

General Terms and Conditions of Sale, Supply and Payment of bags and more GmbH

(October 2020)

Unless otherwise expressly confirmed in writing, the following provisions always and exclusively apply to deliveries and services of bags and more GmbH ("bags and more") to its customers ("Purchaser"). Deviating or supplementary terms and conditions of the Purchaser will only be components of the contract if bags and more has expressly consented to their application in writing. This consent requirement applies even if bags and more makes deliveries to or performs services for the Purchaser despite being aware of its general terms and conditions.

These General Terms and Conditions of Sale, Supply and Payment also apply to all future deliveries to and services for the Purchaser, even if these General Terms and Conditions of Sale, Supply and Payment are not expressly agreed again.

These General Terms and Conditions of Sale, Supply and Payment also apply to all repeat orders or repair orders.

I. Offer

1. The documents and illustrations, drawings, weights and dimensions stated in the offers of bags and more are approximations, unless expressly designated as binding.
2. bags and more reserves the right of ownership and copyright in any cost estimates, offers, drawings and other documents transmitted by bags and more; they may not be made available to third parties without the consent of bags and more, unless the information is in the public domain.
3. bags and more undertakes to only make plans and documents expressly designated as confidential by the Purchaser available to third parties with the Purchaser's consent.
4. Unless expressly stated otherwise in a written offer, offers from bags and more are non-binding and subject to change. An effective contract is only concluded when a formal agreement is concluded or when bags and more issues order confirmation in writing or in text form (as defined in sections 126 and 126b German Civil Code (*Bürgerliches Gesetzbuch*)).

II. Prices and payment

1. Unless expressly agreed otherwise, prices are ex works bags and more excluding packaging and loading. VAT at the respective statutory rate, where applicable, is payable on top. The purchase price must be paid in full, free of charge and free of expenses, into the account designated by bags and more.
2. In the case of supply relationships which place bags and more under an obligation to make multiple deliveries or perform multiple services or to make deliveries or perform services continuously (recurring obligations, successive supply contracts, etc.), bags and more will have the right, in the case of evidenced cost increases for which bags and more is not responsible which result after the offer has been submitted (e.g. due to increased prices of raw materials, procurement costs, costs of production materials, energy costs, wage costs, transport costs or exchange rate fluctuations), to adjust the price initially agreed accordingly.

3. If, in the case of payments in instalments, a payment is not made on time either in its entirety or partially, the entire remaining balance will be due for immediate payment.
4. Regardless of the agreed payment method, bags and more is entitled, at its own discretion, to require immediate payment of the entire remuneration, to withhold further deliveries and services until payment of the entire remuneration, to require security or to rescind the contract, if, after conclusion of the contract, it should transpire that the claim for remuneration is at risk owing to the circumstances of the Purchaser.

III. Term of delivery, delay

1. The delivery period is based on the agreements between bags and more and the Purchaser. bags and more's duty to observe agreed delivery periods is subject to all commercial and technical issues having been clarified between the Purchaser and bags and more and the Purchaser having satisfied any duties incumbent on it such as, for example, a duty to provide the necessary official certificates or approvals or payment of an advance payment. If the above preconditions are not satisfied, the delivery time will be extended by a reasonable period. This does not apply if bags and more is responsible for the delay.
2. If binding delivery periods or delivery dates are not observed, bags and more will only be deemed to be in default once it has received a reminder from the Purchaser and if bags and more must accept liability for the delay.
3. Observance of agreed delivery dates or agreed delivery periods is subject to bags and more itself being correctly supplied on time.
4. If acceptance is necessary, the notification of readiness for acceptance will be decisive for determining whether the agreed delivery period has been observed.
5. If dispatch or acceptance of the delivery item is delayed for reasons for which the Purchaser is responsible it will be liable for the costs incurred by bags and more as a result of the delay from two calendar weeks after notification that the delivery item is ready for acceptance.
6. If the delivery period is not observed as a result of force majeure, labour disputes or other events which are not within the sphere of control and/or sphere of responsibility of bags and more, the delivery period will be extended by a reasonable period. bags and more will inform the Purchaser of the beginning and the end of such circumstances as soon as possible.
7. If bags and more is responsible for a delay in delivery totalling more than four weeks for reasons for which bags and more is responsible and if the Purchaser suffers a loss as a result of this, the Purchaser is entitled to demand flat-rate compensation for delay from the fifth week onwards. This will be 0.5 % per full week of the delay but a maximum of 5% of the value of the respective part of the entire delivery which cannot be used in due time or contractually as a result of the delay. A further-reaching claim for damages due to delay is excluded if bags and more did not act intentionally or with gross negligence.
8. If bags and more is in default and the Purchaser grants a reasonable period for performance and if the period is not observed, the Purchaser is entitled to rescind the contract within the framework of the statutory provisions for the delayed deliveries.

