

GENERAL TERMS AND CONDITIONS OF BUSINESS 2010.1

1. Area of Application

- 1.1 These terms and conditions apply to all performances of the Prym Fashion, especially to the sales and delivery of goods to persons, who are not consumers within the meaning of §13 BGB (German Civil Code). By placing an order, at the latest by accepting the goods the customer agrees to these terms and conditions.
- 1.2 Diverging provisions of the customer, which are not expressly accepted in writing by the seller, are not binding for the seller, also in case the seller does not expressly oppose to them.

2. Price and Payment

- 2.1 In the absence of express agreement payments are due immediately after receipt of the invoice, at the latest 14 days after the date of invoice, without deduction, net.
- 2.2 In case the term of payment is exceeded, interest for default to the amount of 8 % above the individual basic interest rate fixed by the European Central Bank are charged. A special request for overdue performance is not necessary.
- 2.3 For checks and remittances the day, at which the amount becomes available to the seller, is considered as receipt of payment. Bills of exchange, checks and other means of payment are only accepted on account of performance. Discount, collection and other bank charges are at the expense of the customer.
- 2.4 With counterclaims the customer can neither offset nor assert any right of retention owing to these claims, unless, the claims are undisputed or determined by final judicial decision.

3. Dispatch

- 3.1 In case the goods are sent to the purchaser on his request, the risk of accidental loss and accidental deterioration of the goods passes on to the customer with their delivery to the shipping agent of the seller, at the latest, however, with leaving the plant or the warehouse, independent of the fact, whether dispatch takes place from the place of performance or who bears the freight charges. If the goods are ready for dispatch and the shipment or taking the delivery of goods is delayed for reasons the seller is not to be held responsible for, the risk passes on to the customer with receipt of the indication that the goods are ready for shipment.
- 3.2 The routing for the dispatch of goods and the means of transportation are chosen, provided that the purchaser has not given any shipping instructions, according to best discretion without any warranty for cheapest and quickest carriage of the goods free destination. The customer, however, bears the shipping costs, if the order values are below 800 Euros. To export deliveries special conditions apply.
- 3.3 Special packings are in any case invoiced separately.
- 3.4 For invoicing the weights and number of pieces indicated by the seller are decisive.

4. Delivery

- 4.1 Indications on weight, quality and measurements are only approximate. Variations according to DIN are permissible.
- 4.2 Partial delivery to a reasonable extent as well as production-dependent extra or short shipments up to 10 % of the total order quantity are permissible.
- 4.3 The customer is obliged, to subject the goods delivered to a receiving inspection.
- 4.4 The delivery time is considered to be approximate, in so far as no fixed delivery time has been agreed upon. It is considered to be observed to, if the goods left the plant/warehouse at the time agreed upon or the readiness for shipment is indicated to the purchaser as soon as it is possible to send the goods. In case of delay in delivery, an additional period of time of reasonable length must be fixed. Deliveries on call have to be taken at the latest within 6 months after order confirmation. In so far as the seller is prevented from fulfilling his obligation by the occurrence of unforeseen, exceptional events, which he despite of the care reasonably taken in the individual case could not avert – irrespective, whether occurred in his plant or at his previous supplier -, in particular through official intervention, plant interruptions, industrial conflicts, delays in delivery of essential raw and auxiliary materials, the period of delivery is extended to a reasonable extent. If through the events mentioned above, delivery or performance becomes impossible within the meaning of §275 I-III BGB (German Civil Code) the seller is released from his delivery commitment, without the purchaser being entitled to withdraw from the contract or claim for damages. In case the obstacles mentioned above occur at the purchaser, the same regulations also apply to his purchase commitment. The contracting partners are obliged, to immediately inform the other part about obstacles of the kind mentioned above.
- 4.5 The minimum order value is 150 Euros.

5. Reservation of ownership

- 5.1 Until complete payment of all debts from the business relation between the seller and the customer the goods delivered remain the complete property of the seller. The transfer of individual debts into a current invoice as well as striking the balance and its acknowledgement do not affect the reservation of ownership. Only the receipt of the money value by the seller is considered as a payment.
- 5.2 The customer is entitled to sell the conditional commodities in normal business transactions. He is, however, not entitled to pledging or transfer of ownership by way of security. The customer is obliged, in case of reselling conditional commodities on credit, to secure the property of the seller.
- 5.3 The claim of the customer from the resale of conditional goods is already now assigned by the customer to the seller; the seller accepts this assignment. Notwithstanding this provision the customer is entitled to the collection as long as he complies with his obligations towards the seller and his assets are not dwindling. On demand of the seller the customer must give to the seller all details on the assigned debts necessary for collection and inform the debtor about the assignment.
- 5.4 Possible processing or modification of the conditional commodities is carried out by the customer for the seller, without any obligations arising from that for the seller. In this case or at connecting and mixing conditional goods with foreign things the seller is entitled to the possible joint property share resulting from the conditional goods. In case the customer acquires the sole ownership, the contracting partners agree that the customer grants joint property to the seller in proportion to the value of his conditional goods to the value of the other part and that he will hold the goods in safe custody for the purchaser free of charge.
- 5.5 In case the conditional goods are resold, i. e. immediately, whether without or after processing, connection or mixing, the preassignment agreed upon above is only applicable to the amount of the value of the conditional goods, which together with other goods are resold.
- 5.6 The customer must immediately inform the seller on compulsory execution measures of third parties in connection with conditional goods or the preassigned debts by handing over all documents necessary for an intervention. In case a third-party action against execution or another intervention becomes necessary, the purchaser must bear the costs necessary for legal prosecution.
- 5.7 The seller commits himself, to release securities, he is entitled to according to the aforementioned provisions, at his choice on demand of the customer in so far, as their value does not exceed the debts to be secured by 20 %.
- 5.8 The purchaser is obliged, to insure the conditional goods on his expense against fire, theft and water.

