

Terms of sale and delivery of Gruschwitz Textilwerke AG, Leutkirch

I. Scope

The following terms apply exclusively to all, including future, offers submitted by us as well as to all current and future contracts concluded between us and entrepreneurs, legal persons under public law or special funds under public law in terms of Sec. 310 German Civil Code (hereinafter: "customer"), even if they are not referred to in subsequent contracts. Other conditions of the customer are only valid if confirmed in writing. The following terms shall apply even if we make a delivery to the customer without reservations whilst being aware of the customer's conflicting or deviating terms and conditions.

II. Conclusion of contract

1. All our offers, including but not limited to those in catalogues, sales materials and on the internet, shall be without obligation. Legally such offers shall be deemed as invitations to treat.
2. Orders shall be deemed to be accepted if confirmed by us in writing or if such orders are performed on schedule or immediately following receipt of the order.
3. In cases of doubt, the terms of the contract shall accord with our acknowledgement of order or, should no such acknowledgement be issued, with our delivery note or, in the absence of such delivery note, our offer or price list. An administrative mark-up for small-volume purchases of 25 Euros shall be charged on orders worth less than 250 Euros.
4. Should the customer alter the quality description of the product and should such alteration be confirmed by us in writing, the alterations thus confirmed by us shall be authoritative for all subsequent orders even if the customer does not make reference to the applicability of such alterations to subsequent orders.
5. Quality descriptions and agreements shall not imply the provision of a warranty.

III. Price

1. All prices are quoted in Euros as net prices to which currently valid statutory value-added tax shall be added, ex works Leutkirch, and are exclusive of customs, border, insurance, transport, unloading and packaging costs which shall be borne by the customer.
2. Should the parties have agreed that packaging will be taken back, such packaging shall be returned carriage paid and free of expenses, immediately and in faultless condition.
3. We reserve the right to pass on to the customer changes in commodity, energy or raw material prices, or changes in wages and salaries or transport costs in the period intervening between conclusion of the contract and delivery. Upon request of the customer we will provide proof for such changes.

IV. Delivery and passage of risk

1. Delivery periods shall only commence upon final clarification of all export provisions. Compliance with delivery periods which may have been agreed shall be contingent on fulfilment of the customer's contractual duties. In the event of delays in delivery and performance as a result of force majeure and owing to events for which we are not responsible and which render delivery significantly more difficult, including but not limited to directives issued by public authorities, transport disruptions, etc., including if such events affect our suppliers and subcontractors, the agreed period shall be extended for a reasonable period of time. This shall equally apply in the event of labour disputes (such as strikes and lockouts) that affect us or our suppliers and subcontractors. We and the customer shall, however, be entitled to withdraw from the contract 5 months subsequent to expiry of the original delivery time. Neither we nor the customer shall be entitled to assert further claims or rights following such termination.
2. We endeavour to comply with agreed delivery periods. Should we culpably fail to comply with delivery periods, the customer shall be required to provide us with a specified reasonable period of grace. Following abortive expiry of said period of grace, the customer shall be entitled to withdraw from the contract. Our liability for damages caused by delay shall be limited to an amount equal to 5 % of the agreed net purchase price. Our unlimited liability according to Section VIII of these terms remains unaffected.
3. Partial deliveries may be made on a reasonable scale.
4. Delivery shall be made ex works. Therefore, the risk of accidental destruction and accidental deterioration shall pass to the customer when we place the goods at the disposal of the customer. If, upon request of the customer, we ship the goods to another place than the place of performance, the shipping route and means of transport used shall be specified at our discretion unless otherwise agreed. In this case, the risk shall pass to the customer upon transfer of the goods to an appropriate carrier. This shall also apply if we transport the delivery with our own personnel. At the customer's request we shall provide transport insurance cover for the delivery at the customer's cost.
5. If delivery is delayed owing to circumstances for which the customer is responsible, the risk shall pass to the customer on the day on which the goods are ready for delivery, however, we shall be required to obtain requisite insurance cover at the request and cost of the customer.
6. Make-and-take orders shall be called-off within a period of one year of conclusion of the contract at the latest. Should the customer fail to call off goods subject to make-and-take order on the agreed intermediate or final deadlines, the purchase price shall increase in line with any increases in commodity, energy or raw material prices, or increases in wages and salaries or transport costs, which may take place in the period between the release date and the actual call off.

V. Payment

1. Our invoices shall be due for settlement immediately. All payments shall be made exclusively to us or to one of the accounts specified in the acknowledgement of order or invoice.

