

## **1. Scope**

1.1 The following general delivery and payment conditions apply to all delivery contracts concluded by Richard Wenzel GmbH & Co. KG (hereinafter “we”). We do not recognize conditions of the customer (hereinafter “buyer”) that deviate from or supplement these conditions unless we have expressly agreed to their validity. Our general delivery and payment conditions also apply if we carry out the delivery without reservation despite being aware of the buyer's conditions that conflict with or deviate from these conditions.

1.2 These General Terms and Conditions of Delivery and Payment do not apply to consumers within the meaning of Section 13 of the German Civil Code (BGB).

## **2. Conclusion of contract**

2.1 The contract is concluded by two mutual declarations of intent.

2.2 If we offer goods via an online shop, the display on the website does not constitute a binding offer. In this case, the buyer submits a binding offer by sending his order by clicking on the order button. In this case, the contract comes into effect with our order confirmation. Section 312i Paragraph 1 Sentence 1 Nos. 2 and 3 and S. 2 BGB do not apply.

## **3. Prices and Payment**

3.1 Unless otherwise agreed, the prices stated apply EX WORKS in accordance with INCOTERMS 2020. The prices shown are generally gross prices including sales tax, if applicable.

3.2 If, after the conclusion of the contract, cost items on which our price calculation is based (such as raw material prices) change for reasons for which we are not responsible and the total costs of fulfilling the contract increase as a result, taking all other cost items into account, we are entitled to adjust the price accordingly at our reasonable discretion. In this case, we will immediately inform the buyer of the price adjustment in text form. In the event of a price increase of more than 10%, the buyer is entitled to withdraw from the contract.

3.3 Unless advance payment and no other payment period has been agreed, the purchase price is to be paid no later than 30 days after delivery and receipt of the invoice.

3.4 If the agreed payment deadline is exceeded, the buyer will be in default of payment and will be obliged to pay default interest at the statutory rate. Claims for compensation for further damages caused by the delay and the right to withdraw from the contract under the statutory conditions remain unaffected.

3.5 The buyer is only entitled to rights of set-off and retention if his counterclaims have been legally established, are undisputed or have been recognized by us. This restriction does not apply to claims by the buyer due to defects or due to partial non-fulfillment of the contract, insofar as these claims result from the same contractual relationship as our payment claim.

3.6 Even if no advance payment was agreed upon when the contract was concluded, we are entitled to carry out outstanding deliveries only against advance payment or security if, after the contract has been concluded, we become aware of circumstances which jeopardize the settlement of our payment claim. If the buyer does not comply with our request to make an advance payment or provide security within a reasonable period of time, we are entitled to withdraw from the contract.

## **4. Delivery and delay**

4.1 Compliance with delivery dates requires the timely and proper fulfillment of the buyer's contractual obligations.

4.2 Unless otherwise agreed, delivery will be EX WORKS in accordance with INCOTERMS 2020. The risk of accidental loss or accidental deterioration passes to the buyer when the goods are made

available for shipment. The statutory provisions on the transfer of risk in the event of default in acceptance remain unaffected.

4.3 If we ship the goods to another destination at the request and expense of the buyer, we are entitled to determine the type of shipment (in particular the transport company and the shipping route) ourselves.

4.4 Events for which we are not responsible that prevent us from providing our services on time, such as (but not limited to) strikes, lawful lockouts, wars, riots, the effects of epidemics and pandemics, official orders or natural disasters, release us from fulfilling the contractual obligations we have assumed for the duration of the hindrance and an appropriate restart phase, so that the delivery time is extended accordingly. In the case of epidemics and pandemics, this also applies if they had already occurred when the contract was concluded, but we were neither aware of nor should have known of their specific effects on the contract. We undertake to inform the buyer immediately of the occurrence and expected duration of such an event. If such a hindrance lasts longer than three months, each party is entitled to withdraw from the contract, but the buyer only after giving appropriate warning. In this case, any consideration already provided will be refunded immediately.

