

TERMS AND CONDITIONS OF DELIVERY AND PAYMENT

Preliminary remark

The English text of these Terms and Conditions of Delivery and Payment is a courtesy translation. The German version of the "Liefer- und Zahlungsbedingungen der Cellofoam GmbH & Co. KG" is deemed the only legally binding text.

§ 1 General

1. These Terms and Conditions of Delivery and Payment apply to all contractual relationships with entrepreneurs in the exercise of their commercial or independent professional activity, and with legal entities under public law.
2. The contractual relationships between Cellofoam International GmbH & Co. KG ("Vendor") and the customer ("Customer") are exclusively based on the present Terms and Conditions of Delivery and Payment. Any terms and conditions of the Customer which are conflicting with, additional to or deviating from these Terms and Conditions of Delivery and Payment are hereby rejected. Such terms and conditions shall only apply if they have been expressly accepted in writing, in each individual case, by the Vendor.
3. Any and all agreements made between the Vendor and the Customer for the purpose of executing the Customer's order shall be set out in writing in the corresponding contract.

§ 2 Conclusion of the Contract, Scope of the Contract

1. An order shall be deemed to have been accepted if the Vendor issues a written order confirmation within two weeks of the order date.
2. All sales contracts are concluded only with regard to specific delivery dates, quantities, articles and qualities. Both parties are bound to these stipulations.
3. Changes to these stipulations within the scope of the placed order shall only be permitted if mutually agreed. Beyond and apart from such changes it shall not be possible to cancel an order.
4. The delivered goods comply only with the standards, guidelines and tests mentioned in the material data sheets valid at the time of contract conclusion, or expressly agreed in writing with the Customer, or specifications otherwise expressly agreed in writing. Insignificant, technically unavoidable deviations in quality, color, width, weight, finish or design as well as any deviations typical for the trade are possible. The Customer's expectations with regard to the contractual products or their use shall not constitute an agreement on the properties of the goods unless they have been expressly agreed as such in writing.

§ 3 Prices, Payment, Default of Payment

1. Unless otherwise stated in the order confirmation or otherwise agreed in writing, the Vendor's prices are ex works including loading at the factory, but excluding freight, transport, special packaging requested by the Customer, insurance, customs duties and the statutory value added tax; these costs, customs duties and taxes shall be borne by the Customer.
2. The purchase price becomes due for payment at the moment that the goods are made available for shipment, at the latest upon delivery. Any postponement of the due date is excluded.
3. Invoices are due strictly net within 30 days of the invoice date. Any deviating payment dates and terms must be agreed in writing.
4. In case of international business transactions, payment shall be made prior to the delivery of the goods resp. prior to the goods being made available for shipment, unless otherwise agreed in writing in advance.
5. The payment date shall be deemed to be the day on which the invoiced amount is credited to the Vendor's account.
6. Money orders, checks and bills of exchange shall only be accepted following explicit written agreement and solely on account of performance. All collection and discount costs shall be at the Customer's expense.
7. The Customer shall only be entitled to offset his own claims against the Vendor's claims if the Customer's counterclaims are undisputed, finally adjudicated, or explicitly recognized by the Vendor. The Customer can only assert a right of retention if his counterclaim is based on the same contractual relationship as the Vendor's claim.
8. The Vendor is not obliged to deliver any goods under this or any other contract as long as the Customer has not properly fulfilled his payment obligations under this or any other contract. Other rights of the Vendor to decline performance etc. shall remain unaffected.
9. After expiry of the payment period, the Customer shall be deemed in default of payment without the need for a reminder.
10. If the Customer is in default of payment, the Vendor shall be entitled to demand interest on arrears from the moment the Customer's being in default, at a rate of 9 percentage points above the respective base interest rate p.a. Further rights of the Vendor, in particular the right to claim damages and the right to withdraw from the contract, shall remain unaffected.
11. If, after conclusion of the contract, the Vendor becomes aware of any facts which call the solvency of the Customer into question, the Vendor shall be entitled to demand full payment or the provision of securities before further execution of the order or, after the fruitless expiry of a reasonable deadline set for full payment or security provision, to withdraw from the contract. The

Customer's solvency shall be assumed to be open to doubt if, among other things, long-term seizures or other enforcement measures are taken against the Customer, or if insolvency proceedings are opened against the Customer's assets, or if the opening of such proceedings is rejected due to lack of assets. If, in the case of clause 1, delivery has already taken place, the entire purchase price shall become due for payment immediately. Further claims of the Vendor shall remain unaffected.

