

General terms and conditions of sale and delivery LAURUSCHKUS - the collection (2017/01/01)

1. Scope of application

1.1 The following general terms and conditions of sale and delivery shall be applied to all our contracts for the supply of fashion jewelry and other goods by us, LAURUSCHKUS - the collection, to our entrepreneurial contractors (hereinafter referred to as "customers").

1.2 These general terms of sale and delivery apply exclusively to all contracts, deliveries, offers and other services concluded with us. They shall also apply to all future transactions with the customer, in so far as they are legal transactions of the same or related nature.

1.3 Terms and conditions of the customer differing from our terms and conditions of sale and delivery apply only if we expressly agree to the validity in writing.

2. Offer and conclusion of contract

2.1 Our offers are free and non-binding, unless we have expressly designated them as binding.

2.2 An order of the customer, which can be qualified as an offer to conclude a contract, can be accepted by us within two weeks by sending a written confirmation. Amendments or additions to the agreement shall require written confirmation from us.

2.3 Information about our goods (technical data, dimensions, etc.) in brochures, catalogs, on our website and similar information media are only approximate. They are not guaranteed, unless the guarantee is expressly and in writing.

3. Delivery

3.1 The delivery date is given to the best of our knowledge, but without guarantee. Our delivery obligations are subject to the correct and timely self-delivery, unless the incorrect or late self-delivery is our responsibility.

3.2 We are entitled to partial deliveries and partial services if these are of interest to the customer according to the purpose of the contract and as a result the customer does not incur a considerable additional expense.

3.3 Information about delivery times is approximate unless otherwise agreed with the customer. Delivery periods begin only after complete clarification of all execution details and assume the timely and proper fulfillment of the obligations of the customer.

3.4 We shall not be in default if the delivery is omitted due to a circumstance which we are not responsible for. We are not responsible for events of force majeure, strikes, lock-outs, accidents or any other causes which require a partial or complete stop of production. Material shortages, lack of operating materials, difficulties in transport, difficulties in the energy supply, operational problems in the own operation and the operation of the suppliers are treated the same. In all cases, we are entitled to postpone delivery by the duration of the hindrance. In important cases, the customer shall be notified as soon as possible of the beginning and end of such impediments.

3.5 In the event of a delay in delivery caused by us not intentionally or through gross negligence, we shall be liable for a default of 3% of the delivery value per week, but not more than 15% of the delivery value, for each completed week.

3.6 Further statutory claims and rights of the customer due to a delay in delivery shall remain unaffected.

3.7 If the customer is in arrears with the call, acceptance or collection of the goods, we are entitled to demand compensation for the damage caused to us. With the occurrence of the acceptance delay, the risk of accidental deterioration and accidental loss will pass to the customer.

4. Prices and payment

4.1 Our prices are quoted as from our place of business plus postage, packaging and the respective statutory value-added tax. Our current price list is valid.

4.2 Our customary packaging for transport / shipping is charged, unless otherwise agreed.

4.3 Our invoices are due for payment immediately and without deduction.

4.4 Payment of the invoice must be made exclusively to the account mentioned. We are entitled to assign the claims from our business connection. Payments with a liberating effect can only be made to Wolf Factoring, Esslinger Str. 7, 70771 Leinfelden-Echterdingen, to which we have sold and transferred our receivables under an ongoing factoring agreement. Unless otherwise agreed, the purchase price shall be paid within 30 days from the date of the invoice. The deduction of cash discount is only permitted with a written special agreement. In individual cases the delivery can be effected against cash on delivery or prepayment.

4.5 If the customer is in arrears with a payment, the statutory provisions shall apply. Interest on arrears is charged at 8 % p.a. above the respective base interest (§ 247 Abs. 1 German BGB). The assertion of a higher damage caused by default remains reserved.

4.6 The customer can only offset against our claims, undisputed claims recognized by us and legally established. The customer is only authorized to exercise a right of retention if his counterclaim is based on the same contractual relationship.

5. Transfer of risk on dispatch

5.1 Unless specified otherwise, the method of shipment will remain at our discretion without taking responsibility for using the most cost-effective transportation. By sending the goods to the customer, at the latest by leaving our place of business, the risk of accidental loss or accidental deterioration of the goods passes to the customer. This applies regardless of who bears the freight costs.

5.2 If the shipment is delayed at the customer's request, the risk shall pass to him from the notification of delivery.

5.3 We have not concluded transport insurance. This can, however, be done at the request and expense of the customer if this is communicated during the assignment of the order.

6. Proprietary reservation

6.1 Until full payment of all claims arising and arising on the basis of the business relationship, the delivered goods remain our property (reserved goods). In the case of several receivables or current invoices, the retention of title applies as collateral for the balances, even if individual goods deliveries have already been paid for.

6.2 The customer is obligated, as long as the property has not yet passed on to him, to treat the purchased item with care. The customer undertakes to keep the reserved goods insured against usual risks. He shall immediately and in advance pass his claims against his insurer due to the loss or damage to his reserved goods to us. We are already accepting the assignments of the customer provided for in this section.

