

General Terms and Conditions of Sale and Payment of Glamory Hosiery GmbH & Co. KG

As revised: February 2017

§ 1 Application

- (1) All deliveries, services and offers of the seller shall take place exclusively upon the basis of these general terms and conditions of sale. These shall be a constituent part of all contracts which the seller concludes with its contractual partners (hereinafter referred to as "the Buyer(s)") in relation to deliveries and services offered by it. They shall also apply to all future deliveries, services or offers to the Buyer, even if they are not specifically agreed again.
- (2) Even if the seller does not specifically object to their application in the individual case, the Buyer's terms and conditions of business, or those of a third party, shall not apply. Even if the seller refers to correspondence which contains or refers to the Buyer's terms and conditions of business, or those of a third party, this shall not constitute agreement to the application of those terms and conditions of business.

§ 2 Offer and Conclusion of Contract

- (1) All offers of the seller shall be without obligation and non-binding, unless they are expressly referred to as binding or contain a particular deadline for acceptance. The seller can accept orders within 14 days of receipt.
- (2) The legal relationship between the seller and the Buyer shall be governed exclusively by the purchase contract made in writing, including these general terms and conditions of sale. This alone shall reproduce the agreement between the parties in relation to the subject matter of the contract in full. Oral undertakings given by the seller before this contract is made are not legally binding and, unless they expressly indicate at the time that they shall be binding, oral agreements between the contracting parties shall be replaced by the written contract.
- (3) In order to be effective, additions and amendments to the agreements reached, including to these general terms and conditions of sale, must be made in writing. With the exception of managers or "Prokurists" (persons with the authority, which is registered in the Commercial Register, to act on behalf of the owner of a commercial firm in respect of all business transactions), members of the seller's staff or business representatives involved by it are not authorised to reach oral agreements which differ from this. Transmission by fax is sufficient to comply with the required written form; otherwise transmission by telecommunication – in particular via Email – is not sufficient.
- (4) Statements given by the seller in relation to the delivery are not guaranteed characteristics, but descriptions or features of the delivery. To the extent that they do not interfere with the use of the goods for the purposes provided in the contract, variations which are usual in commercial practice and variations made on the basis of legal provisions are permissible.
- (5) The seller shall retain the ownership of, or copyright in, all offers made by it. The Buyer shall not make these offers or their contents available to third parties or disclose the same without the express consent of the seller.

§ 3 Prices and Payment

- (1) Prices relate to the amount of service and deliveries listed in the order confirmation. Excess or extra deliveries shall be separately calculated. The prices are quoted in EUROS plus packaging, order-related costs, statutory value added tax, and – in relation to export deliveries – customs duties and taxes and other public levies.
- (2) The customer receives in advance by e-mail an order confirmation which is payable within 10 days without deduction, unless there are contrary written agreement. A payment is considered to have taken place to the bank account from the point in time of the unconditional value date. It applies only cash in advance. If the buyer fails to make payment by the due date, interest shall be due on the outstanding amounts in the amount of 5% per annum from the due date; to require the assertion of higher interest rates and further damages in case of subsequent performance remains unaffected.
- (3) The offsetting of counterclaims by the Buyer or the withholding of payment because of such claims is only permitted to the extent that the counterclaims are uncontested or recognised by a final judgement which cannot be appealed.
- (4) The seller has the right to withhold outstanding deliveries or services until advance payment is made or a guarantee provided if, after the contract is made, it becomes aware of circumstances which are capable of materially decreasing the creditworthiness of the Buyer and which jeopardise the payment by the customer of the outstanding debts due to the seller from the relevant contractual relationship.

§ 4 Delivery and Time of Delivery

- (1) Periods and dates proposed by the seller in respect of deliveries and services shall be deemed to be approximate, unless a firm period or a firm date is expressly confirmed or agreed. Where shipping has been agreed, the delivery periods and delivery dates relate to the time at which the goods are handed over to the forwarding agent, carrier or other third party charged with the transport.
- (2) The seller can – without prejudice to its rights arising from late performance by the Buyer – demand from the Buyer that delivery periods are extended or delivery dates or dates for the provision of services are postponed by the length of time for which the Buyer does not comply with its contractual obligations towards the seller.
- (3) The seller shall not be liable for the impossibility of a delivery or for late delivery to the extent that that these are caused by act of God or other events for which the seller is not responsible and which are not foreseeable at the time the contract is concluded (e.g. operational breakdowns of all kinds, difficulties with the procurement of materials or energy, delays with transportation, strikes, lawful lockouts, lack of workers, energy or raw materials, difficulties with the procurement of necessary official permits, official measures, or failed, late, or incorrect deliveries by suppliers). Insofar as such events shall make the delivery or the services materially more difficult or impossible for the seller and the obstruction is not only of a temporary duration, the seller shall have the right to terminate the contract. In the case of hindrances of temporary duration, the delivery periods and periods for the provision of services shall be extended and delivery dates and dates for the provision of services shall be postponed, by the period of the obstruction plus an appropriate lead period. To the extent that the Buyer cannot reasonably be expected to take delivery or accept the services by reason of the delay, it can terminate the contract by notice to the seller made in writing without delay.
- (4) The seller shall only have the right to make partial deliveries if
 - the partial delivery is usable by the Buyer for the contractually agreed purpose,
 - the delivery of the remainder of the ordered goods is ensured and
 - the seller incurs no substantially greater expenses or additional costs (unless the seller declares itself willing to take on these costs)
- (5) If the seller shall be late with delivery or if a delivery shall, for whatever reason, become impossible, then the seller's liability to pay damages shall be limited in accordance with the provisions of § 8 of these general terms and conditions of sale.

