

Standard terms of Delivery

Aguti Produktentwicklung & Design GmbH | Bildstock 18/3 | 88085 Langenargen - in the following „aguti“

§ 1 General – Scope

1. The standard terms of delivery shall apply for any current and future business relations/transactions.
2. **Consumer** in the context of these standard terms of delivery shall be regarded all natural persons, to whom aguti shall be or become in business relationship, whereby these persons do - through these relationship - not perform any commercial or professional action. **Entrepreneur** in the context of these standard terms of delivery shall be natural or legal person or any partnerships having legal capacity, performing commercial or self-employed business actions. **Customer** in the context of these standard terms of delivery shall be both, Consumer as well as entrepreneurs.
3. Any other deviating, controverse or altering standard terms of delivery provided by the customer shall not be applicable as part of the contractual relationship, as long as it will explicitly approved by aguti in writing.

§ 2 Conclusion of contract

1. Our offers shall be not binding. Any technical alterations or alterations/Changes in form, colour and/or weight shall be in our reasonable discretion.
2. By ordering of any goods, the customer commits itself with binding effect to purchase said goods. It is in our discretion – within a time period of two weeks starting the date of our receipt of the order – to accept the order.
3. Our acceptance may be declared in writing or by implication by the delivery of the respective goods. The automatical conformation of receipt of a order generated in case of orders via internet shall not be, be deemed or interpreted as a binding acceptance. However, said automatical confirmation may be combined with an acceptance.
4. Any conclusion of contract shall be performed under reserve of correct and punctual delivery of our suppliers. This shall apply, however, only under condition, that said failure of delivery is not caused by us, in particular in case of a convering transaction.

Customer shall be informed of any non-availability immediately. Any purchase price already paid shall be returned within due course.

5. Any delivery dates shall not be binding. In case, a agreed upon date of delivery/term shall be exceeded, the customer has to give us a reasonable period of grace. In case the originally agreed upon date of delivery as well as the period of grace shall be exceeded, we shall only be liable for the respective purchase amount of the goods, not delivered in time, in any case however, to the maximum amount of the so called “negatives Interesse”. § 9 shall remain unaffected thereby.
6. In case the Consumer has fixed its order via internet, the text of the contract shall be stored and the Consumer shall be provided with said text together with our standard terms of delivery via e-mail.

§ 3 Offer / estimate of cost

1. In case customer wishes to be provided with a binding indication of price, the customer has to apply for it in written offer. In such a case the offer has to indicate in detail the work to be done as well as the drapery to be

used, supported by the respective cost/prices. We shall be bound committed to such a offer for a time period of four weeks, starting the date of sending the offer.

2. Any “estimate of cost” ordered shall be liable to cost.

3. Any prefabricate work such as service specifications, list of project work, order related drawings, and models, as ordered by the customers shall also be liable to cost.

4. In case a contract is conclude based on an estimate of cost or such prefabricate work any cost for the estimate of cost/prefabricate cost shall be offset to the purchase price. The ultimate purchase price shall not exceed the estimate of cost, as long as not agrred with customer.

§ 4 Retention of title

1. In case of contracts with consumers we retain title to all goods supplied by it until full payment of the amounts invoiced. In case of contracts with entrepreneurs we retain title to all goods supplied by it until full payment of all open amounts invoiced and open debts in a running business relation.

2. Customer shall hold the goods in safe custody.

3. Customer is obligated the inform us immediately in case any third party may interfere with our rights to the goods (i.e. levy of execution), in case of any damage or demolition of the goods. The same applies vice versa in case the status of possession has changed or the customer has moved offices.

4. In case customers fails to observe the contractual duties, in particular but not limited to, default of payment or of any duty pursuant to No. 3 and 4 of this regulation, aguti shall be entitled to withdraw from the contract and to demand for returning goods from customer.

5. If customer is an entrepreneur, it shall be entitled to sell the goods in the ordinary course of business. The customer/entrepreneur already at this point assign its purchase price claims from resale vis-à-vis its customers to aguti. Aguti accepts such an assignment. Upon the assignment the customer/entrepreneur shall be entitled to collect said amounts. However, aguti reserves the right, to collect the respective amounts itself, however, only in case, customer/entrepreneur fails to pay the purchase price to aguti itself.

6. Any processing of the goods shall be performed by the customer/entrepreneur in the name and behalf of aguti. If goods are mixed, blended or combined with other items we shall remain owner in proportion of the value of our goods.

§ 5 Delivery/Payment

1. Place of fulfilment shall be at aguti’s place of business. Any cost or charges connected with, caused by shipment of the goods out of aguti’s branch or warehouse shall be borne by the customer.

No further cost shall arise for using electronic communication facilities.

2. So far as not agreed upon differently, payment has to be made 10 days upon receipt of the goods. Upon expiration the 10 days - or the individually agreed upon payment terms, the customer shall in default of payment.

