

**General Terms and Conditions for Hamm Footwear GmbH (Version from: February 2021)**

**1. General, clientele, language**

- a) Only our General Terms and Conditions are applicable. We do not recognise opposing conditions or conditions differing from our General Terms and Conditions unless we explicitly agree to them. Our General Terms and Conditions also apply when we carry out without reservation the delivery to the customer with knowledge of opposing conditions or conditions differing from our General Terms and Conditions. Insofar as our Terms and Conditions align with the conditions of the customer, the corresponding clauses are applicable.
- b) The present terms and conditions apply only if the customer is an entrepreneur, a legal entity under public law or a public special fund; separate terms and conditions apply to consumers. For the purposes of these General Terms and Conditions, an "entrepreneur" is a natural or legal person or legal partnership which, upon conclusion of the contract, acts in the exercise of its commercial or independent professional activity (Section 14 para. 1 BGB).
- c) The contracts with the customer are concluded in German, English, French or Spanish. The decisive factor is the language in which the customer's order is made.

**2. Contract conclusion**

- a) Offers and price information contained in brochures, advertisements, other advertising materials, as well as information found on our homepage are non-binding. This also applies to offers that are not explicitly designated as binding.
- b) Ordering of goods by the customer, e.g., based on one of our offers, is considered a binding contract offer. Unless otherwise stated in the order, we are entitled to accept this contract offer within 6 months of its receipt. The acceptance can be declared either in writing (e.g., by order confirmation, e-mail is sufficient) or by delivery of the goods to the customer.
- c) When ordering in our online shop, the following applies: Our offerings in the Online Shop are non-binding. The Customer can choose from our product range and collect them via the button "add to cart" whereby they are stored in a virtual shopping cart. Going through the ordering process, the customer can enter his personal data and makes a binding request to buy the goods in the shopping cart. Before sending the order, the customer can change and view the data at any time (for this, the zoom function of the internet browser may be helpful). However, the application can only be submitted and transmitted if the customer has accepted these Terms and Conditions and Privacy Notices by placing an appropriate tick. The accepted Terms and Conditions are thereby included as a part of his/her application. After the order is placed, we send the Customer an automatic confirmation of receipt by e-mail in which the Customer's order is listed again and which the customer can print out via the "Print" function. The automatic acknowledgment of receipt only documents that the customer's order has been received by us and does not constitute acceptance of the request. The contract is only concluded upon submission of the declaration of acceptance by us, in this respect Section 2 b) applies accordingly.
- d) The text of the contract is saved while maintaining all data protection contingencies.

**3. Delivery**

- a) Delivery times specified by us are calculated from the time of our order confirmation.
- b) Should we not be able to comply with binding delivery deadlines for reasons outside of our responsibility (unavailability of the service), we shall inform the customer without delay, while also giving notice as to the new expected delivery period. We are entitled to withdraw from the contract in whole or in part if the service is not available even within the new delivery period; Compensation already provided by the customer will be reimbursed immediately. A case of non-availability of the service in this sense, in particular applies the unpunctual delivery by our supplier, if we have a congruent hedging transaction and neither we nor our suppliers are at fault or we are not obliged to procure in individual cases.
- c) The occurrence of our being in default of delivery is determined by the statutory provisions, however, in any case, a prior written reminder by the customer is required. The grace period set for us is at least 18 days, if this is reasonable for the customer. If we default in delivery, the customer may demand a lump sum replacement of the damage caused by this delay. The lump sum for each completed calendar week of default amounts to 0.5% of the net price (delivery value), but in total not more than 5% of the delivery value of the delayed delivered goods. We reserve the right to prove that the customer did not incur any damage or a considerably lower damage than the above flat rate.
- d) We are entitled to partial deliveries of separately usable products included in an order, whereby we bear the additional shipping costs caused by this.
- e) The rights of the customer acc. Section 5 of these terms and conditions and our statutory rights, in particular in the case of exclusion of the obligation to perform (e.g., due to impossibility or unreasonableness of performance and / or subsequent performance), remain unaffected.
- f) The risk of the accidental destruction and the accidental deterioration of the goods is passed to the customer upon provision of the goods at the agreed delivery location or with the transfer to the customer and, for the purchase of shipping services, with the delivery of the goods to the person performing the transport. If shipping is delayed at the request of or due to debts incurred by the customer, then the goods are stored at the cost and risk of the customer. The stipulations of Section 447 of the German Civil Code also apply when the shipment is performed by our own means of transportation or takes place from a location other than the place of fulfilment or if we bear the cost of freight. Inasmuch as it is desired by the customer, he must insure the purchased goods against risks of conveyance at his own cost.