6.3 In the event of a breach of contract by the customer, e.g. late payment, we have the right to withdraw the reserved goods after setting a reasonable period of time. If we withdraw the reserved goods, this constitutes a withdrawal from the contract. We reserve the right to assert the retention of title even without withdrawing from the contract. Once the goods have been taken back, we are entitled to recycle these reserved goods. After deduction of an appropriate amount for the costs of selling the goods, the recovery proceeds shall be offset against the amounts owed to us by the customer.

6.4 In the case of access by third parties to the reserved goods, in particular seizures, the customer shall inform us immediately so that we can enforce our property rights.

6.5 The customer is entitled to sell the reserved goods in the normal course of business as long as he is not in default. Pledging, security surrender or security cessions are not permitted. The customer is already fully responsible for the claims resulting from the resale or any other legal basis (insurance, tort) with respect to the reserved goods. We hereby authorize the customer to revoke the claims assigned to us for his account in his own name. If the customer fails to comply with his payment obligations, the authorization will be void if the customer becomes insolvent, if he is subject to foreclosure measures or if his insolvency proceedings are opened or his opening is refused due to a lack of funds.

6.6 If the delivery items are connected or inseparably mixed with other objects which are not our property, we shall acquire the co-ownership of the new item in proportion to the value of the goods delivered to the other connected or intermixed objects. If, during the connection or mixing, the customer's item is to be regarded as the main item, it is agreed that the customer shall transfer to us the co-ownership of the new item. The customer shall store the resulting co-owned item for us.

6.7 At the customer's request, we undertake to release the collateral which is due to us insofar as its value exceeds the claims to be secured by more than 20%.

7. Warranty

7.1 In the event of a breach of a contractual obligation, the customer shall be entitled to the statutory rights in accordance with the following regulations.

7.2 The customer is entitled to warranty claims only if he has complied with his obligations according to § 377 German HGB.

7.3 The customer must notify us in writing of obvious defects within a period of two weeks from receipt of the goods. Otherwise the assertion of the warranty claim is excluded. The customer bears the full burden of proof for all claims, in particular for the defect itself, for the determination of the defect and for the timeliness of the complaint. The customer cannot derive any further rights from defects which do not or only insignificantly affect the value and suitability of the goods for their use.

7.4 In the case of justified and timely defect complaints, the customer has a claim for supplementary performance during the warranty period. With regard to the type of supplementary performance, removal of the defect or delivery of a defect-free article - the right to choose is ours. If the supplementary performance fails or the customer acts unreasonably, the customer is entitled to reduce or withdraw the contract. Prior to returning the goods our permit is to be requested.

7.5 If the customer receives a claim from his customer or a consumer due to a defect in the delivered goods, which already existed at the time of the transfer of risk, or, receives a claim from a consumer as the final customer, the customer's legal recourse claims against us according to §§ 478, 479 German BGB shall be unaffected.

7.6 Claims for damages to the conditions stipulated in clause 8 on account of a defect can only be asserted by the customer if the supplementary performance has failed or we refuse to undertake the supplementary performance. The right of the customer to assert further claims for damages under the conditions set out in clause 8 shall remain unaffected. Any further claims of the customer are excluded. We are therefore not liable for damages that are not caused by the delivery item itself, as well as for any loss of profit or other assets of the customer.

7.7 Claims against us due to defects are only for the customer and are not assignable.

7.8 The limitation period for claims for defects shall be one year from the transfer of risk. This does not apply if the law provides longer periods.

8. Liability

8.1 We shall only be liable for damages resulting from a breach of a material contractual obligation or a deliberate or grossly negligent conduct by us, our legal representatives or agents. If a material contractual obligation is negligently violated, our liability is limited to the foreseeable contract type damage. A material contractual obligation exists in the case of obligations whose fulfillment makes the proper execution of the contract possible or which the customer has been familiar with and has been allowed to rely on.

8.2 Liability over or above 8.1 for damages is excluded. The liability for culpable injury to life, body or health according to the legal provisions remains unaffected. This also applies to mandatory liability under the Product Liability Act.

9. Place of Performance / Jurisdiction / Applicable Law

9.1 This contract and these terms and conditions as well as all legal relations between the customer and us are governed by the law of the Federal Republic of Germany excluding all references to other legal orders and international agreements. The validity of UN purchasing law is excluded.

9.2 Place of performance and exclusive jurisdiction for all disputes arising from this contract or its effectiveness shall be our place of business, Sigmaringen/Germany, unless otherwise stated in the order confirmation. However, we are also entitled to sue the customer at his office instead.

9.3 All agreements made between the parties for the purpose of the execution of this contract are set down in writing in this contract. In all instances of dispute the German text will prevail.

9.4 Should individual provisions of this contract be or become ineffective or contain a gap, the remaining provisions shall remain unaffected. The parties undertake, in lieu of the ineffective regulation, to adopt such a legally permissible regulation that comes closest to the economic purpose of the invalid regulation, or to fill this gap.