§ 5 Place of Performance, Dispatch, Packaging, Transfer of Risk, Taking Delivery

- (1) The place of performance for all obligations arising out of this contractual relationship shall be Kaltenkirchen.
- (2) The mode of dispatch and packaging shall be at the discretion of the seller, to be exercised after due assessment of the circumstances.
- (3) At the latest, risk shall be transferred to the Buyer upon handover of the items to be delivered the Item(s) to the forwarding agent, carrier or other third party charged with the transport (the commencement of the loading process shall be decisive for this). This applies even if partial deliveries are made or if the seller has taken on other services, e.g. dispatch. If dispatch or handover is delayed as a result of circumstances caused by the seller, the risk shall be transferred to the Buyer from the day upon which the Items are ready for dispatch and the seller has given notice of this to the Buyer.
- (4) The Buyer shall bear the storage charges after risk has been transferred. Where storage is arranged by the seller, the storage charges per week shall be 0.25% of the amount invoiced for the Items which are to be stored. The right to claim and provide evidence of further or lower storage charges is reserved.
- (5) The consignment shall only be insured by the seller upon the express request and at the cost of the Buyer, against theft, breakage, transport-, fire- and water damage or other insurable risks.
- (6) To the extent that delivery has to be taken, delivery of the objects of purchase shall be deemed to be taken when
 - delivery is completed,

- 12 working days have elapsed since the delivery or the Buyer has begun to use the objects of purchase and
- the Buyer has not taken delivery within this period for a reason other than a defect which has been notified to the seller and which is materially detrimental to the use of the objects of purchase or makes the use of the objects of purchase impossible.

§ 6 Warranty, Defects

- (1) The warranty period shall be one year from delivery.
- (2) The delivered items shall be carefully inspected immediately after delivery to the Buyer or the third party named by it. They shall be deemed to be accepted if the seller does not receive written notice of the defects in the manner prescribed by § 2 (2) sentence 6 within 3 working days of delivery in respect of obvious defects or other defects which would be evident upon immediate careful inspection, and otherwise within 3 working days after the discovery of the defect or such earlier time by which the defect would be recognisable by the Buyer upon normal use of the Items without closer inspection. Upon demand by the seller, the rejected Items shall be returned to the seller freight paid. Where the notice of defects is justified, the seller shall pay to the Buyer the cost of the most advantageous method of dispatch. This shall not apply to the extent that the costs are increased due to the Items being in a place other than at the place where they are intended to be used.
- (3) If delivered items are defective, the seller shall first – at its option, which must be exercised within a reasonable period of time – be obliged and have the right to either repair the delivered items or deliver a replacement. In the event that this fails i.e. due to impossibility, unreasonable hardship, refusal or inappropriate delay, the Buyer can terminate the contract or reduce the purchase price accordingly.
- (4) If the defect is due to the fault of the seller, then under the conditions set out in § 8, the Buyer can demand damages.
- (5) In the event of defects in the delivered items which the seller cannot remedy for legal or factual reasons, the seller shall, at its option, either enforce its rights arising from a breach of warranty against the manufacturer and supplier on the account of the Buyer, or assign the same to the Buyer. A claim for breach of warranty against the seller shall only exist under the other conditions of, and in accordance with, these general terms and conditions of sale, if the enforcement by legal process of the above mentioned rights against the manufacturer and supplier is unsuccessful or has no chance of success, for example by reason of insolvency. During the continuance of the legal dispute, the limitation period for the Buyer's relevant claims in respect of a breach of warranty against the seller shall be suspended.
- (6) The warranty shall not apply if the Buyer alters the Items or has them altered by a third party without the consent of the seller, so that the remedying of the defect becomes impossible or unreasonably difficult. In all cases the Buyer shall bear the additional costs of remedying the defect which arise by reason of the alteration.

