this share of ownership shall be proportional to the value (= gross invoice value including incidental costs and taxes) of the goods to which we retain title, at the value of the new article. In the case of combination or commingling of the goods mentioned above, we shall be entitled to a share of ownership in the new article created, proportional to the value of the goods to which we retain title, at the value of the new article.
- (3) The purchaser hereby assigns to us all claims to payment that the purchaser acquires from reselling to the purchaser's own customers or to third parties. The purchaser shall be entitled to enforce these claims, even after they have been assigned. Our right to collect the claims shall remain unaffected by this, however, we commit ourselves not to apply our right to collect the claims as long as the purchaser duly meets their financial and other obligations. If requested by us, the purchaser must inform us of the transferred outstanding accounts and the associated debtors, provide all the information required to collect payment, hand over the associated documents to us, and inform the debtors of the transfer.
- (4) If the purchaser acts in any way that is contrary to the contractual obligations, in particular in the event of a delay in payment, we shall be entitled to withdraw from the contract and to demand the return of the goods. For the purposes of reclaiming the goods, the purchaser shall irrevocably grant us the right to enter the purchaser's business and storage premises and take the goods away.
- (5) While, and for as long as, our claim to title remains in force, the purchaser shall have no right to use the items we have supplied as security or to pledge them to any third party. Entering into financing agreements (e.g. leasing) involving the transfer of ownership of reserved goods by way of security shall require our prior written consent, unless the party providing the financing is obliged under the financing agreement to pay the portion of the purchase price to which we are entitled directly to us.
- (6) The purchaser must inform us of seizure and other third-party interventions promptly, in writing. The purchaser is prohibited from entering into agreements with third parties which exclude or impair our rights.
- (7) We undertake to release the securities due to us at the request of the customer, as we choose, provided that the achievable value of the securities exceeds the accounts receivable to be secured by more than 20 %, or if their nominal value exceeds 50%.

11. Data Protection

We reserve the right to secure the business through a credit insurance policy and to transfer the necessary purchaser data to the insurer. Permission to store data is given in accordance with § 23 of the German data protection law (BDSG). You are hereby notified that your data will be stored in accordance with § 26 para. 1 BDSG.

12. Other Provisions

- (1) The purchaser's rights from this contract are not transferable.
- (2) If individual provisions are legally invalid, the validity of the other provisions shall not be affected.
- (3) If the supplier is a merchant within the meaning of BGB, the sole place of jurisdiction for disputes with the supplier is our headquarters. This place of jurisdiction is not exclusive.
- (4) German law applies exclusively, with the exclusion of UN sales law (CISG).