4.5 Delivery is subject to timely and correct delivery of raw materials by our suppliers. The provisions of Section 4.4 apply accordingly if we are unable to deliver on time because, for reasons beyond our control, our supplier, with whom we have concluded a contract for the raw materials required for production, does not deliver to us or does not deliver on time, despite careful selection of the supplier.

4.6 If we are liable due to a delay in delivery, our obligation to compensate for delay damages (compensation in addition to performance) is limited to a maximum of 5% of the net purchase price of the delayed delivery, provided that we and our vicarious agents are not guilty of intent or gross negligence. Liability for culpable injury to life, body or health as well as liability for intent and gross negligence remain unaffected. The liability regulations in accordance with Section 6 of these Terms of Sale apply to liability for damages instead of performance.

4.7 We are entitled to make partial deliveries to an extent that is reasonable for the Buyer.

4.8 If the buyer delays on acceptance or violates other obligations to cooperate, we are entitled to demand compensation for the resulting damage, including any additional expenses, unless the buyer proves that he is not responsible for the breach of duty. Further legal claims remain unaffected.

## **5. Warranty**

5.1 The goods are manufactured according to the latest technology. We would like to point out that, given the current state of raw material processing and technical production options, it is not possible to produce a candle that is completely drip- and soot-free. We would also like to point out that the goods contain natural components that can change in shape and colour due to prolonged or improper storage. This does not constitute a defect in the goods.

5.2 The buyer's warranty rights require that the buyer properly examines the delivered goods for defects in accordance with the statutory provisions in Section 377 of the German Commercial Code (HGB) and immediately reports any defects. The notification of defects must be made in writing.

5.3 If the buyer has properly fulfilled his obligation to give notice of defects, he is entitled to the statutory warranty rights in the event of a defect in accordance with the following provisions. The choice between subsequent delivery and repair is ours. Claims for damages only exist within the scope of section 6. Claims for reimbursement of expenses according to Section 445a Paragraph 1 of the German Civil Code only exist, if the contract in the supply chain is a purchase of consumer goods.

5.4 Claims for defects expire one year after delivery of the goods. Deviating from this, the statutory warranty period of two years applies to claims for damages due to intentional or grossly negligent breaches of duty or culpable injuries to life, body or health. The statutory limitation provisions in the event of supplier recourse (Section 445b of the German Civil Code) also remain unaffected, if the last contract in the supply chain is a purchase of consumer goods.

## **6. Liability**

6.1 We are liable in accordance with the statutory provisions if the buyer asserts claims for damages based on intent or gross negligence or a culpable breach of an essential contractual obligation. Essential contractual obligations are those whose fulfillment is necessary to achieve the purpose of the contract and on whose compliance the buyer regularly relies and may rely. Insofar as we and our vicarious agents are not guilty of intent or gross negligence, liability for damages in the aforementioned cases is limited to the foreseeable damage typical for the contract. The limitation of liability under section 4.6 also applies to liability for delay.

6.2 Liability for culpable injury to life, body or health remains unaffected by the above limitations of liability; this also applies to liability in the event of a guarantee being assumed and mandatory liability under the Product Liability Act.

6.3 Unless otherwise stated above, our liability for damages is excluded regardless of the legal nature of the asserted claim.

6.4 The above provisions shall apply accordingly if the Buyer demands reimbursement of wasted expenditure instead of a claim for compensation for damages.

## **7. Burning instructions and instructions for the end user**

The candles are provided with burning instructions for the end user. Packaging with several candles that are intended for resale as a closed packaging unit only contains one burning instruction for the entire packaging unit. If the buyer breaks up such a packaging unit in order to resell individual items, he is responsible for providing the end user with proper instructions in accordance with the burning instructions. If he fails to meet this obligation, he must indemnify us against any claims made by third parties.

