

Polfood GmbH

General sales and delivery conditions:

(1) General information

1. These sales and delivery terms and conditions are a legally binding contractual part of all deliveries, services, and legal transactions of Polfood GmbH (subsequently referred to as Seller). They apply to entities acting as entrepreneurs at the time the contract was concluded, legal entities governed by public law or special assets under public law within the meaning of § 310 Abs. 1 BGB (below-mentioned as Purchaser). These terms and conditions shall be deemed binding at latest with the first acceptance of the goods.
2. The acceptance of conflicting and/or deviating Purchaser's terms and conditions of sale will be valid only by agreement in writing. Reconfirmations by Purchaser with reference to Purchaser's terms and conditions shall be hereby expressly contradicted.
3. These terms and conditions of sale and delivery also apply to all future transactions with Purchaser, insofar as these concerns legal transactions of a related kind.
4. Purchaser is expressly informed of the effect the first acceptance of the goods has after the announcement of these general sales and delivery conditions with regard to their validity.

(2) Offer and conclusion of contract

1. Our offers are fundamentally – especially with regard to quantity, price, and delivery time – without obligation and non-binding, unless expressly agreed to otherwise.
2. If an order is to be regarded as an offer in accordance with § 145 BGB, we can accept this within 5 working days. Orders are considered accepted when they are carried out by us immediately after receipt. In addition to a written confirmation, the transmission of the delivery note or invoice constitutes an order confirmation.

(3) Delivery

1. The nature and extent of the delivery shall be determined solely by the written confirmation of sale or, alternatively, by the delivery note or invoice.
2. When transporting the goods by Seller, Seller is obligated only to deliver them to the ramp or unloading location of Purchaser insofar as Purchaser has an unloading point of customary width and height.
3. The goods are delivered uninsured and at the risk of Purchaser. This also applies to carriage paid delivery and regardless of the means of transport. Only at the expressed request of Purchaser may transport insurance be provided. The transport insurance costs will be solely borne by Purchaser. Partial deliveries are permitted.



4. If Purchaser provides the means of transport, it is responsible for timely provision. Any delays must be communicated to Seller in a timely manner. Any costs incurred by the delay shall be borne by Purchaser. The collection location shall be determined by Seller. The fresh goods shall be collected from the warehouse at Ludwig-Prandtl-Straße 31, 12526 Berlin and the frozen goods shall be supplied from the Frigo-Log warehouse, Am Möllenberg 11-15, 15751 Niederlehme.
5. Notification of the delivery and uploading times are non-binding if not expressed in a written manner. Insignificant delays with reference to the delivery date shall not entitle Purchaser to reject the goods. In addition, the waiting time shall be extended by the duration of the hindrance, despite careful selection of suppliers, in the event of force majeure, such as operational disruptions for which we are not responsible, strikes, lockouts, or delays in the delivery of raw materials at Seller's premises.
6. If Purchaser is in default upon acceptance of the ordered goods, Seller shall be entitled to claim compensation at a rate of 1% of the delivery value for each completed week of the delay. In addition, the processing of the ordered goods is at Purchaser's risk and expense. If evidence is furnished that a higher loss has occurred as a result of the delay for which Purchaser is responsible, compensation for the delay will be assessed higher. If Purchaser proves that the result of the delay for which it is responsible has not caused any loss or a loss substantially lower than calculated, compensation will be assessed at a lower level.

(4) Prices

1. All prices are daily or monthly prices and may be subject to fluctuations depending on the market. Seller's prices may therefore be increased or decreased without prior notice. Already negotiated or agreed prices of an accepted order are not affected by adjustments.
2. All Seller's prices shall be considered net prices in euro and shall be agreed to by the delivery date. The value-added tax is shown separately and shall be borne by Purchaser. Fees for health certificates, customs duties, medical certification fees, etc. shall also be borne by Purchaser.
3. Seller's purchasing price is calculated on the basis of the weight and quantity (units) determined at the time of loading. Normal weight loss during transport of fresh goods to an extent that is usual in the trade is at the expense of Purchaser. Differences in weight beyond what usual in the trade are recognised only if weighing is carried out in the presence of the respective carrier and the weighing documents are handed over for comparison with our own delivery documents.

(5) Payment

1. The net payment without deduction is due immediately as of the invoice date, insofar as the due date is not agreed to in written form.
2. When cheques are handed over for payment, only the redemption is deemed valid payment.



