

panExpert Heinz Schmidt GmbH
&
panExpert Produktions- und Dienstleistungs- GmbH
General Terms and Conditions

1. Scope

Our General Terms and Conditions are exclusively applicable. Any conflicting or different terms shall not be taken into consideration without our prior written consent. All orders are considered as agreement to our General Terms and Condition and abandonment of own terms.

2. Contract Conclusion

Our offers are subject to change until accepted. We indicate acceptance of an order by written acknowledgement or execution of the order.

3. Delivery and Shipment

The delivery periods do not commence prior to complete reception of all information and documents required for order processing. We shall do our best to adhere to the delivery dates and deadlines which, however, remain non-binding unless the transaction is an explicitly agreed upon firm deal. If shipment is affected by Acts of God or no fault of our own, the delivery period shall be extended by the length of the encumbrance. We shall forward the necessary information immediately. Both parties to the contract shall have the right to withdraw from an individual order without compensation if delivery is delayed for more than one month due to the above conditions.

We shall be entitled to partial shipments to a reasonable extent.

4. Passing of Risk

The risk passes to the buyer as soon as the goods are consigned to the forwarding agent. If shipment is delayed through no fault of our own, we shall be granted an additional two weeks for completing delivery or, in special cases (e.g. tubular film wrapping) a considerably longer period of time. In such cases we shall have the right to offer the client comparable goods at the price agreed upon in the contract. We cannot be considered in default if our own suppliers fail to deliver to us without us being responsible for their delay.

5. Warranty of Quality

Our shipments are prepared with due care for transportation. The customer is to inspect the goods without delay, in detail and according to commercial law after their receipt, and to notify us immediately and in writing of defects identified during inspection. The customer shall, in such case, grant us immediate access to the reported goods and handle them according to our instructions if the complaint proves to be justified.

We are generally not liable for indirect damage unless such damage is due to a lack of warranted characteristics. Notwithstanding the cause in law, our liability remains limited to cases of intent or gross negligence unless essential contractual obligations have been violated. We shall, however, only be liable for the contractually foreseeable type of damage.

If we admit a warranty case, we shall be entitled to subsequent delivery at our expense and within a reasonable period of time. If replacement is impossible or unsuccessful or by us unduly and intentionally delayed, the customer shall have the right to either reduce the contractually agreed upon price or withdraw from the contract.

6. Reservation of Title

We reserve ownership of the delivered goods until the customer has settled all accounts outstanding from the business transaction. The allocation of single amounts to a current account does not affect our reservation of title. Disposal of our goods is possible only within the framework of the ordinary course of business. Any access of third parties to goods subject to reservation of title is to be communicated without delay. We or the person authorized by us shall be granted access to the customer warehouse for inspection and identification of the goods subject to reservation of title. If we are obliged to release securities, the respective claim shall be of our choice if the value of the claims to be secured is exceeded by 20 per cent.

7. Prices and Terms of Payment

The prices and terms of payment result from the price list valid at the day of delivery or the individual written agreement. All costs for disposal arising at the customer are taken into consideration. The purchasing price is to be paid net within 21 days from the invoice date (invoice date = date on the invoice plus one day for mailing). Unless excluded for single cases, the customer shall agree to direct debiting at his main bank. Reversals or other serious doubt regarding the customer's financial solvency entitle us to stop all business relations with such customer and to claim damages due to non-performance of contractual duties.

Confirmed or agreed upon prices are not binding if they are communicated incorrectly due to obvious typing or calculation errors. In such cases we shall have the right to alter and fix the price at our equitable discretion if we explain such error in writing to our customer immediately after its identification.

8. Additional Terms

Annual discounts, bonus payments etc are expressly excluded unless confirmed by us in written form. They shall, however, only be made if the customer adheres to the terms of payment and does not deduct unclear invoices.

9. Loans

An item is handed to the customer as a gift only if agreed upon beforehand and in writing. Otherwise all objects temporarily given into the customer's custody (e.g. ovens, sales stalls, containers, advertising material and similar) shall remain rental items and, upon our request, be returned immediately and undisputedly in cleaned condition.

10. Default in Taking Delivery

If the customer fails to take delivery in due time, we shall have the right to withdraw from the contract after expiry of a 10-day extension, and to claim damages. Damage compensation shall be a lump sum of 10% of the net turnover. Further damage claims shall not be affected. The customer's default in taking delivery entitles us to invoice a higher day price.

11. Place of Delivery, Choice of Law, Place of Venue, Severability Clause

Our main office shall be the place of performance and venue for all deliveries and performances. This agreement shall be governed exclusively by German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods unless subject to the legal conventions of other countries.

If individual provisions herein become null and void, the remaining provisions shall remain in effect.

Statements shall have effect only in written form with signature or in text form via email or fax.

The German version of the General Terms of Sale and Delivery shall have legal priority over the English one