In such a case the customer has to pay a default interest, a consumer in the amount of 5% p.a. in addition to the basis interest rate of the European Central Bank, an entrepreneur in the amount of 9% p.a. in addition to the basis interest rate of the European Central Bank. Vis-à-vis an entrepreneur, aguti reserves the right to claim for an exceeding damage for delay.

3. The customer may offset any claim due vis-à-vis aguti's payment claim only in case the customer's claim shall be undisputed/accepted by aguti, or in case the customer's claim shall be legally binding fixed.

Customer may execute any right of lien only in case its claims arise out of the same contractual basis as aguti's rights.

§ 6 Passing of risk

1. In case customer is entrepreneur, the risk of accidental demolition and accidental impairment of the goods shall switch over to the entrepreneur at the point of handing it over, in case of shipping at the point of handing it over to the shipper, the carrier or any other person being entrusted to perform the shipping.

2. In case customer is consumer, the risk of accidental demolition and accidental impairment of the goods shall switch over to the consumer – also in case of shipment - at the point of handing over to the consumer.

3. A correct handing over shall be deemed in case the customer is in default of acceptance.

§ 7 Warranty

1. If the customer is entrepreneur, aguti shall remedy any defects in production or material at its discretion by means of repair or substitute delivery.

2. If the customer is consumer, it is at the consumer's discretion whether any defects in production or material shall be remedied by means of repair or substitute delivery. Aguti shall be entitled to refuse the chosen mean of remedy in case it is unreasonably connected with cost and the other mean of remedy shall be possible without serious disadvantages for the consumer.

3. In the case the repair fails, the customer may – at its discretion – demand a reasonable reduction of purchase price or withdraw from contract. However, any withdrawal from contract shall be excluded in case of only immaterial faults.

4. In case of evident defects entrepreneurs are obligated to give notice in writing – within the time period as set forth in Sec 377 German Commercial code; otherwise any claims in this respect are excluded. To meet the time period given, it is sufficient to timely dispatch the notice. The entrepreneur has to produce full proof of the stated defect, the point of discovering the defect as well as the notice given in time.

5. In case customer – being an entrepreneur - decides due to a defect – irrespective whether there is a defect as to legal aspect or defect as to quality – to withdraw from the contract, the customer shall have no further claims due to the defect.

In case the entrepreneur decides – after a failed mean of repair – to claim for damages, the defect goods shall remain with the entrepreneur, if reasonable. The amount of the claim for damages – however- shall be limited by the spread between purchase price and real value of the defect goods at the maximum. This shall, however, not apply in case aguti has fraudulently concealed the defect.

6. The period of warranty with respect to new products shall be one year, starting at the point of passing of risk for entrepreneurs. The period of warranty with respect to new products shall be two years, starting at the point of passing of risk for consumers. The period of warranty with respect to used/second-hand products shall be one year, starting at the point of passing of risk for both consumers as well as entrepreneurs.

7. In case the customer is an entrepreneur, it shall be deemed to be agreed that the goods have to meet the standards as given by aguti's product description. Any announcement in public or in aguti's promotion shall have no binding effect.

8. Aguti shall give no “guarantee” in terms of German Civil Code (BGB). Any explicit producer’s guarantees shall remain unaffected thereby.

9. In case the customer is provided with a defective assembly instruction, aguti is only obligated to furnish a non-defective assembly instruction, however, only in case the defective assembly instruction frustrates a correct assembling.

§ 8 Limitation of Liability

1. Aguti shall be liable in case of slight negligence only limited to the – with respect to the sort of goods - presumable, typical and direct, average damage amounts. The same applies in case of slight negligence of our officers or auxiliary persons.

There shall be no liability of aguti towards entrepreneurs in case of slight negligence of immaterial contractual duties.

2. The aforementioned provisions shall not cover customer’s claims arising from product liability regulations. Furthermore the aforementioned provisions shall not apply in case of personal injury or health damages or in case of death

3. Any aforementioned customer’s claims for damages with respect to defects shall become time-barred after a time period of one year starting the point of passing of risk This shall, however, not be applicable in case of gross negligence or in case of personal injury, health damages or in case of death.

§ 9 Miscellaneous

1. The national laws of Germany shall apply. The provisions of the UN Sales Law shall explicitly not be applicable.

2. In case the customer is an entrepreneur , legal body organised under public law or a special public- organised body, the courts in the district of aguti’s seat shall be the exclusive place of jurisdiction. The same applies mutatis mutandis, in case the customer shall have no general place of jurisdiction in Germany or in case the customer’s home place or main residence is unknown at the point of commencement of a suit.

3. If any provision of this contract, including these standard terms of delivery shall be or become void, illegal or unenforceable, the other provisions of these standard terms of delivery or the contract shall remain continue to be valid. The void, illegal or unenforceable provision shall be automatically deemed replaced by a provision that comes closest to the business purpose of the replaced provision .

This translation shall only be for convenience purposes, binding version shall only be the German version of the standard terms of delivery.