2. Cash discounts which may be agreed shall not be granted should the customer be in default of payment of earlier deliveries.
3. The customer shall be deemed to be in default of payment if payment should not be made within 3 weeks of receipt of the delivery. The statutory provisions relating to default of payment shall additionally apply.
4. We only accept bills of exchange if explicitly agreed and only on account of payment. Bills of exchange and cheques shall only be credited on the value date of receipt of their redemption value minus expenses.
5. The customer shall have no right to set his claims off against our claims or to exercise a right to retain with regard to his claims unless the customer's claims are undisputed or have been established in a judgment that cannot be appealed against. Furthermore, the customer may only exercise a right to retain if the customer's claims and our claims are based on the same contract. Offsetting or assertion of the right to retain shall also be permitted during the course of court proceedings with regard to claims which are ready for decision.

VI. Retention of title

1. The delivered goods shall remain our property until settlement of the purchase price and all future claims arising from the business relationship with the customer. Retention of title shall continue to apply if individual claims are added to an open account and the balance drawn and accepted.
2. The customer shall be entitled to resell the reserved goods in the ordinary course of business. The customer shall, however, herewith assign to us all claims - equivalent in value to our invoice amount - due from the customer's own purchasers or third parties which accrue from the resale of the reserved goods by the customer regardless of whether or not further work has been done on the supplied goods prior to or after they are resold. Should the customer add a claim, which has been acquired from the resale of the goods and which has been assigned to us, to an open account for his own customer, said current account claims shall also be assigned to us. Following balancing of the account, the assigned claim shall be replaced by the recognised balance which shall be assigned up to the value of the amount equivalent to our original claim. Subject to revocation the customer shall be authorised to collect assigned claims. We shall refrain from exercising our right to collect such claims provided that the customer complies with his payment obligations to us. On request the customer shall provide us with the names of debtors of the assigned claims and shall inform said debtors that such notice has been made; we retain the right to notify such assignment to the debtor ourselves.
3. Should the goods be processed or transformed, this shall be performed on our behalf. We shall therefore be deemed to be the manufacturers as defined by Section 950 BGB (German Civil Code). In the event that the goods are processed with other objects which we do not own, we shall acquire co-ownership to the new object based on the ratio of the value of the reserved goods to the value of the other goods at the time of their processing.

4. Should the reserved goods be joined, blended or mixed with objects which we do not own pursuant to Sections 947, 948 BGB, we shall acquire co-ownership as governed by statutory provisions. Should the customer acquire sole title to the goods by virtue of joining, blending or mixing, the customer shall herewith grant us co-ownership to the new object based on the ratio of the value of the reserved goods to the value of the goods created as a result of such joining, blending or mixing.
5. In all cases the customer shall store our exclusive property or jointly-held property, which shall also be deemed to be reserved goods as defined in the following provisions, on our behalf at no charge.
6. In the case of the cheque or bill of exchange transactions, our retention of title in all degrees shall only be released when the customer has fulfilled all his obligations to us. The customer shall not be entitled to pledge the reserved goods or assign the same by way of security.
7. The customer shall inform us in writing immediately in the event of any seizure or other act of intervention by third parties to enable us to bring an action under Section 771 ZPO (German Code of Civil Procedure). Should the third party not be able to reimburse to us the court or out-of-court costs of an action brought under Section 771 ZPO, the customer shall be liable for any losses we may incur.
8. Until acquisition of unrestricted title to the delivery item, the customer shall provide (comprehensive) insurance at his own cost to cover all risks and provide verification on request of such insurance cover. Should damages be incurred, the customer's insurance claims shall be deemed to be assigned to us to the value of claims against his own customer.
9. We undertake to release the collateral security due to us at the request of the customer to the extent that the realizable value of such collateral exceeds the value of the secured claims by more than 10 %. The choice of collateral security to be released is ours. The value of the collateral in simple retention of title is assessed in accordance with Clause 1 on the basis of our relevant invoice amounts; should claims have been assigned, the value of such collateral shall be assessed on the basis of the customer's invoice amounts for the resold goods.
Should goods which have been processed still be in the possession of the customer, the value of the securities is determined according to our price for re-use. This will be communicated to the customer in writing. Upon receipt of this communication the customer may inform us, within a period of 14 days, of purchasers who are prepared to pay a higher price than our price for re-use. Provided the payment is assured, we are obliged to release collateral security valued at the higher price.
Should the customer hold co-ownership to the resold reserved goods, the assigned claim shall amount to the value equivalent to the customer's share of the co-ownership.

VII. Notification of defects, liability for defects

1. The customer shall inspect the goods received immediately with regard to quantity, quality and defects. The customer shall give us written notice of any obvious defects and of defects that could be identified during such inspection without undue delay. The customer must provide us with written notice of any hidden defects without undue delay after such defects have been discovered. Otherwise the goods shall be

deemed as approved. Notice shall be deemed given without undue delay in terms of this Section VII. para. 1. if it is made within 8 working days, whereas receipt of the notice by us shall be decisive. Visible transport damages shall be notified immediately and a notice made on the receipt.

