

General Conditions for Sales, Deliveries and Payments of Quality Brands GmbH

§ 1 Orders

1. The backside order placed by Buyer is binding for the Buyer. It is accepted by us, if and in as far as we do not contradict it within four weeks. Even if the order is confirmed or is considered as confirmed, it is subject to the condition that the ordered products in its entirety or parts of them are received by us from our supplier in sufficient amounts.
As far as we can accept the order only with essential modifications (e.g. the composition of its articles, sizes or total amounts), this modification communicated by us in writing is considered to be accepted by Buyer, if he does not refuse this offer in writing within two weeks after the reception of our written communication.
2. If the order refers to merchandise on stock, the order is considered to be accepted if we do not contradict within five days.
3. Modifications of the order by Buyer have to be explicitly confirmed by us in writing.
4. If Buyer declares, before delivery and after conclusion of the sales contract pursuant to point 1 and 2 above, in a clear and definitive way that he does not want to perform the contract, i.e. not to accept the merchandise, we are entitled, without further notice, to cancel the contract and to claim damages instead of the performance. This applies also in case of partial rejection of the ordered merchandise, unless such a refusal refers only to a non essential part of the total order, in which case we are entitled to claim damages corresponding to our trade margin for the merchandise rejected.

§ 2 Content of the Contracts

1. Sales are done exclusively under the present conditions for sales, deliveries and payments; this applies also to sales on the basis of oral or written supplementary orders and future orders even if we do not explicitly refer to these conditions at later contracts.
2. Purchase confirmations by Buyer with reference to its General Purchase Conditions are herewith contradicted. They do not become part of this contract and any other contracts of sale on which the present General Conditions apply.

§ 3 Resale

Merchandise delivered by us shall not be sold to retailers.

If Buyer doesn't respect the before mentioned prohibition, we are entitled to immediately cancel this agreement and all possible existing and not yet completely performed agreements as well as to claim all damages caused by said cancellation.

§ 4 Partial Delivery

In case we are not in a position to deliver the complete order since we ourselves have not received sufficient merchandise, our obligation to deliver is limited to the partial delivery subject to our existing capacity, unless Buyer cannot be expected to accept the divergence in quantities.

§ 5 No Fixed Delivery Dates

1. Agreements with respect to deliveries upon fixed dates will not be concluded. Estimated delivery dates communicated when placing the orders are based on non binding indications by our suppliers; we have no influence on their respect. They are considered to be respected if the merchandise arrives at Buyer's location twenty days after the indicated estimated date. If and as far as this date is not respected, Buyer can cancel the order, after an appropriate additional term set by him in writing, if and as far as we have not yet delivered within this additional term.
2. Buyer is only entitled to claim damages if we have caused the non respect of the delivery date intentionally or through gross negligence.

§ 6 Separate Delivery Units

Separate delivery units requested by Buyer have to be agreed upon in writing with us.

§ 7 Force Majeure

1. In cases of force majeure, in particular of important political unrest, labour conflicts, embargo, war and events beyond our control which make delivery very difficult or impossible, we shall not be liable for any failure in performing our delivery obligations.
2. In these cases we are entitled to deliver only after the obstacle has been removed or ceased to exist, unless Buyer declares his withdrawal from the agreement at the latest two weeks after reception of our communication on the obstacle.
3. Independent of the regulation set forth in subsection 2 of this clause we are entitled to withdraw from the agreement at any time in cases of force majeure.
4. In the above mentioned cases any damages and/or compensation claims of the Buyer are excluded.

§ 8 Passing of Risk

1. Delivery is made directly to the Buyer via forwarder, unless parties have agreed expressly in writing upon alternative means of transport.
2. At the moment merchandise is handed over to Buyer, forwarder, consolidator or any other person/company commissioned with the transport, but at the latest when merchandise leaves our warehouse, any and all risk passes to Buyer.

§ 9 Prices

1. Our prices are in EURO plus package, taxes, VAT (if accruing) and transport fees as of our warehouse in Lanaken, Belgium.
2. In case changes of prices result from higher production costs, transport costs, taxes and/or governmental charges, currency changes or other reasons which we have to communicate, we are entitled, at our choice, either to raise prices accordingly or to cancel the order in as far as it is not yet executed.

§ 10 Payment

1. The invoice amount is due for payment within 10 days at a discount of 2 % or net within 30 days after the date of invoice.
2. Irrespective of other indications by Buyer, we are entitled to set off Buyer's payments against previous due amounts. In case interests and costs are already due we are entitled to count any payment first against costs, then against interests and finally against the invoice amount.
3. A payment is only considered as having been made when it is at our disposal. In cases of payments through cheque, payment is deemed to have been done only when the cheque has been cashed.
4. Discount according to point 1 of this regulation is not granted if Buyer is in default with previous invoiced amounts.