**4. Prices, Payment, Prepayment**

- a) The stipulated prices are binding for a duration of eight weeks from the conclusion of the contract. After this, we have the right to adjust prices commensurate with the extent of the cost increase incurred by us since the conclusion of the contract. This applies in particular to price increases for imported goods due to fluctuations in exchange rates.
- b) Payment should occur at the latest 30 days after the invoice has been sent (date of invoice) so that the balance due on the invoice is available to the seller at the latest on the due date. If the customer does not pay by the due date, then default of payment occurs. We

allow a 3% discount for payments made within 10 days. Special items with price reductions are due net upon receipt of the goods. We only accept bills of exchange if we have explicitly agreed to do so. For payments by note, the discount charges are due by the customer and are payable immediately. Discounts are not allowed if the customer is in arrears on the payment of earlier shipments. If one specific means of payment is stipulated, then only it is allowed.

- c) Upon expiry of the above payment period, the customer is in default. The purchase price is subject to interest during the default at the applicable statutory default interest rate. We reserve the right to assert further damages caused by delay. For merchants, our claim to the commercial maturity interest (Section 353 HGB) remains unaffected.
- d) If facts become known to us after the conclusion of the contract, in particular delay in payment from the customer with respect to earlier deliveries, that, according to dutiful business discretion, can lead to a significant asset deterioration, through which the payment claim is endangered, then we have the right to make outstanding payments due immediately and to refuse services incumbent upon us until the return service is produced or a guarantee is provided for it. If the return service is not produced within a period of time set by us, if the guarantee is not provided, or if the provision of a guarantee is refused, we have the right to withdraw from the contract. Partial deliveries that have already taken place are due immediately, regardless of a withdrawal. Our other legal rights and claims remain intact.
- e) The customer has no set-off or retention right, unless the counterclaim is undisputed or legally determined. In the case of defects, however, the counterclaims of the customer remain unaffected.

## 5. Warranty

- a) For the rights of the customer in the case of material and legal defects, the statutory provisions shall apply
- b) An additional guarantee exists only if expressly issued.
- c) Unless otherwise expressly agreed, dimensions, weights, images and technical information in brochures and other documents are not part of an agreement on the quality of the goods. This does not affect the provision of Section 434 (1) sentence 3 BGB.
- d) The assertion of the claims and rights of the customer due to defective goods presupposes that the customer has properly complied with his examination and reproof obligations in accordance with Section 377 of the German Commercial Code. He must reprove apparent defects in writing and immediately, but at least within 14 days after delivery of the goods. The customer must reprove hidden defects in writing immediately upon detection.
- e) Insofar as there is a defect in the goods, we have the right to decide whether to provide a replacement delivery or to repair the goods after being informed of this defect by the customer. We must take into consideration the type of defect and the legitimate interests of the customer when deciding on the type of compensatory action. Our right to refuse the rectification under the legal requirements remains unaffected.
- f) We are entitled to make the subsequent services owed dependent on the customer paying the purchase price due. However, the customer is entitled to retain part of the purchase price that is reasonable in relation to the defect.

- g) The customer is obliged to provide to us the rejected goods or a sample thereof for the purpose of testing the reclamation. We can demand of our own choice and at our own cost that the rejected goods be shipped to us for testing or re-fulfilment or that the customer keeps the rejected goods on hold.
- h) Should the re-fulfilment fail or a reasonable deadline to be set by the customer for the supplementary performance has expired without success or is dispensable according to the statutory provisions, the customer can withdraw from the purchase contract or reduce the purchase price. In a minor defect, however, there is no right of withdrawal. If only a portion of the total delivery of goods is defective, then the customer can only withdraw from the entire contract if he has no interest in the remaining portion of the delivery.
- i) The customer can only assert the claims and rights of the customer due to a defect in the goods within a warranty period of twelve months after the delivery of the goods. This does not apply to claims and rights, for which the law prescribes a longer period.
- j) Claims of the customer for damages or reimbursement of futile expenses exist even in the case of defects only in accordance with Section 6 and are otherwise excluded.