## **8. Retention of title**

8.1 We retain title to the purchased item until all payments from the business relationship with the buyer have been received. If there is a current account relationship between the buyer and us, the retention of title also applies to the respective recognized balance.

8.2 The buyer is not entitled to pledge the reserved goods or to transfer them to third parties as security. In the event of seizures or other interventions by third parties, the buyer must notify us immediately in writing. If the third party is not in a position to reimburse us for the legal and extrajudicial costs of averting the intervention, the buyer is liable for the loss incurred by us.

8.3 If the buyer acts in breach of contract, we are entitled to withdraw from the contract under the statutory conditions and to demand the return of the reserved goods.

8.4 The buyer is entitled, until revoked, to resell the goods subject to retention of title in the ordinary course of business. However, he hereby assigns to us as security the claims against the end customer resulting from the resale up to the amount of our invoice claims. We accept the assignment. The buyer remains entitled to collect the claim. We undertake not to collect the claim as long as the buyer meets his contractual obligations and there is no lack of his ability to pay. If these conditions are no longer met, we can demand that the buyer disclose the assignment to the end customer and provide us with all documents and information required to collect the claim.

8.5 If the reserved goods are processed by the buyer, it is agreed that the processing is carried out for us as the manufacturer and that we immediately acquire ownership or - if the processing is carried out using materials from several owners or the value of the processed item is higher than the value of the reserved goods - joint ownership of the newly created item in the ratio of the invoice value of the reserved goods to the invoice value of the newly created item. The buyer will keep the new item in safekeeping for us.

8.6 If the retention of title is not effective under the law in whose jurisdiction the goods are located, the security corresponding to the retention of title in this jurisdiction shall be deemed to have been agreed. If the buyer's cooperation is required for the creation of such rights, he is obliged to take all reasonable measures (such as registration or publication requirements) at his own expense that are necessary to establish and maintain such rights.

8.7 We undertake to release the existing securities at the request of the buyer to the extent that the realisable value of the securities exceeds the claims to be secured by more than 10%; the selection of the securities to be released is at our discretion.

## **9. Confidentiality**

9.1 The buyer undertakes to treat business secrets and other information in connection with our business operations, which become known to him through the business relationship and in whose confidentiality there is a legitimate interest, as confidential and not to make them accessible to third parties without express prior written consent.

9.2 There is no obligation to maintain confidentiality if and to the extent that the information obtained a) has become generally known or publicly accessible without violating this confidentiality clause; b) was already in the possession of the buyer at the time of disclosure without violating confidentiality obligations, or the buyer obtains it lawfully from a third party after disclosure without the third party violating confidentiality obligations; c) must be disclosed due to legal provisions or an official or judicial order.

## **10. Partial invalidity**

If a provision of these General Terms and Conditions of Delivery and Payment is or becomes invalid, the validity of the remaining provisions shall remain unaffected. The relevant statutory provisions shall apply in place of the invalid provision.

## **11. Choice of law and place of jurisdiction**

11.1 The law of the Federal Republic of Germany applies, excluding the UN Convention on Contracts for the International Sale of Goods.

11.2 If the buyer is based in the European Economic Area or Switzerland, the exclusive place of jurisdiction for all disputes arising from or in connection with the contract shall be our registered office.

11.3 If the buyer is based outside the European Economic Area and Switzerland, the following provision shall apply instead of the above: All disputes arising from or in connection with this contract shall be finally settled in accordance with the Arbitration Rules of the International Chamber of Commerce (ICC) by one arbitrator or, in the case of a value in dispute exceeding EUR 150,000, by three arbitrators appointed in accordance with these Rules. The place of arbitration shall be Frankfurt am Main, Germany. The language of arbitration shall be German or English.

11.4 Translations of these General Terms and Conditions of Delivery and Payment into other languages are for the sole purpose of providing information to the Buyer. In the event of any discrepancies between the language versions, the German text shall prevail.