2. Should the customer detect defects in the goods, the customer shall not dispose of the goods in any way - i.e. the goods shall not be split, resold or reprocessed.
3. In the event of defects or lack of agreed quality characteristics in the goods delivered, we shall be entitled to opt to remedy said defects or provide replacement delivery of goods in perfect condition at our own discretion.
In the event that we opt to remedy a defect, we shall be entitled at our own discretion to demand that the defective product is sent to us for reworking or exchange and subsequent re-delivery, or that the customer keeps the defective product ready for reworking or exchange by us or by persons commissioned for this purpose by us at the customer's location.
The customer shall not be obliged to return the defective product to us if this should be unreasonable for the customer.
4. Expenses that incurred in relation with the remedy of defects (including but not limited to costs of travel and transport, labour and material) shall be borne by us. This shall not apply to increased expenses arising owing to the relocation of the purchased item to a place other than the place of delivery or the customer's commercial branch unless said relocation corresponds with such item's intended purpose.
5. If we fail to remedy a defect or to provide a replacement delivery of goods, or should these measures be impossible, unreasonable for the customer, refused by us or should the same be delayed for longer than a reasonable period of time for reasons for which we are responsible, the customer shall be entitled at his own discretion to withdraw from the contract or to demand a reduction in the purchase price or reimbursement of expenses. We shall be liable for damages incurred by the customer in the framework of the general liability provisions under Clause VIII.
6. The limitation period for warranty claims is 12 months. The statutory provisions shall continue to apply to the limitation period for recourse claims pursuant to Section 478 BGB.

VIII. General liability

1. Claims for damages, regardless of their legal standing, asserted by the customer shall only be accepted
 - a) if damages arise as a result of the culpable breach of contract which jeopardizes the very purpose of the agreement, or
 - b) if we have warranted the characteristics of the delivered goods or have guaranteed quality, or in the case of
 - c) damages relating to injury to life, body or health, or
 - d) damages which are due to wilful intent or gross negligence, or
 - e) instances in which we are liable under the German Product Liability Act (Produkthaftungsgesetz).

2. Should we be liable pursuant to Clause 1 a) for breach of contract without having acted with gross negligence or with wilful intent or the occurrence of damages relating to injury to life, body or health, the amount of the liability shall be limited to those damages which we must have typically been able to anticipate on the basis of the circumstances known to us at the time, the contract was concluded.
3. We shall only be liable for recommendations confirmed by us in writing.
4. The limitation of liability provisions referred to above shall apply respectively to the actions and personal liability of our employees, agents in performance, representatives or other agents.

IX. Confidentiality/privacy

1. Unless otherwise agreed, information that is submitted by the customer will not be deemed confidential.
2. Personal data will be processed by us (Gruschwitz Textilwerke AG, Memminger Straße 68, D-88299 Leutkirch im Allgäu, phone: +49 (0) 7561 9098-0, fax: +49 (0) 7561 9098-999, email: info@gruschwitz.com) as controller, as defined in Article 4(7) GDPR, within the limits defined by the applicable laws and regulations. Our Company Data Protection Officer can be reached at Gruschwitz Textilwerke AG, Datenschutzbeauftragter, Memminger Straße 68, D-88299 Leutkirch im Allgäu, phone: +49 (0) 7561 9098-0, fax: +49 (0) 7561 9098-999, email: datenschutz@gruschwitz.com.
3. We will process personal data that we receive from the customer and/or the customer's staff in connection with the business relationship. Furthermore, we will process personal data that we have legitimately obtained from publicly accessible sources (e.g. commercial register, newspapers, the Internet) and which we are allowed to process. The data processed by us includes customer data and/or personal data of the customer and its staff (e.g. name, address, email addresses, telephone numbers and other contact details), payment data, data concerning the goods ordered, and advertising and sales data.
4. We will process the personal data to the extent that this is necessary for the initiation and implementation of contracts and for managing the customer relationship. Such processing therefore takes place for the purposes of performing contractual obligations on the basis of Article 6 (1) (b) GDPR. Failure to provide the required data may result in the conclusion of a contract becoming impossible. Furthermore, we will process personal data for the purposes of our legitimate interests on the basis of Article 6 (1) (f) GDPR. This includes, for example, processing for advertising purposes and for the purposes of market research and opinion polling (to the extent that the processing for these purposes has not been objected to), processing for the purposes of tailoring offers as needed and of addressing customers directly, processing for the establishment of legal claims and for defence in legal disputes, as well as processing for business management measures and for measures regarding the further development of products.
5. We will transfer data from the customer to service providers and vicarious agents who are employed by the customer in implementing the legal relationship. This includes transferring any data that is needed for delivery to the shipping companies involved,

