

General Terms of Business for the Company “Swing Modelle Bekleidungs GmbH” July 2009 Edition

Our terms of supply and our payment terms, which the customer agrees to when issuing an order, are exclusively valid. This also applies to future business even if expressed reference to the terms is not made but the terms have been received by the purchaser with an order confirmation from us. If the order is accepted with deviations from our terms of supply and payment terms, deviations are only valid if we expressly acknowledge them in writing; even if we do not contradict them.

§ 1 Place of Execution, Delivery and Acceptance

1. The place of execution for all activities in relation to the purchase contract is the location of the seller's commercial establishment.
2. Delivery of the goods is ex-works from the domestic location. The buyer covers all shipping costs. The buyer can select the freight forwarder. The goods are to be sent uninsured. A notification of despatch can be arranged.
3. A flat-rate storage charge may be invoiced for deliveries from a foreign warehouse.
4. Packaging costs for special packaging will be covered by the buyer.
5. Arranged partial shipments of goods prepared in combinations must take place promptly and must be notified in advance. Unarranged partial deliveries are only permitted with the agreement of the buyer.
6. If acceptance of the delivery does not take place promptly at the fault of the buyer, the seller is entitled to choose between issuing an invoice for the outstanding balance, withdrawing from the contract or demanding replacement of damages after setting a period of 12 days.

§ 2 Court of Jurisdiction

We are entitled to select the court of jurisdiction: either the location of the company or Frankfurt am Main.

§ 3 Subject Terms of Contract

1. The delivery of goods takes place on specific dates (a specific working day or specific calendar week). All sales are exclusively arranged with specific quantities, articles, qualities with fixed prices. Both parties are legally bound to these arrangements. Transactions on a commission basis will not be made.
2. Block orders are permitted and the terms must be fixed upon entering the contract. The acceptance period must be a maximum of 12 months.

§ 4 Interruptions to Supply

1. In cases of force majeure, industrial dispute measures and other non-culpable operational disturbances which have lasted longer or are predicted to last longer than one week, the acceptance period will be extended by the length of the disturbance without further measures; with a maximum of 5 weeks plus the subsequent delivery period at the most. This extension only applies if the other party is immediately

notified about the reason for the disturbance as soon as it is clear that the previous deadline cannot be met.

2. If the delivery/acceptance does not take place on time, the other contract party is entitled to withdraw from the contract. However, the party must notify its intent to exercise the right to withdrawal in writing with a notice period of two weeks.
3. The respective contract party can withdraw from the contract immediately if one contract party does not immediately notify the other contract party upon request that the delivery has not been received / accepted punctually and that the disturbance has lasted longer than 5 weeks.
4. Claims to replacement of damages are excluded if the respective contract party has not satisfied its obligations in accordance with points 1-3.

§ 5 Subsequent Delivery Period

1. After expiry of the delivery date, a subsequent delivery period of 12 days commences without needing to be declared. After expiry of the subsequent delivery period, a withdrawal from the contract applies with exclusion of claims to replacement of damages. Withdrawal from the contract in accordance with point 1, sentence 2 does not apply if the buyer declares to the seller within the subsequent delivery period that he insists on fulfilment of the contract. However, the seller is released from the obligation to supply if the buyer does not state whether he insists on fulfilment of the contract upon the request of the seller within the subsequent delivery period.
2. Fix transactions will not be made. If, in individual cases, the parties agree that the goods are intended for a specific campaign, a fixed delivery date can be arranged without a subsequent delivery period. After expiry of this delivery date, the buyer can demand the replacement of specific expenses for the ordered goods, but the sum of the purchase price of the ordered goods as a maximum amount. Further claims are excluded. The buyer can only reduce the purchase price or withdraw from the contract if the campaign products are defective.
3. If the buyer wants replacement of damages instead of the delivery, he must set a 4-week deadline to the seller and threaten to refuse the fulfilment of the contract after expiry of this deadline. The notice period will be calculated from the date on which the buyer's correspondence is received by the seller by registered post. This clause only applies in cases mentioned in point 1, sentence 2 instead of the mentioned withdrawal, if notification of the setting of a deadline by the buyer is received by the seller within the subsequent delivery period.
4. The subsequent delivery period of five working days applies to stock items which are ready to ship and NOS goods - "Never-out-of-Stock". The buyer must be immediately informed if delivery is not made. Apart from this, the regulations in points 1 and 3 apply.
5. Claims by the buyer due to delayed deliveries are excluded before expiry of the subsequent delivery period.

§ 6 Notification of defects

1. Notification of defects must be submitted to the seller within 12 days after receipt of the goods at the latest.

2. Complaints for obvious defects may not be made after cutting or beginning any other processing work on the supplied goods.
3. Minor differences to quality, colour, width, weight or the fitting or design which cannot be technically avoided may not be rejected. The same also applies to standard differences unless the seller has provided written confirmation of delivery of goods according to a sample.
4. If the notification of defects is authorised, the seller has the right to improve or deliver perfect replacement goods within a period of 12 days after return receipt of the goods. The seller covers the costs of shipping in this case. If the subsequent delivery is not appropriate, the buyer has the right to reduce the purchase price or withdraw from the contract
5. After expiry of the period mentioned in point 4, the buyer only has the right to reduce the purchase price or withdraw from the contract.
6. Any hidden defects must be notified to the seller by the buyer immediately upon discovery. Due to the timely notification of defects, the buyer can only reduce the purchase price or withdraw from the contract.