IV. Passage of risk and acceptance

1. The risk will pass in accordance with the agreed terms of delivery. In the absence of an agreement, the terms of delivery in bags and more's offer will be decisive.
2. If dispatch or acceptance is delayed or does not take place as a result of circumstances for which bags and more is not responsible, the material risk, meaning the risk of accidental deterioration or accidental loss of the delivery items, will pass to the Purchaser from the day on which bags and more notifies the Purchaser that the delivery items are ready for dispatch or acceptance.

V. Retention of title

1. bags and more retains title to the delivery items until all payments due have been received.
2. The Purchaser may neither pledge nor assign as security delivery items subject to retention of title. In the case of attachments or seizures or other disposals by third parties it must inform bags and more without undue delay.
3. In the event of a breach of contract by the Purchaser, in particular in the case of default with payment, bags and more will have the right, after sending a warning notice, to take back the retained goods and the Purchaser will be obliged to surrender them. Assertion of the reservation of title and attachment of the delivery item by bags and more will not be deemed to be rescission of the contract.
4. If bags and more's goods are combined by the Purchaser with other items to form a uniform item, it will be deemed agreed that the Purchaser will transfer to bags and more proportionate co-ownership within the meaning of the provisions of section 947 (1) German Civil Code (*Bürgerliches Gesetzbuch*) and that the Purchaser will keep the item safe free of charge on behalf of bags and more.
5. In the event of a sale of the resulting products, the Purchaser will assign to bags and more the claims arising from the resale up to the amount of the value of the delivery item supplied by bags and more together with all ancillary rights.
6. An application by the Purchaser for the commencement of insolvency proceedings will give bags and more the right to rescind the contract and to request the immediate return of the delivery item.
7. If the law of the country in which the delivery item is located does not permit a right of retention but permits the seller to reserve other rights in the delivery item, bags and more may exercise all rights of this nature. The Purchaser must cooperate with the measures which bags and more wants to take in order to protect its right of title or another right in the delivery item replacing the right of title.

VI. Liability for defects

1. Only those parts which do not have the expressly agreed quality (e.g. according to agreed drawings, agreed specifications or agreed acceptance protocols) or, if a quality is not expressly

agreed upon, do not correspond to the generally accepted state of the art will be deemed to be defective.

2. There will especially be no defect of quality in the following cases: unsuitable or improper use, faulty assembly or operation by the Purchaser or by third parties commissioned by the Purchaser, natural wear and tear, incorrect or negligent treatment, improper maintenance, unsuitable operating equipment, chemical, electrochemical or electrical influences, changes by the Purchaser to the delivery item without the consent of bags and more, etc.
3. The Purchaser's claims on grounds of material defects are subject to it having complied with its statutory duties of inspection and to report defects (sections 377, 381 German Commercial Code (*Handelsgesetzbuch*)).
4. Defective parts must be repaired or replaced at the discretion of bags and more. The Purchaser's right to refuse to accept subsequent performance where the statutory requirements for this are satisfied remains unaffected.
5. The Purchaser must grant bags and more the time necessary and an opportunity to carry out all necessary subsequent improvements; otherwise bags and more will be released from liability for the resulting consequences. Only in urgent cases where there is a risk to operational safety or to prevent disproportionately high losses does the Purchaser have the right to remedy the defect itself or to have it remedied by third parties and to claim from bags and more reimbursement of the expenses necessary for remedying the defect; the precondition for this is that bags and more is informed accordingly before the measures to remedy the defect are carried out.
6. Where bags and more delivers defective goods, the Purchaser will have a right, within the framework of the statutory provisions, to reduce the purchase price or to rescind the contract if bags and more allows a reasonable period of time set for subsequent performance or replacement delivery to fruitlessly expire. If a defect is not significant the Purchaser will not have a right to rescind the agreement.
7. bags and more will be liable for culpable infringements of industrial property rights or copyrights where the other statutory requirements are satisfied and only if these were legally effective and published in Germany (country of manufacture of the delivery item) when the contract was awarded.
8. The Purchaser will only have claims for damages due to material defects or due to infringements of industrial property rights or copyrights in accordance with the provisions of section VII. (Liability) below; they are otherwise excluded.