§ 4 Delivery, Delivery Period

1. The delivery of the goods is ex works, unless otherwise agreed in writing.
2. Partial delivery is permissible, unless partial delivery is not reasonably acceptable for the Customer, due account taken of the Vendor's best interests.
3. The delivery period is specified in the order confirmation.
4. An agreed delivery period (delivery deadline or delivery date) shall be deemed to have been met if the goods have left the factory by the time this period expires, or if the Vendor has notified the Customer that the goods are ready for collection or shipment. Compliance with the delivery period is subject to the condition that the Vendor has received the relevant deliveries by his own suppliers in due time, form and quality, unless the Supplier is responsible for the reason for flawed or late delivery by his own suppliers. In the event of improper delivery by his suppliers, the Vendor shall be entitled to withdraw from the contract. The Vendor shall inform the Customer immediately if the Vendor exercises his right to withdraw from the contract and shall return any advance payments made by the Customer.
5. If the Customer is in default of acceptance, the Vendor shall be entitled to demand compensation for the loss caused thereby, unless the Customer is not responsible for the non-acceptance of the goods. Furthermore, in the event of a default of acceptance by the Customer, the Vendor shall be entitled to demand compensation for any additional expenses incurred. In particular, the Vendor is entitled to store the goods at the Customer's expense during the period of default of acceptance. The costs for the storage of the goods shall be a flat rate of 60.00 € net per calendar week or part thereof, plus 6.00 € net per required square meter per calendar week or part thereof. The point in time from which storage costs can be claimed depends on the beginning of the default of acceptance:

For deliveries within Germany or within the EU:

- With the default of acceptance starting on a Monday or Tuesday, the flat fee for storage shall apply from on the Monday of the following calendar week.
- With the default of acceptance starting on a Wednesday, Thursday or Friday, the flat fee for storage shall apply from the Monday of the calendar week after the next one.

For deliveries to countries outside the EU:

- With the default of acceptance starting on a Monday or Tuesday, the flat fee for storage shall apply from the Monday of the calendar week after the next one.
- With the default of acceptance starting on a Wednesday, Thursday or Friday, the flat fee for storage shall apply from the Monday of the calendar week two weeks after the next one.

Further claims of the Vendor shall remain unaffected. The Customer is entitled to prove that the Vendor has not incurred any additional costs or that the costs were significantly lower.

6. Upon written request, the Vendor provides a certificate of compliance as to DIN EN 10204, free of charge. The supply of other documents issued/performed provided at the request of the Customer shall be charged on a time basis.
7. In the event of a delay in delivery, the Customer shall be entitled to withdraw from the contract after the fruitless expiry of a reasonable grace period granted to the Vendor after the delay in delivery has occurred, insofar as the Vendor is responsible for the delay in delivery. The Customer shall be obliged, at the request of the Vendor, to declare within a reasonable period of time whether he withdraws from the contract and/or demands damages instead of performance, or insist on delivery.

§ 5 Passing of Risks

The risk of accidental loss and accidental deterioration passes to the Customer as soon as the contractual goods are handed over to the person carrying out the transport or leave the Vendor's warehouse for the purpose of shipment. In case the products are collected by the Customer, the risk shall pass to the Customer upon notification of readiness for collection. The above sentences 1 and 2 shall also apply if the delivery is made in parts or if the Vendor has taken over additional performances, such as the transport costs.

§ 6 Retention of Title

1. The delivered goods remain the property of the Vendor until full settlement of the delivery price as well as of all claims that the Vendor has against the Customer from the current business relationship, including accessory claims and claims for damages.
2. The Customer stores the goods subject to retention of title free of charge for the Vendor and treats them with due care. In particular he insures them adequately at replacement value against typical risks such as fire, theft and water damage. The Customer hereby assigns any claims for compensation to which he is entitled from damage of the above-mentioned kind against insurance companies or other parties liable to pay compensation, in the

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amount of the invoice value, to the Vendor, who accepts the assignment. In case such an assignment is not permitted by law, the Customer hereby instructs the insurer to make any payments exclusively to the Vendor. Further claims of the Vendor shall remain unaffected.

