



General Conditions of Delivery and Sale

Allgemeine Verkaufs- und Lieferbedingungen

I. Precedence

1. The General Conditions of Delivery and Sale as established by baobab holding GmbH ("baobab holding") shall apply exclusively for the entire business relationship. Other terms and conditions shall not apply to the business relationship, even if baobab holding does not explicitly object to such.

2. The General Conditions of Delivery and Sale as established by baobab holding shall also apply if baobab holding accepts the services provided by the buyer without reservation in awareness of the existence of contradictory conditions of delivery and sale. The absence of an objection or payment/acceptance of the goods shall not be construed as acknowledgement of any differing terms and conditions of business.

3. The General Conditions of Delivery and Sale shall only apply for entrepreneurs within the meaning of Section 310 (1) BGB [German Civil Code].

II. Contractual relationships

1. Orders must be accepted by baobab holding in written form (e-mail); the orders shall be bound to his order for a period of two weeks.

2. Delivery dates stipulated by baobab holding shall be non-binding, provided that these have not been confirmed in writing as binding.

3. Verbal agreements or agreements made by phone, for example with regard to prices, delivery dates, nature of the goods, transport and other delivery conditions, shall not be effective unless made in writing (e-mail, letter).

III. Price, payment & counterclaims

1. The price is EXW (ex works as per Incoterms 2010) from baobab holding GmbH's place of business and does not include VAT, where applicable, unless otherwise agreed in writing on an individual basis.

2. The purchase price shall, unless otherwise agreed in writing, be payable in full within 7 days from the date of the invoice. Baobab holding shall be entitled to collect due payments by means of the SEPA direct debit scheme.

3. In case of default, baobab holding shall be entitled to charge interest in the amount of eight percentage points above the base rate. Any other damages in excess of this can be claimed.

4. The buyer shall only be entitled to set off costs if his counterclaims have been stipulated as legally valid, are indisputable or have been recognized by baobab holding.

5. In the event that baobab holding is required to render advance performance, baobab holding may withhold the performance incumbent upon it, if it can be discerned subsequent to conclusion of the contract that the entitlement to counter-performance is endangered due to the buyer's lack of ability to perform. The entitlement to withhold performance shall not apply if the counter-performance has been provided or security for such has been offered.

6. baobab holding may set an appropriate time limit in which the buyer must provide, concurrently with each performance provided, either counter-performance or security for such, at his own discretion. Should this time limit expire fruitlessly, Vigorous Trading may withdraw from the contract.

IV. Delivery & transfer of risk

1. The goods shall be dispatched EXW (ex works as per Incoterms 2010). If it has been agreed in individual cases that the goods shall be dispatched by baobab holding, this shall be done at the buyer's own risk - even if baobab holding pays the transport costs - using a means of transport selected by baobab holding on the basis of sound commercial judgment.

2. The buyer shall be entitled to claim compensation in the event of default in delivery only if baobab holding allows an appropriate period of grace, set by the buyer in writing upon commencement of said default, to expire fruitlessly and if baobab holding is responsible for the default in delivery.

3. baobab holding shall be entitled to make partial deliveries.

V. Self-supply reservation & force majeure

1. The obligation on the part of baobab holding to deliver is subject to the correct and punctual delivery of required materials on the part of our suppliers.

2. Government measures, insurgency, strikes, lock-outs, fire, mechanical failure, shortages in the supply of material or energy, transport impediments, and reasons beyond the control of baobab holding that hinder regular production or dispatch, e.g. natural disasters, shall constitute "force majeure" and shall entitle baobab holding to postpone the delivery date accordingly.

3. baobab holding shall be obligated to inform the buyer of any such circumstances immediately upon becoming aware of such. If delayed performance due to the occurrence of one of the aforementioned circumstances is unreasonable for one of the parties, this party shall be entitled to withdraw from the contract.

VI. Warranty & liability for defects

1. The buyer must inspect the goods himself immediately to ensure that these have been packaged with due care. Any packaging defects must be explicitly recorded on the delivery note.

2. If the delivered goods show any obvious defects, the baobab Quality Assurance Department must be notified of such immediately upon delivery. Any complaints must be made in writing by e-mail to grueske@gg-p.eu

3. The employee or forwarding agent commissioned by baobab holding to deliver the goods must be informed of any obvious defects.

4. The warranty period for hidden defects to goods is seven days from date of delivery to the buyer.

5. Claims for compensation due to defects as a result of gross negligence, intent or breach of material contractual obligations (see provisions under Section VII. General liability) shall not be limited hereby. Nor shall claims for compensation as a result of injury to life, body or health or under the Product Liability Act be affected hereby.

6. The buyer shall be obligated to inspect the goods immediately upon receipt of the same and to immediately report any detected defects. A breach of these obligations shall constitute approval of the goods in accordance with Section 377 HGB [German Commercial Code] With regard to delivered products, should there be any reason to suspect the existence of a defect that is not totally insignificant, the buyer shall be obligated to inform baobab holding of any such instances, even if further investigation is called for in order to verify the defect. A culpable breach of this duty shall result in the forfeiture of the entitlement to claim defects. Baobab holding must be informed on a regular basis of the results of the investigations.

