

General Terms and Conditions

§ 1 General

TriStyle Brands GmbH (the “seller”) shall supply his goods and services solely on the basis of these General Terms and Conditions. Alternative delivery terms or terms of trade proffered by the customer shall not be recognised, even if the Seller does not expressly veto them and/or the customer states in his order that the said order is placed on his own terms.

§2 Conclusion of contract, order confirmation and scope offers made by the seller are subject to change without notice.

Orders placed by the customer are binding. The sales contract shall come into being when the seller accepts the order. The scope of the sales contract shall be derived from the seller’s written order confirmation.

The Purchase Agreement is concluded subject to the correct and on-time self-supply of the Seller by his sub-suppliers. If, contrary to the delivery agreements, sub-suppliers fail to deliver, deliver inadequately or belated, the Seller is entitled to reduce the ordered amounts of the concerned articles by up to 20%.

The right to a proportional reduction of the agreed delivery quantity only applies in cases whereby the incorrect self-delivery is not attributable to the Seller. The Seller shall inform the Purchaser regarding occurring delivery obstacles immediately.

The Purchaser is not entitled to derive any rights based on the fact that the Seller is entitled to delivery respectively lesser amounts and partially withdraw from the Purchase Agreement due to lack of self-delivery.

Orders may only be cancelled with the seller’s express agreement. In such instances, the seller shall be entitled to claim compensation from the customer amounting to 30% of the net order value.

Goods delivered as agreed can only be returned by the customer if approved by the seller and agreed on in writing including the terms of the return (articles, number of items, price, shipping cost, date of return). Defect rights and warranty claims of the buyer according to section 5 remain unaffected.

§ 3 Dispatch

Deliveries shall be made ex works in Germany. The customer shall pay delivery costs and bear the transport risk. The goods shall be dispatched without insurance. The customer may choose his preferred delivery method from among those customarily used.

In the event of the goods being damaged during transport, the recipient shall immediately notify the freight forwarder that the freight forwarder is liable; if the transport damage is not immediately recognizable, this notification shall be sent within three calendar days of receipt at the latest.

If delivery is not accepted in time, the seller shall be entitled either to issue an arrears invoice after setting a deadline of 12 calendar days, in which instance § 7 of these Terms and Conditions shall apply with regard to payment and due date, or to withdraw from the contract and claim compensation as preferred.

§ 4 Delivery deadline

The seller does not enter into fixed transactions unless he expressly confirms that a specific transaction is fixed. Orders designated by the customer as “fixed” are not deemed fixed from the seller’s viewpoint. However, should the parties expressly agree in individual cases that the goods are intended for a specific campaign, a fixed delivery date with no follow-up deadline may be agreed. If this delivery date is exceeded, the customer may claim reimbursement of special expenses incurred in association with the goods ordered; however, these expenses may not be higher than the purchasing price of the goods ordered.

All other claims are excluded. If the promotional goods are defective, the customer shall only have the choice of reducing the purchase price or withdrawing from the contract. Once the delivery deadline has expired, a follow-up deadline of 12 calendar days shall come into force without the seller needing to make a corresponding declaration. If the follow-up deadline expires without result, the customer shall be entitled to withdraw from the contract. The seller shall only compensate the customer in cases of willful intent or gross neglect. Other claims shall not be recognized. In cases of force majeure or other disruptions in the course of business for which the seller is not responsible and which have lasted or are likely to last for more than one week, the delivery date shall be postponed for the duration of the impediment.

For orders not accepted within the agreed delivery date, and after a reasonable period of grace, set by the seller, the seller is entitled to cancel the respective order and claim compensation from the buyer.

The provisional order confirmation is subject to amendment.

§ 5 Complaints

The buyer shall undertake to examine the goods for defects immediately after receipt. Any complaints shall only be effective if they are sent to the seller in writing immediately after receipt of the goods. The seller shall be notified of hidden defects in writing immediately after the discovery thereof. Complaints may not be lodged about small, technically unavoidable deviations in quality, colour, width, weight, finishing or design. The same applies to deviations which are customary in the sector, unless the seller has declared in writing that the consignment is true to the sample.