§ 7 Intellectual Property Rights

- (1) The seller is responsible in accordance with this § 7 for ensuring that the Item is free from the industrial property rights or copyright of third parties. Each contracting party shall immediately notify the other in writing if claims are made against it because of the infringement of such rights.
- (2) In the event that the Item shall infringe an industrial property right or the copyright of a third party, the seller shall, at its option and expense, either alter or exchange the Item in such a way that the rights of third parties are no longer infringed and the Item still fulfils its contractually agreed functions; or procure a right of use for the Buyer by concluding a licence contract. If it does not succeed in doing this within an appropriate period of time, the Buyer has the right to terminate the contract or to reduce the purchase price accordingly. Any claims of the Buyer for damage are subject to the restrictions of § 8 of these general terms and conditions.
- (3) In the event that rights are infringed by the products of other manufacturers which are delivered by the seller, the seller shall, at its option, either enforce its rights against the manufacturer and previous suppliers on the Buyer's account or assign the same to the Buyer. Claims against the seller shall only exist in accordance with this § 7 if the enforcement by legal process of the above mentioned claims against the manufacturer and previous suppliers was unsuccessful or has no chance of success, for example by reason of insolvency.

§ 8 Liability for Damages due to Fault

- (1) To the extent that it depends upon fault, the seller's liability for damages is limited in accordance with this § 8 regardless of the legal ground upon which it is based, in particular impossibility, delay, defective or wrong delivery, breach of contract, breach of duties during contractual negotiations, or tort.
- (2) The seller shall not be liable in the event of simple negligence by its officers, legal representatives, employees or other vicarious agents or third parties involved by it, to the extent that a breach of fundamental contractual obligations is not concerned. Fundamental obligations are the obligation to deliver the Item free from material defects at the prescribed time and the duties to provide advice, protection and exercise proper care, which should enable the Buyer to use the Item in accordance with the contract or which are aimed at the protection of the Buyer's personnel against personal injury or death or the protection of its property against substantial damage.
- (3) To the extent that the seller is liable for damages in accordance with § 8 (2), this liability shall be limited to losses which were foreseeable to the seller as a possible result of a breach of contract at the time the contract was concluded or which he should have foreseen if using ordinary care. In addition, direct losses and consequential losses which result from defects in the Item shall only be recoverable to the extent that such losses are to be typically expected upon proper use of the Item.
- (4) In the event of liability for simple negligence, the seller's duty to pay compensation for damage to property and for further economic loss resulting there from is limited to EUR 10,000.00 per claim, even where the breach of a fundamental contractual obligation is concerned.
- (5) The exclusions and limitations of liability mentioned above shall apply to the same extent for the benefit of the officers, legal representatives, employees and other vicarious agents of the seller.
- (6) To the extent that the seller provides technical information or acts in an advisory capacity and this information or advice does not fall within the scope of the contractually agreed services owed by it, this shall be free of charge and with the exclusion of all liability.
- (7) The restrictions of this § 8 do not apply to the liability of the seller for its intentional actions, for guaranteed characteristics, for death, personal injury or damage to health, or pursuant to the Product Liability Act.

§ 9 Retention of Title

- (1) The Item remains the property of the seller until final payment is made. However, the Buyer can sell or process the Item within the framework of its proper business activities. The Buyer assigns its claims in respect of the purchase price to the seller in advance. The seller accepts the assignment.
- (2) Without the consent of the seller, any mortgaging or transfer of the Item by way of security for the benefit of a third party shall be excluded. In the event that the Item is seized/distrained/taken in execution by a third party, the Buyer must notify the seller immediately.

§ 10 Concluding Provisions

- (1) The courts of Kiel (Germany) shall have jurisdiction for both contracting parties in relation to all eventual disputes arising out of the business relationship between the seller and the Buyer. For claims against the seller, the courts of Kiel (Germany) have exclusive jurisdiction. Mandatory statutory provisions relating to exclusive jurisdiction shall be unaffected by this provision.
- (2) The relationships between the seller and the Buyer are subject to the laws of the Federal Republic of Germany exclusively. The United Nations Convention on the International Sale of Goods of 11 April 1980 (CISG) shall not apply.
- (3) To the extent that the contract or these general terms and conditions of sale contain omissions, then such legally effective provisions shall be deemed to have been agreed in the place of such omissions as the contracting parties – had they known of the omissions – would have agreed according to the commercial aims of the contract and the purpose of these general terms and conditions.

Note: The Buyer notes that the seller stores information from the contractual relationship under (§ 28 Federal Data Protection Act) and reserves to itself the right to provide this information to third parties to the extent that this is necessary to fulfil the contract (e.g. insurance).