3. If the invoice amount is not settled within a maximum of ten calendar days from the invoice date or, if applicable, another agreed due date, in accordance with § 247 BGB, Seller is entitled to claim default interest in the statutory amount as default damages without requiring an overdue notice. According to § 288 Abs. 2 BGB, the default interest is currently 9 percentage points above the base rate of the European Central Bank. The statutory regulation of the occurrence of default and the consequences of default remains unaffected by this.
4. This offset, as well as retention rights, are provided for Purchaser only insofar as a counterclaim is legally established, undisputed, or expressly accepted by Seller.

(6) Sales within the EU

1. For sales within the EU, Purchaser is obligated to state a valid VAT number immediately after the conclusion of the contract and to confirm formally that the purchase is made for their company.
2. If Purchaser does not disclose the VAT ID number or discloses it incorrectly or misuses the VAT ID number, Purchaser shall be liable to Seller, without prejudice to any further claims for the payment of the sales taxes legally valid in the Federal Republic of Germany.
3. If extrajudicial and judicial costs of prosecution occur due to a delay in payment in the context of a delivery to a Purchaser abroad, it is expressly agreed that these are to be borne by Purchaser.
4. The goods shall be delivered by Seller exclusively under retention of title and shall remain the property of Seller until all claims arising from the business relationship have been fully settled. This also includes interest rates, costs and future claims arising from contracts concluded at the same time or later on.
5. Purchaser is only entitled to resell the reserved goods if Seller already assigns all claims from the resale of the transferees or third parties. This particularly applies if Purchaser's reserved goods are sold unprocessed, after processing, or in combination with items that are exclusively its property. If reserved goods are sold after processing/connection together with goods not belonging to Seller, Purchaser assigns the claims arising from the resale in the amount of the value of the reserved goods with all ancillary rights and precedence over the rest. Seller accepts the assignment. Purchaser is authorised to collect these receivables even after the assignment. Seller's right to collect the receivables remains unaffected by this. Seller undertakes not to collect the receivables as long as Purchaser fulfils its payment and other obligations. Seller may require Purchaser to notify Seller and their debtors of the assigned receivables, to provide all information required for collection, to hand over the relevant documents, and to notify the debtors of the assignment.
6. The regulation concerning Clause 2, above, is not applicable if Purchaser does not have a proper business operation.
7. Moreover, Seller may revoke Purchaser's authorisations to sell if Purchaser is in default in completion of Purchaser's obligations towards Seller, and in particular Purchaser's payments, or



if Purchaser becomes aware of any other circumstance which makes Purchaser's creditworthiness doubtful.

8. A pledge or chattel of mortgage of the reserved goods is only permitted with Seller's written consent.
9. For the right of Purchaser to process the goods delivered by Seller, Paragraphs 2 to 4 apply. By processing, Purchaser does not acquire ownership of the goods produced partly or in whole; Exclusively for Seller as supplier, processing is carried out free of charge within the meaning of § 950 BGB. Should Seller's retention of title nevertheless lapse due to any circumstances, the contracting parties agree that ownership of the goods shall be passed on to Seller after processing. Purchaser shall accept the transfer and shall remain the depositary of the goods free of charge.
10. If the reserved goods are processed with goods still in the property of others, or are inseparably mixed, Seller acquires co-ownership of the new items or the mixed stock. The extent of this co-ownership is determined by the ratio of the invoice value of the goods delivered by Seller to the invoice value of the other goods, including VAT in each case. If Purchaser acquires sole ownership of the new goods, the parties to the contract agree that Purchaser will admit to co-ownership of the new goods to Seller in proportion to the value of the processed or combined or mixed goods subject to retention of title and deposit the goods free of charge for Seller.
11. Claims arising from concluded legal transactions with Seller may not be assigned unless Seller has expressly agreed to it.
12. Regarding pledges or other restrictions of the reserved goods, Purchaser shall immediately inform Seller.

(8) Empty goods

1. The commercial containers used for transport (in particular E2 boxes, E1 boxes, crates, euro boxes, H1 pallets, pallets, euro hooks, big boxes etc. – hereinafter referred to as "empty goods") shall be returned to Seller immediately in the same type, quantity, and value after unloading the goods.
2. Empty goods must be returned cleaned in accordance with currently valid hygiene regulations.
3. If Purchaser cannot fulfil its obligation to Seller according to Para. 1, Purchaser shall, within one month at the latest, and at its own expense and risk, settle the empties account, either by payment or return of the empties. If the settlement is made by way of payment, the respective customary price for the returned empties shall apply for empty goods that were not returned.
4. An empty goods account statement of Seller (inventory statement) transmitted to Purchaser shall be deemed accepted if Purchaser does not object in writing within 14 days after receipt of the account statement.
5. If Purchaser is in default with the return, Seller can also refuse to take back the goods and demand compensation in addition to damage caused by delay after a reasonable extension.