In view of the fact that fashion trends are constantly changing, the seller reserves the right to make changes to models in order to keep abreast of fashion and thus promote sales. The seller shall undertake to notify the customer of any such changes immediately. In such instances, the customer shall only be entitled to withdraw from the contract insofar as a deviation from the original contractual content has been made.

In the case of justified complaints, the seller shall choose whether to repair or replace the defective goods within 12 calendar days of receiving them. In such instances, the costs of return transport and delivery shall be borne by the seller. Other costs incurred by the customer, e.g. processing costs, shall not be reimbursed. If the repair or replacement is unsuccessful, the customer shall only be entitled to reduce the purchase price or withdraw from the contract. Moreover, the seller shall only be obliged to compensate the customer in cases of willful intent or gross neglect, or if the damage is based on an injury to life, limb or health.

Warranty claims asserted against the seller shall only be due to the direct customer and may not be assigned.

TriStyle Brands GmbH

Peter-Hahn-Platz 1, D-73650 Winterbach
Phone +49 6021 9018 701
info@Tristyle-Brands.com
www.Tristyle-Brands.com
CEOs: Stefan Kober,
Nikola Ingenhoven

Bank Details: Commerzbank
IBAN DE38 7604 0061 0511 8336 00
BIC/SWIFT COBADEFFXXX

Head Office: Winterbach
Local Court Stuttgart HRB 763158

V.A.T.-ID No.: DE314868210
Tax-No.: 82001/16659

§ 6 Limitation of liability, claim expiry

In all cases in which the seller is obliged to compensate the customer for damages or expenses on the basis of contractual or statutory claims, he shall only be liable insofar as he, his executives and/or auxiliaries acted with willful intent or gross neglect or caused an injury to life, limb or health.

The seller's liability as per the German Product Liability Act (ProdHaftG) and for culpable violations of major contractual obligations shall remain unaffected. Major contractual obligations are those which must be met if the purpose of the contract is to be fulfilled, e.g. the seller's obligation to supply the customer with goods which have no material defects or defects of title and to transfer the title thereof to the customer.

However, except for the instances described in paragraph 1, the seller's liability is limited to foreseeable damage typical for this type of contract. The regulations above do not entail any change to the onus of proof which would place the customer at a disadvantage.

Customer claims pertaining to material defects shall expire one year after the goods are delivered/handed over to the customer. This expiry deadline shall not apply to recourse claims as per § 478 BGB (German Civil Code), to compensation claims lodged by the customer on account of damage to life, limb or health or to any compensation claims lodged due to a violation of major contractual obligations. Neither shall it apply to compensation claims based on willful intent or gross neglect on the part of the seller, his legal representatives or auxiliaries; the statutory expiry deadlines shall apply in these instances.

§ 7 Payment, open accounts

The delivery shall be paid for within ten calendar days of the invoice date; a cash discount of 4% may be deducted. Credits must be discounted if the invoices underlying them were paid with deducted discount.

No interest shall be paid on advance payments. Payments shall be made in cash, by cheque or by bank transfer and shall be deemed to have been made when they are credited to the seller. Invoice payments to the seller must be credited to the account of the seller free of costs and charges. Discounting is excluded if value dates are placed or exploited for a period of more than two weeks.

Due invoice amounts may only be offset or retained in the case of undisputed receivables or receivables which have been recognized by law. This shall also apply in the event of the seller ceasing to make payments.

All mutual receivables arising in connection with the business relationship shall be recorded in an open account to which the regulations in §§ 355-357 HGB (German Commercial Code) shall apply. Interest shall be charged on the receivables in the open account at the bank's customary rate. The account statements issued by the seller shall be viewed as balances. The balance shall be deemed to have been approved if no objections are raised within two weeks of receiving the statement. The customer may only offset counterclaims which are undisputed by the seller or which have been established by law. He may only exercise any right of retention if his counterclaim is derived from the same contractual relationship.