3. In the event of interventions by any creditors of the Customer, in particular in the event of seizure of the goods subject to retention of title, the Customer shall notify the Vendor immediately in writing and cooperate in the measures taken by the Vendor to protect the goods subject to retention of title. To the extent that the third party is not able to reimburse the Vendor for the judicial and extrajudicial costs incurred by the Vendor in enforcing the Vendor's property rights, the Customer shall be obliged to compensate the Vendor for the resulting loss, unless the Customer is not responsible for the circumstances which have led to the intervention by the third party. Further claims of the Vendor shall remain unaffected.
4. The Customer is entitled to resell the delivered goods in the ordinary course of business provided that he meets his payment obligations to the Vendor. If the Customer sells the delivered goods despite retention of title, he hereby assigns in advance to the Vendor any and all of his claims that arise from this sale against his buyer or a third party, including all accessory rights, irrespective of whether the delivered goods have been resold after processing or in unprocessed condition. The Vendor accepts the assignment. The assignment is limited to the amount of the invoice value of the goods subject to retention of title. Until revocation by the Vendor, however, the Customer shall be entitled and obliged to collect the claims in his own name. The Vendor shall be entitled to demand that the Customer disclose the assignment to his buyer and provide the Vendor with all information necessary to assert his rights against the third-party buyer and hand over the relevant documents. The Customer hereby authorizes the Vendor to inform the Customer's buyer(s) of the assignment. Other than that, as long as the reservation of title persists, pledging, transfer of ownership by way of security or other disposal or handover of the goods shall not be permitted without the Vendor's prior written consent.
5. The processing or transformation of the delivered goods by the Customer is always carried out on behalf of the Vendor without giving rise to any obligations for the Vendor. If the delivered goods are processed or transformed together with other goods not belonging to the Vendor, the Vendor shall acquire co-ownership of the new object in the ratio of the value of the delivered goods (invoice amount) to the other processed goods at the time of processing or transformation. In all other respects, the object resulting from the processing or transformation shall be subject to the same provisions as the goods delivered under reservation of title. The foregoing shall also apply if the goods are combined or mixed with other items not belonging to the Vendor in such a way that the Vendor loses his full ownership.
6. In the event of breaches of duty by the Customer, in particular his failure to meet his payment or insurance obligations, the Vendor shall be entitled, without prejudice to his other rights, to repossess the goods after the fruitless expiry of a reasonable period of grace set by the Vendor. The repossession of the goods shall not require the Vendor to withdraw from the contract; nor shall the repossession constitute a withdrawal by the Vendor from the contract unless the Vendor expressly declares such withdrawal in writing. All costs arising from the repossession of the goods shall be borne by the Customer, unless the Customer is not responsible for the breach of duty. The Vendor shall be entitled, without prejudice to the Customer's obligation to pay damages, to make the best possible use of the repossessed goods by selling them on the open market. The proceeds after deduction of the costs shall be credited to the Customer's total debt. Any excess proceeds shall be paid out to the Customer. Further claims of the Vendor shall remain unaffected.
7. The Vendor undertakes to release, at the request of the buyer, the securities to which he is entitled insofar as their value exceeds the claims to be secured by more than 10%. The Vendor is entitled to choose which securities are to be released.
8. As soon as the Customer has stopped his payments, and immediately after he has announced the suspension of payments, the Customer shall be obliged to send the Vendor a list of the remaining goods under retention of title, even if they have been processed or transformed, and a list of his claims against the third-party debtors together with any credit notes.
9. In the case of delivery to places governed by legal systems in which this retention of title provision does not have the same securing effect as in the Federal Republic of Germany, the Customer hereby grants the Vendor a corresponding security interest. If further measures are required for this purpose, the Customer shall do everything in his power to grant the Vendor such a security interest without delay. The Customer shall cooperate in all measures that are necessary and beneficial for the effectiveness and enforceability of such security interests.

§ 7 Defects in Material or Title ("Defects")

1. The Customer's rights arising from product defects require that he has met his obligation to inspect the goods on delivery, if reasonable also by trial processing or trial use, and has notified the Vendor in writing of any obvious defects immediately, at the latest within 8 (eight) days of the delivery of the goods. Hidden defects must be communicated to the Vendor in writing without delay, at the latest within 8 (eight) days of their discovery. The Customer shall include a written description of the defects when notifying the Vendor. Furthermore, during planning, construction, assembly, connection, installation, commissioning, operation and maintenance of the goods, the Customer must comply with the specifications, instructions, guidelines and conditions in the technical notes, assembly instructions, operating and maintenance

manuals and other documents relating to the individual goods. In particular he has to ensure the performance and documentation of the proper maintenance measures and the use of the recommended components. Claims for any defects which result from of a breach of this obligation are excluded.