to the manufacturer of the goods or to providers of technical services to the extent that they are in charge of carrying out the delivery to the customer. In addition, we will transfer data (name, address, payment data) to the credit agencies CRIF Bürgel GmbH, Radlkofenstraße 2, 81373 Munich, Germany, and Verband der Vereine Creditreform e.V, Hellersbergstraße 12, 41460 Neuss, Germany, for the performance of credit checks. The credit agencies will provide us with information about the customer's payment history and with information concerning creditworthiness based on mathematical-statistical procedures involving the address data, among other things. The collection, storage and transfer hence take place for the purposes of carrying out a credit check with a view to preventing defaults of payment and on the basis of Article 6 (1) (b) GDPR and Article 6 (1) (f) GDPR. We will further transfer personal data to providers of credit insurance, debt collection and marketing services.

6. We will store the personal data for as long as this is necessary for the business relationship, in particular, the initiation and implementation of contracts, and for compliance with legal obligations. Such legal obligations particularly include retention duties under the German Commercial Code (Handelsgesetzbuch) and the German General Tax Code (Abgabenordnung). The retention periods stipulated therein are six to ten years. The duration of storage is further influenced by the statutory limitation periods. According to Sections 195 et seq. BGB, the regular limitation period is three years; in certain cases, however, the limitation period may be as long as thirty years.
7. We will not transfer personal data to countries outside the EU or to international organisations.
8. Each data subject has the right to obtain from us access according to Article 15 GDPR, rectification according to Article 16 GDPR, erasure according to Article 17 GDPR and restriction of processing according to Article 18 GDPR, the right to object according to Article 21 GDPR and the right to data portability according to Article 20 GDPR. The right of access and the right to erasure are subject to the restrictions stipulated in Sections 34, 35 BDSG (German Federal Data Protection Act). Furthermore, under Article 77 GDPR in conjunction with Section 19 BDSG, each data subject has the right to lodge a complaint with a competent data protection supervisory authority. Consent, once given, may be revoked at any time by notice to us.
9. According to Article 21 (1) GDPR, a data subject has the right to object at any time, on grounds relating to his or her particular situation, to data processing carried out on the basis of Article 6 (1) (f) (data processing based on the balancing of interests). If the data subject objects, we will no longer use his or her personal data, unless we can demonstrate compelling legitimate grounds for the processing which override the interests, rights and freedoms of the data subject, or unless the processing serves the purpose of establishing, exercising or defending legal claims.
10. **A data subject may object to his or her data being used for direct marketing purposes at any time with effect for the future; this also applies to profiling to the extent that it is related to such direct marketing. In the event of an objection, we will no longer process the personal data concerned for direct marketing purposes.**
11. Objections according to Clauses 9 and 10 do not need to be made in any particular form and should be addressed to Gruschwitz Textilwerke AG, Datenschutzbeauftragter, Memminger Straße 68, D-88299 Leutkirch im Allgäu, phone: +49 (0) 7561 9098-0, fax: +49 (0) 7561 9098-999, email: datenschutz@gruschwitz.com.

X. Final Provisions

1. No verbal additional agreements have been made. Verbal additional agreements, which deviate from our offer or the written contract, shall only be valid if confirmed in writing by us.
2. The place of performance for both contracting parties and for all present and future claims arising from the business relationship shall be Leutkirch.
3. The sole legal venue for registered traders, legal persons and special funds under public law for any actions on cheques and bills of exchange as well as for all other direct or indirect legal disputes shall be Leutkirch. We shall, however, also be entitled to bring an action at the customer's place of business or before other courts which may have jurisdiction for such matters on the basis of German law or the law of any other country.
4. In international business transactions, whenever a legal dispute arises out of or in connection with this agreement and its implementation, the contracting parties may choose whether to turn to the ordinary courts of law or whether to bring the matter before an arbitral tribunal. If the parties turn to an arbitral tribunal, all disputes arising out of or in connection with the present agreement shall be finally decided in accordance with the Vienna Rules of Arbitration (2013). The place of arbitration shall be Vienna, Austria. The arbitral tribunal shall be comprised of three arbitrators. Unless otherwise agreed between the parties, at least one of the individual arbitrators must have studied law and completed such studies successfully. The arbitrators must be in command of the language of the arbitral proceedings. The language of the arbitral proceedings shall be German unless the parties agree on another language for the arbitral proceedings.
5. The legal relationship with the customer shall be subject to German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).
6. Should one or several provisions be null and void, either wholly or in part, this shall not affect the validity of the remaining provisions. Should clauses which are null and void contain elements which are reasonable and valid, the valid elements of the same shall continue to apply. The contracting parties undertake herewith to substitute any provisions which are null and void with provisions which correspond as closely as possible to the business purpose and intent of the provisions which are null and void.

Status: May, 2018