7. In the event of a defect, and the correct and timely notification of such, the buyer shall be entitled to have the goods repaired or replaced at baobab holding's own discretion. If the goods are not properly repaired or replaced, the buyer shall be entitled to reduce the purchase price appropriately or to withdraw from the contract. Baobab holding shall bear the shipping costs associated with the rectification of defects. If in such cases shipping costs should be higher due to the fact that the goods were sent abroad by the buyer or his customers, the difference shall be borne by the buyer.

8. Claims for compensation for expenses on the part of the buyer in accordance with Section 284 BGB shall be considered waived insofar as a claim for compensation of damage in lieu of performance is excluded under these provisions.

VII. General liability

1. Claims for compensation of any kind whatsoever against baobab holding and its legal representatives and vicarious agents shall be excluded, except in cases of intent or gross negligence or the culpable breach of a material contractual obligation.

2. Liability for gross negligence shall, however, be limited to compensation for typically foreseeable damage. This restriction of liability shall not apply for cases of culpable breach of material contractual obligations within the meaning of the previous paragraph.

3. These liability limitations or exclusions from liability shall not apply for cases of liability under the Product Liability Act or for cases of injury to life, body or health.

VIII. Retention of title

1. baobab holding shall reserve the right to the ownership of the delivered products until such time as all receivables from the business relationship with the buyer have been paid in full.

2. The retained goods (i.e. goods subject to the retention of title) shall be processed or treated by the buyer on behalf of baobab holding in all cases, without giving rise to any obligations on the part of baobab holding. Baobab holding shall be entitled to ownership of the new items in their respective state of processing or treatment. If baobab holding retained goods are processed, treated, blended, mixed or bonded with other products that do not belong to it, baobab holding shall be entitled to ownership of the new item in the ratio of the invoice price of the retained goods to the invoice price of the other products.

3. The buyer may sell the retained goods, of which baobab holding is the sole or joint owner, in the regular course of business; it is not permitted to pledge the retained goods or to transfer or assign them by way of security. The buyer shall hereby in advance assign to baobab holding all claims to which he is entitled through the sale of the retained goods, or the items produced as a result of processing, treating, blending, mixing or bonding them. This shall also apply if the products were sold at an inclusive price together with other products not belonging to baobab holding. If a third party acquires full or partial ownership of the buyer's products due to statutory provisions resulting from processing, treating, blending, mixing or bonding, the buyer shall, at this stage and in advance, also assign all claims arising on the part of the buyer against said third party to baobab holding. Assignments within the meaning of this paragraph shall only be made to the amount of the invoice price of the retained goods. The buyer shall be authorized to collect the assigned claim until such time as the assignment is revoked, which is possible at any time.

4. baobab holding now already accepts the assignments designated by the buyer in this paragraph.

5. At the buyer's request, baobab holding shall undertake to release the securities to which it is entitled in accordance with these provisions at its own discretion to the extent that their value exceeds the value of the claims by more than 10%.

6. If the cooperation of the buyer is required for the retention of title to be valid, e.g. any registration that may be necessary under the laws of the country in which the buyer is located, the buyer shall be obliged to perform these activities.

7. If the buyer is in default of payment, baobab holding may prohibit him from disposing of the retained goods either completely or, at its own discretion, partially, e.g. only from selling or processing them.

8. If the buyer meets the objective conditions for the duty to file for insolvency, the buyer shall refrain from disposing of the retained goods in any manner whatsoever without being explicitly requested to do so. The buyer shall be obligated to report the stock of retained goods to baobab holding immediately. In this case, baobab holding shall furthermore be entitled to withdraw from the contract and to request the surrender of the retained goods. If the retained goods have been processed, treated, blended, mixed or bonded with other products, baobab holding shall be entitled to request that the goods be surrendered to a fiduciary person; the buyer shall be obligated to inform baobab holding of all co-owners of the retained goods, stating their name or the name of their company, address and co-ownership share. The same shall apply accordingly for claims that have been assigned to baobab holding under the terms of the previous paragraphs; in addition, the buyer must forward, without being requested to do so, the names and addresses of all debtors, as well as copies of the documents attesting to the claims asserted against them.

IX. Other provisions

1. Exclusive place of jurisdiction shall be Munich if the buyer is an entrepreneur within the meaning of Section 310 (1) BGB or has no general place of jurisdiction in Germany.

2. The language of the proceedings shall be German.

3. Place of performance for the delivery and place of settlement of warranty claims shall be the place of business of baobab holding GmbH in France.

X. Applicable law

The contractual relationships shall be subject exclusively to the laws of the Federal Republic of Germany to the exclusion of the UN Convention on Contracts for the International Sale of Goods (CISG).