VII. Liability

1. Unless otherwise provided in these General Terms and Conditions of Sale, Supply and Payment, including the following provisions, bags and more will be liable for breaches of contractual and non-contractual obligations in accordance with the statutory provisions.
2. bags and more will be liable for compensation, regardless of the legal grounds, in the framework of fault-based liability for intent and gross negligence.
3. In the case of simple negligence, bags and more will only be liable, subject to a lower level of liability according to the statutory provisions,

- a) for damage resulting from injuries to life, body or health,
 - b) for losses resulting from breaches of material contractual obligations (cardinal obligations, meaning obligations the fulfilment of which is a prerequisite for proper implementation of the contract and on the observation of which the contractual partner regularly relies and is entitled to rely), whereby the duty to pay compensation is then limited to losses which were reasonably foreseeable and which are typical for the type of contract.
4. The above limitations of liability also apply in the case of breaches of duty by or for the benefit of persons whose fault is attributable to bags and more in accordance with the statutory provisions or for whose fault bags and more is responsible. The above limitations of liability do not apply to the extent that bags and more has maliciously concealed a defect or has expressly provided a warranty for the quality of the delivery item or to claims of the Purchaser under the German Product Liability Act (*Produkthaftungsgesetz*).

VIII. Termination, rescission of the contract, services provided multiple times or continuously

1. In the case of a contractual relationship providing for one-time performance by bags and more, the statutory provisions apply with regard to termination and/or rescission of the contract, unless amended by these General Terms and Conditions of Sale, Supply and Payment of bags and more.
2. In the case of contractual relationships which place bags and more under an obligation to provide services multiple times or continuously (recurring obligations, successive delivery contracts, call-off contracts, etc.), the following applies:
 - a) bags and more will only have a performance obligation in the framework of the actual production capacities of bags and more and in compliance with agreed (and where there is no agreement) appropriate lead times (period between receipt of the Purchaser's request for performance and the time of performance requested by the Purchaser). In the absence of an express agreement to the contrary, a lead time of 20 weeks will apply.
 - b) Unless otherwise expressly agreed on a product or project-specific basis, the Purchaser and bags and more have a right to terminate the contractual relationship with notice observing a notice period of nine months. If bags and more only provides work or services, a notice period of one month will apply instead. The right of the Purchaser and of bags and more to terminate the contractual relationship without notice for good cause where the statutory requirements for this are satisfied remains unaffected.
 - c) Unless the Purchaser has terminated the contract observing the agreed notice period or bags and more is responsible for a termination of the contractual relationship without notice by the Purchaser, the Purchaser will have a duty, in the case of termination, to reimburse bags and more evidenced losses it has incurred as a result of the termination (non-amortised development costs, the non-amortised costs of investments required, losses resulting from purchase obligations to suppliers entered into by bags and more in good faith and resulting compensation claims, lost profit, reserved production capacities, warehousing costs). In this respect bags and more has a duty to mitigate the losses.

- d) The provisions of Section VIII 2. c) above will apply accordingly if the Purchaser cancels requirements, orders or delivery call-offs already communicated.
- e) If in the event of contractual relationships which oblige bags and more to provide performance multiple times or continuously the Purchaser fails to procure further corresponding deliveries or services from bags and more despite having a requirement and without giving effective notice of termination, the above provision in section VIII. 2 c) will apply accordingly, meaning that the customer will be obliged to compensate bags and more for the resulting losses.

IX. Statute of limitations

- 1. The statutory limitation periods applies in cases of intentional or fraudulent conduct as well as to claims under the Product Liability Act (*Produkthaftungsgesetz*).
- 2. In all other respects, claims of the Purchaser on grounds of material and legal defects for movable property will become statute-barred, deviating from section 438 (1) no. 3 German Civil Code (*Bürgerliches Gesetzbuch*), after expiry of 12 months from delivery of the delivery item.

X. Place of performance, place of jurisdiction, applicable law and severability clause

- 1. Place of performance for both parties is the place where bags and more has its registered office.
- 2. Any disputes will be decided on by the courts competent for the place where bags and more has its registered office. However, bags and more will also be entitled to bring a claim at the place where the Purchaser has its registered office.
- 3. The substantive law of the Federal Republic of Germany (excluding the conflict of laws provisions) apply to the contractual relationship. The application of the United Nations Convention on contracts for the International Sale of goods (UN Convention of 11.04.1980) is excluded.
- 4. If a provision of these General Terms and Conditions of Sale, Supply and Payment should be ineffective or unenforceable, this will not affect the validity of the other provisions and will not lead to the entire contractual relationship being null and void. In the event of an ineffective or unenforceable provision, the contracting parties will seek to replace it with an effective and enforceable provision which corresponds, as far as permissible, to the economic purpose of the ineffective or unenforceable provision. The same applies accordingly to any lacunae.