Notwithstanding any alternative terms proffered by the customer, the seller shall be entitled to offset the customer's payments against the customer's older debts before balancing newer ones; in such instances, he shall notify the customer of the way in which his debt has been offset. If costs and interest have already accrued, the seller shall be entitled to offset the customer's payment first against the costs, then against the interest and finally against the service rendered.

§ 8 Reselling

The Buyer is not entitled to, and shall refrain from, selling the goods to similar retail or wholesale companies including, for the avoidance of doubt, internet or mail-order companies. The goods may only be sold by the Buyer from the building and on the premises from which the order was placed. Where the Buyer wishes to transfer the goods to an alternative branch or store or location, it may only do so upon the prior written agreement of the Seller.

§ 9 Default on payment

In the event of payment default or impending insolvency or any other significant deterioration in the customer's financial situation, the seller may set a follow-up deadline of 12 calendar days for cash payment of any outstanding orders before delivery thereof; any agreed payment term shall become void in such an instance. Alternatively, the seller may withdraw from the contract or claim compensation.

§ 10 Retention of title

The goods shall remain the seller's property until all receivables pertaining to goods delivered throughout the business relationship, including secondary receivables and compensation claims, have been settled in full and until all cheques and bank drafts have been redeemed. The seller shall also retain the title if individual invoices issued by the seller are added to an open account and the balance has been drawn and confirmed. The seller shall be granted the securities described below, and shall release them at his discretion when requested to do so insofar as the value of the goods constantly exceeds the receivables by more than 20%.

The customer shall be entitled to sell on the reserved goods as part of an orderly business transaction insofar as he is not in default and/or insofar as his financial situation is not deteriorating. The goods may not be pledged or transferred as security. For security purposes, the customer herewith assigns all receivables relating to the reserved goods arising in connection with resale or on any other legal grounds (including all balance receivables from the open account) to the seller. The seller herewith revocably authorises the customer to collect the receivables assigned to the seller in his own name on the seller's behalf. This collection mandate may only be revoked if the customer does not meet his payment obligations in an orderly manner.

The customer shall store the reserved goods for the seller free of charge. The customer shall take out a standard insurance policy covering the goods against customary risks such as fire, theft and water damage. The customer herewith assigns any compensation claims due to him from insurance companies or other parties obliged to indemnify him in the event of damage of the types described above to the seller up to the invoice value of the goods. The seller herewith accepts the assignment.

In the event of behavior on the customer's part which violates the terms of this contract – in particular default on payment – the seller shall be entitled to reclaim the goods, or, where relevant, to demand that the customer's right to hand over the goods to third parties be assigned to him. Any reclaim or seizure of the reserved goods by the seller shall not constitute a withdrawal from the contract. It is herewith agreed that in such instances, the customer shall merely keep the goods in his custody rather than receiving the title thereto.

§11 Law, place of fulfilment and place of jurisdiction

German law shall apply. The place of fulfilment for all deliveries and services associated with the sales contract is Winterbach. The place of jurisdiction for all disputes associated with this agreement, also relating to cheques and bank drafts, is Winterbach. Should any term in these Terms and Conditions or in any other agreement be or become invalid, the validity of the remaining terms and/or agreements shall remain unaffected.

TriStyle Brands GmbH

Peter-Hahn-Platz 1, D-73650 Winterbach
Phone +49 6021 9018 701
info@Tristyle-Brands.com
www.Tristyle-Brands.com
CEOs: Stefan Kober,
Nikola Ingenhoven

Bank Details: Commerzbank
IBAN DE38 7604 0061 0511 8336 00
BIC/SWIFT COBADEFFXXX

Head Office: Winterbach
Local Court Stuttgart HRB 763158

V.A.T.-ID No.: DE314868210
Tax-No.: 82001/16659