§ 11 Default of Payment

1. Buyer is in default of payment if it has not paid the invoice in spite of written warning, but at the latest within 30 days after reception of the invoice or any equivalent request for payment. After this date the legally foreseen interest rate (§ 288 German Civil Code - BGB) will be added to the claim.
2. If Buyer is in default of payment we are entitled to refuse deliveries based on other orders as long as the outstanding amounts have not been completely paid. Furthermore we are entitled to demand prepayment of any delivery. This also applies if and as far as our credit insurer refuses coverage of any existing or future claims against Buyer.
3. Independent of these and all other rights we are entitled, in case of default of payments, to cancel all agreements concluded with Buyer, after warning and unsuccessful fixed appropriate further payment term, and to claim damages instead of contractual performance.

§ 12 Reservation of Title

1. Delivered merchandise remains our property until all our claims against Buyer, irrespective of their legal basis, have been satisfied. This applies also to balance claims ("reservation of balance") not yet settled by Buyer; this applies furthermore to claims caused by the insolvency administrator through his entitlement to unilateral choice of performance.
2. Buyer's claims based on the resale of the merchandise delivered by us are herewith assigned to us as additional security for all our claims against the Buyer. If Buyer resells the merchandise delivered under reservation of title together

with other goods not delivered by us, Buyer herewith assigns to us his claims based on the resale in proportion of the invoiced value of the merchandise delivered by us under reservation of title to the other sold products.

4. Any assignment of claims based on the resale of merchandise being under reservation of title shall be unlawful.
5. We are, at any time, entitled to request the return of merchandise owned by us, if the satisfaction of our open claims against Buyer is put in danger or if the Buyer violated his payment obligations with the result that we cancelled the respective agreement/the respective agreements.
6. Any seizure of our property has to be notified to us by Buyer immediately.

§ 13 Defective Merchandise

1. We do not assume any warranty with respect to the condition of the merchandise delivered by us.
Small modifications, as usual in business or technically unavoidable in quality, color, form and production as well as in design, are not considered as defects.
2. In case we deliver less merchandise than ordered by Buyer, section 4 of these General Conditions applies. Independent thereof a delivery of too small quantities pursuant to § 434 III German Civil Code (BGB) is only given if we deliver less than 50% of the total order volume.
3. Buyer shall examine merchandise immediately after reception. Claims concerning defective products or alleged delivery of different or too less merchandise must be communicated to us within 8 days after reception. Returns will be only accepted after our previous written approval has been received by Buyer.
4. If, after examination, we detect defects on returned goods, we are entitled, at our sole discretion, to repair these defects or to replace defective merchandise by merchandise of normal quality.
5. In case either repairing defects or replacing defective merchandise by merchandise without defects is impossible or would cause inadequate high costs for reasons beyond our responsibility and if we therefore are entitled to refuse both, Buyer can reduce the price according to the value of the defective merchandise. Complete cancellation of the agreement is only possible, if the value of the defective merchandise surpasses half of the total order value.
6. We are liable for damages or reimbursement of costs in all legally regulated cases leading to liability only in case of intent or gross negligence. This applies also in the case of any entitlement of Buyer to legal recourse against us pursuant to § 478 German Civil Code (BGB).
The before mentioned limitation of liability does not refer to possible risks to life and limb and to any breach of our essential contractual obligation.

§ 14 Limitation Period

Buyer's claims with respect to defective merchandise or to any other legally funded claim against us are subject to a limitation of 1 (one) year following the date of delivery.

§ 15 Set Off

Any pretended counterclaims against our payment claims, unless any of such counterclaims has been recognized by us or have been declared as legally valid, shall be excluded.

§ 16 Intellectual Property /Trademarks

1. Trademarks and design/patterns of our merchandise are protected and registered for their owner in the European Union and other regions worldwide. It is explicitly prohibited to make or have made copies thereof.
2. Any modification of the products and/or the trademarks, signs, labels etc. is prohibited.

§ 17 Jurisdiction

The competent Court of Aachen, Federal Republic of Germany, shall have the exclusive jurisdiction for all disputes arising out of or being in connection with any and all agreements between Buyer and us.

§ 18 Applicable Law

Exclusively the German Law applies. The application of the Hague Convention and the United Nations Convention on Contracts for the International Sale of Goods is excluded.