(9) Notice of defects and liability of defects, limitation of liability, compensation

1. In accordance with §§ 377, 378 of the German Commercial Code (HGB), Purchaser is obliged to inspect the goods for defects immediately upon arrival. Any open defects regarding the quality need to be claimed immediately upon receipt of the goods.
2. Other defects, i.e. defects which could not be discovered upon receipt of the goods even after careful and thorough inspection, if necessary by means of sufficient random sampling, shall be notified exclusively in writing by the end of the working day following the delivery of the goods to the agreed destination or their acceptance. A complaint by telephone is not sufficient. The time limit begins with the acquisition of authority to dispose by Purchaser. Purchaser is obliged to satisfy itself of the correctness of the delivered goods by means of sufficient random samples and to examine them with regard to number of units, weight and packaging.
3. Over-deliveries and under-deliveries within a range of 10% are customary in the industry and do not constitute a defect.
4. Compliance with specific microbiological specifications is generally not warranted. Notices of defects due to deviation of microbiological specifications from Purchaser specifications shall be accepted only if these limit specifications have been agreed in writing between the contracting parties in advance. The specifications shall be determined exclusively by scientifically recognized test methods.
5. As soon as the goods have been forwarded or processing has begun, the goods shall be deemed to be free of defects. This applies even if Purchaser has noted on the delivery bill that the goods were accepted with reservation. Any complaints must be noted on the delivery documents, on receipt, on the delivery bill or on the storage or retrieval receipt of the cold storage upon arrival of the goods. In case of underweight deliveries, the actual weight shall be determined in the presence of the delivery driver. If there are no reservations in the receipt, Seller is not liable for compensation. Even in the case of complaint, Purchaser is obliged to accept receipt.
6. The type and extent of the alleged defect must be clearly evident from the complaint. Purchaser is obliged to secure evidence of the defects and to give Seller or a sworn expert the opportunity to inspect the goods. If Purchaser fails to comply with this obligation or misses the deadline for giving notice of defects, the delivery shall be deemed to have been approved.
7. Purchaser shall store the goods properly until Seller is able to examine the complaint. The return of the rejected goods may only take place with the prior consent of Seller. In the case of objectively justified complaints, Seller is entitled, but not obliged, to make a replacement delivery or to reduce the price of the goods.
8. In the case of justified notices of defects, Seller is obliged to take back only the rejected goods. The redemption extends only to original containers, in the case of deep-frozen goods in a deep-frozen state and unmixed goods. Seller is entitled to supplementary performance at its own discretion.



9. If the supplementary performance fails, Purchaser has the right to declare its withdrawal within the legally prescribed framework.
10. Claims for damages by Purchaser – regardless of the legal reason, in particular for breach of obligations arising from the contractual obligation and from tort, are excluded. This shall not apply if liability is mandatory by law, in particular in cases of intentional or grossly negligent acts by Seller, in the event of injury to life, body or health, due to the assumption of a guarantee for the existence of a property or in the event of a breach of essential contractual obligations.

(10) Data protection

Purchaser agrees that its data disclosed to Seller in the course of the business relationship shall be recorded, stored, and processed in the computer system operated by Seller.

(11) Place of jurisdiction, applicable law, place of fulfilment

1. The place of jurisdiction for all disputes arising from the contractual relationship shall be Seller's principal place of business. However, Seller shall be entitled to bring an action at Purchaser's general place of jurisdiction.
2. The agreement on the place of jurisdiction contained in Sub-Clause 1 shall be deemed to be an exclusive agreement on the place of jurisdiction within the meaning of Art. 17 of the European Convention on Jurisdiction, in particular also for contractual relationships that come into being with business partners who are domiciled within the EU.
3. These General sales and delivery conditions (GCS) and all legal relations between Seller and Purchaser shall be governed by the laws of the Federal Republic of Germany to the exclusion of all international and supranational contractual/legal systems, in particular the UN Convention on Contracts for the International Sale of Goods.
4. The place of performance for delivery and payment shall be the registered office of Seller, provided that Purchaser is a merchant within the meaning of the German Commercial Code (HGB) or a legal entity under public law, or is a special fund under public law, or has its place of residence outside the Federal Republic of Germany.

(12) Severability clause

Should individual provisions of these GCSs or their supplements be or become invalid or unenforceable, the validity of the remaining provisions shall not be affected thereby. Rather, the contracting parties shall cooperate to replace any legally ineffective or unenforceable provision with a legally permissible and effective or enforceable provision or an enforceable provision which is





suitable to achieve the intended result of the ineffective or unenforceable provision. Until then such a provision shall be deemed to have been agreed to. The same shall apply to the filling of gaps in the contract.

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