## 6. Limitation of Liability

- a) Unless otherwise results from these General Terms and Conditions of Sales and the subsequent provisions, we will be liable on violation of the contractual and non-contractual duties according to the relevant legal regulations.
- b) We shall be liable for damages – no matter for what legal grounds – in case of wilful intent and gross negligence. With simple negligence, subject to legal limitations of liability (e.g. diligence in one's own affairs; insignificant breach of duty) we shall only be liable i) for damages from the injury to life, the body or the health, ii) for damages from the breach of an essential contractual obligations (the fulfilment of which is fundamental to the proper execution of the contract and may regularly and justifiably be relied upon by the customer); in this case our liability is however limited to the reimbursement of the foreseeable, typically occurring damages.
- c) The exclusions and limitations of liability resulting from letter b) shall apply to the same extent in favour of our bodies, legal representatives, employees and other vicarious agents. The restrictions of this Section 6 shall not apply if the provider has fraudulently concealed the defect or has assumed a guarantee for the condition of the item; the provisions of the Product Liability Act remain unaffected.
- d) The customer can only withdraw or terminate because of the violation of an obligation which is not a defect if we are responsible for the violation of the obligation. An unrestricted right of termination of the customer (especially according to sections 651, 649 BGB (German Civil Code)) will be excluded. Apart from that the statutory requirements and legal consequences apply.

## 7. Retention of Title/Release of Covenant

- a) The goods, including the balance in our favour on open account, remain our property until payment has been made in full. When accepting bills of exchange and checks, the goods remain our property until these have cleared.

- b) The customer has the right to resell the reserved goods only in proper business dealings. Pawning or cession by security is not allowed. We are to be informed immediately of pawning or any other infringement of our rights by third parties and are to be supported in the pursuit of our rights.
  - c) Customer requirements from the resale of reserved goods surrenders this to us for safety. We accept the transfer. The customer is authorised to collect debts in the normal course of business as long as he complies with his payment responsibilities in accordance with the agreement.
  - d) In the case of a serious deterioration in the economic position of the customer, in particular in the case of default of payment, suspension of payment, and initiation of insolvency procedures, then the correction authorisation granted to the customer lapses. In the case of behaviour contrary to contract stipulations and breach of important contract responsibilities of the customer, in particular in the case of default of payment, we have the right, if the requirements are present for a withdrawal from the contract, to take back the delivered goods under retention of title, and to demand delivery of these goods from the customer. The repossession of delivered goods by us is tantamount to a withdrawal from the contract. The customer must reimburse us for the costs for the pickup and evaluation of the reserved goods. The customer must send to us a detailed list of the remaining reserved goods as well as a list of garnishees of the requirements assigned to us. Regardless, we always have the right to perform appropriate research for the protection of our rights, in particular to visit storage spaces and store spaces as well as to view all necessary documents and books.
  - e) When taking back the goods, we have the right to best utilise the goods by single-tender sales at our sole discretion. We will threaten utilisation by setting a period of one week. The revenue is credited against accounts payable after deducting the accrued costs, i.e., any balance is paid out.
  - f) We will release the securities due to us at will if the value of the securities due to us exceeds our requirements by more than 20%.
- jurisdiction of the customer. Overriding statutory provisions, in particular those relating to exclusive responsibilities, remain unaffected.
- c) The contract existing between us and the customer is subject to the law of the Federal Republic of Germany to the exclusion of the United Nations Convention on the International Sale of Goods.

## 8. Resale of the Goods

The customer recognizes the selective sales policies of Hamm Footwear GmbH and promises to only sell the goods in customary amounts to consumers. Sale to third parties is only allowed with express consent from Hamm Footwear GmbH.

## 9. Final Provisions

- a) Insofar as nothing else is stipulated, the fulfilment location for our service is the delivery location and otherwise Osnabrück.
- b) If the customer is a merchant in accordance with the meaning of Section 1 (1) of the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the courts competent for Osnabrück are exclusively – also international - responsible for all disputes arising out of or in connection with the contractual relationship in question. The same applies if the customer is an entrepreneur within the meaning of Section 14 BGB. However, in all cases we are also entitled to take legal action at the place of performance of the delivery obligation in accordance with these terms and conditions or a priority individual agreement or at the general place of