§ 7 Payment

1. The invoice will be issued on the day of delivery or provision of the goods. A delay to the due payment date (value dates) is generally excluded.
2. Invoices are payable:
 - Within 10 days of issue of the invoice and dispatch of the goods with 4 % express payment discount.
 - Between the 11th and 30th day after issue of the invoice and dispatch of the goods with 2.25 % cash discount.
 - Net payment between the 31st and 60th day after issue of the invoice and dispatch of the goods.
 - The payment date is defaulted from 61st day in accordance with § 286 II no. 1 BGB (Civil Code).
3. Advance interest shall never be granted.
4. Payments will always be used to settle the oldest debts and any applicable interest incurred through defaulted payments.
5. The postal despatch stamp is decisive for the clearing of payments. For bank transfers, the day before credit to the seller's bank account counts as the day of payment clearing.

§ 8 Delayed Payments

1. Interest of 8% above the German Federal Bank's base interest rate will be charged for payments after the due date.
2. The seller is not obliged to make any further deliveries from any current contract before full payment of due invoice amounts including interest have been received. Rights to enforce damages caused by a delay are reserved.

3. If the buyer defaults on any payment obligations, all outstanding claims are immediately due.
4. We are entitled to enforce our rights from the retention of title (refer to § 10 below), with particular reference to the return of goods supplied under the retention of title, without previous withdrawal from the respective purchase contract.

§ 9 Payment Methods

Offsetting by the customer due to his own claims to payments is excluded unless they are undisputable or legally binding. The enforcement of retention of title rights by the customer is excluded unless it refers to the same contractual relationship or counterclaims are undisputable or legally binding.

We are entitled to surrender the claims from our business relations.

If the claims are surrendered and the surrender has been notified, all payments are to be exclusively paid with discharge of debts to VR FACTOREM GmbH Ludwig Erhard-Strasse 30-34, 65760 Eschborn, where we have surrendered parts of our current and future claims from our business relations. We have also transferred our reservation of ownership to VR FACTOREM GmbH.

§ 10 Reservation of Title

1. The goods remain the property of the seller until full payment of all claims from the delivery of goods from the complete business relationship is received including all additional claims, claims for replacement of damages and the redemption of cheques and bills of exchange. The reservation of title also exists when individual claims by the seller are included in an open invoice and the balance is drawn and acknowledged.
2. If the goods subject to the reservation of title are combined, mixed or processed by the buyer to form a new, manoeuvrable object, this takes place on behalf of the seller without the seller having to be obliged. The buyer does not gain ownership of the combined, mixed or processed new item in accordance with §§ 947 ff BGB (Civil Code). If the goods are combined, mixed or processed with other items which are not the property of the seller, the seller gains co-ownership of the new object with the invoice value of his property in relation to the total value of the object.
3. If business transactions between the seller and buyer take place through a central accounting office which takes over del credere, the seller transfers the ownership of the goods to the central accounting office with the condition that payment of the purchase price is received by the central accounting office. The buyer is released once payment from the central accounting office is received.
4. The buyer is only entitled to resell or reprocess the goods under consideration of the following terms.
5. The buyer is only allowed to sell or process the goods subject to the reservation of title in normal business transactions as long as his financial situation is not sustainably impaired.
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- 6a. The buyer hereby surrenders the claim with all additional rights from the resale of the goods subject to the reservation of title including any payment balances to the seller.
 - 6b. If the goods have been combined, mixed or processed and the seller has gained co-ownership of the value of the invoice, he is entitled to claim the purchase price in relation to the value of his rights to the goods.
 - 6c. If the buyer has sold the claim within the scope of real factoring, the buyer surrenders the claim against the factor to the seller and transfers the sales revenue in relation to the value of the seller's rights to the goods.
7. The buyer is obliged to disclose the surrender to the factor if he delays settlement of an invoice for more than 10 days or if his financial situation is negatively affected. The seller accepts this surrender. As long as he meets the payment obligations, the buyer is entitled to collect the surrendered claims. The authorisation for collection no longer applies if the buyer defaults payment or if the buyer's financial situation fundamentally worsens. In this case, the seller is authorised by the buyer to inform the customer about the surrender and personally collect the claims. The buyer must provide the necessary information for enforcement of the surrendered claims and must allow the details to be checked. The buyer must particularly provide the seller with an exact list of the claims he is entitled to with the names and addresses of the customers, the sums of the individual claims and the invoice date etc upon request.
 8. If the value of the securities provided to the seller exceeds the total claims by more than 10%, the seller is obliged to release the security of the buyer's choice upon request.
 9. The pledge or security assignment of the goods subject to the reservation of title is not authorised. The seller must be notified of any seizures and immediately provided with the details of the creditor.
 10. If the seller accepts return delivery of the supply goods by exercising his rights to reservation of title, withdrawal from the contract only takes place if the seller provides a declaration. The seller is free to personally sell the returned goods subject to the reservation of title.
 11. The buyer stores the goods subject to the reservation of title on behalf of the seller free of charge. The buyer must insure the goods against the usual risks such as fire, theft and flooding at the usual extent. The buyer hereby surrenders the damage claims he is entitled to from the above-mentioned types of damages against the insurance company or other engaged company to the seller at the sum of the invoice value of the goods. The seller accepts the surrender.
 12. All claims and rights from the reservation of title for all special forms specified in these terms exist up until full release from any debts (cheques or bills of exchange) that the seller receives in the interest of the buyer. In the case of sentence 1, the buyer is generally permitted to undertake factoring for his accounts receivables. However, the buyer must inform the seller before entering any debt commitments.

§ 11 Applicable Law

The laws of the Federal Republic of Germany are exclusively valid.