6. Warranty, liability, notice of defects

- 6.1 Warranty claims: If the goods delivered by the seller are not free of defects of quality, the seller is at first entitled to the right, at his choice, to rework the goods or to replace them. If the seller cannot delivery a replacement or reworking is impossible or finally fails, the customer is entitled, to withdraw from the contract or to demand abatement from the purchase price. The same applies, if the seller lets expire an additionally fixed period of time of reasonable length given to him. The seller must immediately be informed in writing about finding out of such deficiencies – at recognizable deficiencies at the latest 10 days after acceptance of delivery of the goods, in case of non-recognizable deficiencies immediately after their recognition – otherwise the goods are considered to be approved. The same applies, if the customer does not oppose to the rejection of the seller to the notice of defects given by the purchaser within 4 weeks. In this case the seller must be given the opportunity to inspect the defects. Except the cases of the §§ 438 I no. 2 and 634 I no. 2. BGB (German Civil Code) – the warranty period is (at the most) 1 year, reckoned from the delivery date ex works. If in the individual case a warranty period longer than 1 year is agreed upon, the warranty obligation in case of processing the goods ends in the first 12 months from delivery of the goods, reckoned from the day of delivery ex works; in case the goods, are processed later, within the warranty period agreed upon, at the time of processing. For defects occurring through unsuitable or improper use, maintenance and storage, faulty mounting or putting into operation through the customer or third parties, natural wear, faulty or negligent treatment, no warranty is given, neither for consequences of modifications made improperly or without the consent of the seller or repair work carried out by the purchaser or third parties; nor does the seller give any warranty for materials provided by the purchaser, unless, in the individual case something different has expressly been agreed upon. For replacement deliveries and reworking the seller warrants to the same extent as for the original goods. Application-technical consultations, statements and information on the suitability and application of goods of the seller are not binding, unless, the seller has in the individual case declared them to be binding. They do not relieve the customer of own inspections and tests. The seller reserves himself the right of ownership and the copy right at all models, samples, pictures, drawings and other documents. Without the consent of the seller they may not be made accessible to others and must on demand be sent back to the seller immediately. If at manufacturing the goods according to models, drawings, samples or other specifications of the purchaser industrial property rights of third parties are infringed, the purchaser will exempt the seller of all third party claims. Also in case of cost sharing by the customer, models, tools and special equipment manufactured by the seller remain the property of the seller, unless, the customer at termination of the business relations is ready to buy the models, tools and special equipment against reimbursement of full cost. Manufacturing equipment used in connection with the order, as for example models and tools provided by the purchaser, are for the duration of 3 years after the last cast kept by the seller free of charge. After that the purchaser must until the decision on the whereabouts of the processing equipment pay a reasonable rent. On request of the seller the purchaser is obliged to indicate, within a period of time set by the seller, whether the manufacturing equipment is to be sent back to him at his expense and risk or if it is to be destroyed by the purchaser against reimbursement of expenses. If the purchaser lets expire the period of time set by the seller, the seller is entitled to opt, whether he wants to send back the manufacturing equipment at the expense and risk of the purchaser or wants to destroy them against cost reimbursement of the purchaser.
- 6.2 Claims of the contracting partner from absolute liability are excluded. The seller is furthermore not liable for damages of the contracting partner, which are due to a slightly negligent breach of duty or other slightly negligent action taken by the seller or his statutory representative or his vicarious agent. Moreover, he is not liable for damages, which are due to grossly negligent violation of an obligation, not belonging to the essential contractual obligations, through a vicarious agent. The liability amount is limited to the replacement of damages typically occurring at business of the doubtful kind. The exclusion and the limitation of liability do not apply to damages from the injury of life, the body or health, as well as for claims according to the product liability law.

7. Deterioration of the financial situation

- 7.1 In case the seller after concluding the contract gets to know about facts on a considerable deterioration of the financial situation of the purchaser, which according to dutiful trader's discretion may endanger the claim of the seller for counter-performance, the seller, until the time of his performance, may demand an appropriate security within a reasonable period of time or performance against counter-performance. If the purchaser does not at all comply with the demand of the seller or not in time, the seller may withdraw from the contract or claim damages because of non-fulfillment.
- 7.2 If the purchaser is in arrears with a part performance, the seller may claim the total residual debt to be due immediately and, in case of delay in performance, which is due to a considerable deterioration of the financial situation, withdraw from the contract without allotting an additional period within which performance could be made or claim damages because of non-fulfillment. In case of delay in performance not due to the financial situation, we may demand the withdrawal from the contract after unsatisfied expiration of a reasonable additional time.

8. Place of fulfillment, jurisdiction, applicable right and separability clause

- 8.1 As place of performance for liabilities resulting from this agreement or from a declared withdrawal D-52224 Stolberg is agreed upon.
- 8.2 Place of jurisdiction is the court in charge for the legal domicile of the Prym Fashion, in so far as the customers are merchants, legal entities of public law or public special assets. Also in this case the seller is entitled to bring the matter before the court in charge for the legal domicile or the branch of the customer.
- 8.3 Applicable is the law of the Federal Republic of Germany by express exclusion of the laws in execution of the Hague Convention.
- 8.4 In case one single contractual provision or a separable part of a contractual provision is void and ineffective, the effectiveness of the total agreement and the other provisions remains unaffected. The void or ineffective provision is replaced by the parties by an effective provision.