2. In the event of defects, the Customer shall be entitled to subsequent performance, i.e. the Vendor shall, at his discretion, either remedy the defect or deliver replacement goods that are free of defects. The expenses necessary for this performance, such as labor, material, transport and travel costs, shall be borne by the Vendor. Replaced parts shall become the property of the Vendor and are to be returned to the Vendor.
3. If the subsequent performance fails or if the Vendor is not prepared or willing to provide subsequent performance, the Customer may, at his discretion and without prejudice to any claims for damages or compensation for expenses, withdraw from the contract or reduce the remuneration. However, withdrawal is excluded in particular in cases of insignificant deviations from the agreed quality or of only minor impairment of the usability of the goods.
4. Liability for defects is excluded if such defects are attributable to natural wear and tear, to improper handling, assembly, use or storage, or to improper modifications or repairs of the goods carried out by the Customer or third parties. Likewise excluded from the liability for defects are claims for defects after the Customer has started to cut or otherwise process the delivered goods, unless the defect only becomes apparent during cutting or processing. § 7 para. 1 of these Terms and Conditions of Delivery and Payment shall remain unaffected.
5. The Vendor does not give any guarantees, in particular no guarantees of quality or durability, unless otherwise agreed in writing in individual cases.
6. The limitation period for claims for defects shall be 12 (twelve) months, unless the supply chain ends in a consumer goods purchase (the end customer is a consumer). If the defective goods have been used in a building in accordance with their normal use and have caused a defect in this building, or if the defect claimed is a defect in a building, the limitation period shall be 5 (five) years. The limitation period of 12 (twelve) months also applies to claims in tort arising from a defect of the delivered goods. The limitation period begins with the delivery of the goods. The limitation period of 1 (one) year does not apply to the unlimited liability of the Vendor for damages resulting from the breach of a guarantee or from loss of life, physical injury or damage to health, for intent and gross negligence and for product defects or insofar as the Vendor has assumed a procurement risk.

§ 8 Liability of the Vendor

1. The Vendor is liable without limitation for damages arising from a breach of guarantee or from loss of life, physical injury or damage to health. The same applies to intent and gross negligence or if the Vendor has assumed a procurement risk. The Vendor shall only be liable for slight negligence if in breach of essential obligations that arise from the nature of the contract or are of special importance for achieving the contractual purpose. In the event that such obligations have been breached or in the case of delay or impossibility of performance, the Vendor's liability shall be limited to damages that are typically to be expected within the scope of the contract. Any applicable provisions of the law regarding statutory product liability shall remain unaffected.
2. As far as the liability of the Vendor is excluded or limited, this also applies to the personal liability of his employees, representatives and agents.

§ 9 Force Majeure

1. If the Vendor is prevented by force majeure from fulfilling his contractual obligations, in particular from delivering the goods, the Vendor shall be released from his obligation to perform for the duration of the impediment plus a reasonable start-up time, without being obliged to pay damages to the Customer. The same shall apply if the fulfilment of the Vendor's obligations is made unreasonably difficult or temporarily impossible by unforeseeable circumstances beyond the Vendor's responsibility, notably industrial disputes, measures taken by public authorities, energy shortages, a sub-supplier's incapability to deliver, or significant disruptions of operations. This shall also apply if these circumstances occur at a sub-supplier. As far as the Vendor is released from the obligation to deliver, the Vendor shall return any advance payments made by the Customer.
2. The Vendor shall be entitled to withdraw from the contract after the expiry of a reasonable period if such an impediment lasts for more than two months and the fulfilment of the contract is no longer of interest to the Vendor as a result of the impediment. At the Customer's request, the Vendor shall declare after expiry of the said period whether he will exercise his right to withdraw from the contract or deliver the goods within a reasonable period.

§ 10 Final Provisions

1. The place of performance for all performances is the Vendor's place of business.
2. Insofar as the Customer is a merchant in the sense of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the exclusive place of jurisdiction for all disputes arising from the business relationship is the Vendor's place of business.
3. The contractual relationship shall be governed by the law of the Federal Republic of Germany to the exclusion of the United Nations' Convention on Contracts for the International Sale of Goods (CISG).