

# General terms and conditions

## 1. Offer

Offers shall always be non-binding and subject to change without notice, and subject to the delivery possibility.

## 2. Delivery

Only the Supplier's written order confirmation shall be decisive for delivery. Possible purchase and other conditions of the Purchaser as well as special agreements shall cease to apply insofar as they are in conflict with the Supplier's terms of delivery and payment. By placing an order, the Purchaser expressly accepts the Supplier's general terms and conditions of delivery and payment. Until revoked, these terms and conditions shall also apply to future orders and contracts without the need to again expressly refer to these Terms and Conditions of Sale and Delivery. Delivery dates if any stated shall be non-binding. Exceedances shall not confer any right on the Purchaser to make any claims whatsoever. Events of force majeure as well as energy and raw material shortages, traffic disruptions, operational disruptions and other events beyond the control of the Supplier shall release the Supplier from the delivery obligation. Claims of the Purchaser for damages due to non-fulfilment or delayed delivery are excluded, insofar as permissible under the law.

Orders received after the end of regular working hours (Mon -Thu 4.45 p.m. and Friday 12.15 p.m.) shall be deemed to have been received on the next working day.

As the goods are imported, cancellations will only be accepted within 5 working days of receipt of the order.

All empty containers must be returned clean-swept and in perfect condition. Any and all cleaning costs or repair costs that might arise will be debited to buyer.

## 3. Prices

The prices are quoted in EUR and are subject to change without notice. Deliveries abroad shall generally be free of customs duties. A freight surcharge shall be levied for 20-foot containers.

## 4. Payments

The Supplier's invoice claims shall be payable on strictly net basis within 10 days from the date of the invoice. If the payment date is exceeded, interest on arrears of 2% above the current base rate of the European Central Bank shall be due and payable, with reservation of the right to claim further damages. The respective residual claim of the Supplier shall become payable as soon as the Purchaser fails to meet the agreed payment deadlines, files for suspension of payments or judicial settlement or ceases to make payments. Bills of exchange shall only be accepted after prior mutual agreement, with invoicing of the discount and other costs of bill of exchange. Cheque or costs of bill of exchange shall only be recognised as payment after the bill has been encashed.

Any liability on the part of the Supplier arising due to the late presentation of cheques and bills of exchange is ex-

cluded.

If the Purchaser is in arrears with an invoice, all later invoices shall become due for payment to immediately.

The representatives of the Supplier have no right to collect payments; goods returns, discounts etc. granted by them shall require the written confirmation of the Supplier.

## 5. Shipment

Shipment shall be effected at the expense and risk of the Purchaser, even if different markings appear on the shipping documents. No liability is assumed for transport difficulties and damages of any kind. The packaging shall be made with the best care and diligence, and the dispatch be made at the best discretion of the Supplier.

## 6. Complaints and warranties

The Purchaser shall be bound to inspect the condition of the goods and their suitability for his purposes immediately after receipt of the goods (commercial use shall be solely at the Purchaser's own risk). Complaints (including differences in quantity) must be notified to the Supplier in writing immediately, at the latest by the end of the next working day after receipt of the goods, using a copy of the delivery note. The fulfilment of this obligation to notify is also a prerequisite for claims under § 478 of the German Civil Code.

Subsequent notices of defects shall not be considered. Complaints shall entitle the Purchaser to withhold invoice payments only to the extent required to remedy the defect. If the objections to the quality of the goods are well founded, or if the goods lack the warranted quality, and the objections were made within the required time, the Supplier reserves the right, at his discretion, to rectify the defect or to exchange the goods or to refund the purchase price against return of the goods. Missing quantities shall, as far as possible, be delivered subsequently; otherwise the Supplier shall issue a credit note. The Supplier's liability shall not apply in case of natural wear and tear, improper handling, or damage resulting from faulty or negligent handling, excessive loading, use of unsuitable equipment, or other influences through no fault of the Supplier. The Supplier shall also not be liable if the Purchaser or third parties modify or improperly repair the goods delivered by the Supplier. All other further claims of the Purchaser, in particular those concerning rescission or reduction (of the purchase price) as well as for compensation of damages of any kind, including such damages that have not been caused to the delivery item itself, are excluded to the extent permitted by law.

## 7. Impossibility, modification of Contract

In case of unforeseen events insofar as they substantially change the economic significance or content of the performance or that substantially affect the Supplier's business, and in case of subsequent impossibility of performance, the contract shall be modified accordingly to the extent

that this is in good faith. If such modification is not economically justifiable, the Supplier shall have the right to terminate the contract. The Purchaser shall have no claims for damages on account of such termination. If the Supplier wishes to exercise this right of termination, he shall notify the Purchaser thereof without undue delay, even if an extension of the delivery period had initially been agreed with the Purchaser.

#### **8. Retention of title**

All delivered goods, including those already paid for, shall remain the property of the Supplier until the Purchaser has paid all liabilities arising from the business relationship with the Supplier, including future liabilities, including all ancillary claims, and has honoured cheques and bills of exchange issued by him in settlement of dues. However, the Purchaser shall have the right to sell the goods to third parties in the normal course of business. If he exercises such rights, he hereby assigns his claims against his customers, including all ancillary rights to which he is entitled from the sale, to the Supplier. If the value of the securities given to the Supplier exceeds the Supplier's claims against deliveries made, by a total of more than 20%, the Supplier shall be bound to relinquish such claims at the request of the Purchaser.

The Purchaser may neither pledge the delivery item nor assign it as security. The assertion of the retention of title and the seizure of the item of sale by the Supplier shall not constitute a termination of the contract unless the German Instalment Payment Act applies. In the case of payment by cheque or bill of exchange, the respective encashment of the cheque or bill of exchange shall be decisive for determining the time of full payment.

#### **9. Place of performance and Jurisdiction**

The place of performance for both delivery and payment is Hochstadt a. Main, Lichtenfels district. The court having jurisdiction over all disputes, including actions on bills of exchange, for any amount shall be the district court in 96215 Lichtenfels, Germany. The laws of Germany shall apply to the contractual relations.

#### **10. General information**

The Supplier reserves his ownership and copyright on cost estimates, samples, drawings and on other documents that the Supplier provides to the customer in connection with the offer or delivery. The aforementioned documents may not be made accessible to third parties and must be returned to the Supplier on request. The remaining parts of the contract shall continue to remain binding even if individual provisions are legally ineffective.

These General Terms and Conditions shall have sole application to the entire business relationship with our customers. They shall also apply to all future business relations

without having to be expressly declared applicable.

The Customer guarantees the correctness of his information and documentation vis-à-vis the tax authorities. He bears the sole risk in the event that Gutmann Lifestyle GmbH loses the right to deduct input tax due to incorrect information or becomes subject to VAT due to an invalid VAT ID number.

#### **11. Severability clause**

The invalidity of individual provisions of these GTC shall not affect the validity of the other provisions. Invalid provisions shall be replaced primarily by provisions that cor-

Version dated May 2020

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LIFESTYLE