

Sales and delivery terms of phg Peter Hengstler GmbH + Co KG

1. General information

Our written order confirmation, our order-related product information (e.g. plans, drawings, diagrams, weight information, dimensions) as well as our written, special and general sales and delivery terms are decisive for all deliveries and services to be provided by us. Opposing terms and conditions of the buyer shall not become an integral part of the contract. These conditions are considered as agreed. Order-related product information is only approximate.

Hereby we contradict explicit the buyer's conditions of purchase. The buyer's conditions of purchase don't oblige us even when we won't explicit contradict at the conclusion of the contract.

We reserve all property rights and copyrights to all documents originating from us. They may only be made accessible to third parties with our written consent.

2. Delivery period

The delivery period stated by us shall not begin before order confirmation and presumes the clarification of all technical questions. It is non-binding without any express other agreement.

Cases of force majeure, e.g. war, strike or other interferences to operation, interferences to transport and delays in delivery of sub-suppliers entitle us to also postpone a firmly agreed delivery date by a reasonable period of time, at least until the interference ceases to exist. In case of longer delay in delivery than ½ year the buyer may cancel the contract by registered letter. Further claims, e.g. claims for damages or subsequent performance are excluded.

In case we are in default for reasons for which we are responsible, the liability for compensation is excluded in the event of usual negligence.

The observance of our delivery obligation presumes the timely and proper satisfaction of the buyer's obligations. We are entitled to part deliveries and part services at all times insofar as this is deemed reasonable for the buyer.

3. Reservation of title

We reserve the ownership to the delivered object until receipt of all payments from the order. The buyer is not entitled to use, pledge or assign the delivered objects as security until this date. The resale of the delivered object is only permitted in customary business transactions and under the condition that the buyer receives payment from its purchaser. The claims of the buyer against the purchaser shall pass to us.

A processing or converting of the delivered object by the buyer is always undertaken on our behalf. If the delivered object is processed with other objects which do not belong to us, we acquire the co-ownership to the new object in the ratio of the value of the delivered object to the other processed objects at the time of processing. The same applies for the resale of the object produced through processing as for the delivered object supplied under reservation.

4. Shipment, provision of services

We ship ex works in 78652 Deißlingen, whereby we are at liberty to choose the transport means and transport channels. We choose the most favourable possibility for the transport. Our service is provided as soon as the delivered object leaves our plant, in case of pick-up by the buyer as soon as we have informed the buyer that the goods are ready for shipment.

If the shipment is delayed for a reason for which the buyer is responsible or if the buyer does not pick-up the object immediately after notification that it is ready for shipment then he must reimburse us all thus incurred expenses and damages, at least however in the amount of 0.75% of the agreed price for each part of a month of delay. The buyer remains entitled to provide proof that we have not suffered any damages or less than the flat rate.

5. Prices and payment

The prices are net ex works plus costs for packaging and shipment as well as the respective applicable rate of value added tax. We are entitled to demand an absolute, unlimited and irrevocable guarantee of a major bank from the buyer insofar as the total price of the order exceeds EUR 10,000.00.

If our suppliers increase their prices after expiry of four months after conclusion of the contract we shall be entitled to pass this price increase onto the buyer.

In the absence of deviating written agreement in an individual case payments of the buyer have to be made immediately after receipt of delivery and invoice and without any deduction. We are entitled to demand advance payment or provision of security if the buyer does not observe these terms of payment

or circumstances become known which are suitable for reducing his creditworthiness.

The buyer can only setoff against an undisputed claim or claim with has been determined final and absolute.

6. Defects, liability

The buyer undertakes to inspect the received goods for completeness, damages in transit, obvious defects, condition and their properties. Obvious defects are to be reported to us in writing by the buyer within five working days from delivery, hidden defects immediately after they are discovered.

The claims for defects presume that the buyer has properly satisfied this duty for complaint and are initially limited to subsequent performance. Within the framework of the subsequent performance we are entitled, -insofar as deemed reasonable for the buyer also several times – to remedy the defects. In the event that we do not exercise this right or if the remedy of the defects fails the buyer can demand the delivery of an object which is free of defects. We can – insofar as reasonable for the buyer – also make several subsequent deliveries. If the delivery of a faultless object also fails, the buyer is entitled to reduce the price or – at his choice – to cancel the contract. The buyer is however not entitled to remedy the defect itself and demand refund of the necessary expenses. All claims for defects shall become statute-barred with expiry of one year from the statutory commencement of the statute of limitations.

Neither shall we be liable for defects reported on time which are due to false installation by the buyer or third parties, faulty or negligent treatment and unsuitable or improper use.

Our warranty is incidentally limited to the fact that our products and services correspond with the contents of our order confirmation. This applies in particular for the suitability of the products and services to be delivered by us for certain applications, constructions and intended uses and independent of whether we are included in the development of own products by the buyer, with which our products and services are applied. We shall assume no warranty for the usability of test and first samples by the buyer. The buyer undertakes to inform us if a product delivered by us is classified or used as a part which is liable to security or documentation owing to statutory or contractual provisions and to what extent our products have to comply with national and international conformity provisions in the intended use.

Insofar as a claim is asserted against us by third parties alone or as joint and several debtors with the buyer for product liability from the use of the products delivered by us in the buyer's products, the buyer must release us from all claims and the costs of legal defence against such claims at first request. The buyer may only assert claims for compensation against us owing to the faultiness and cause of damages of products delivered by us if the products delivered by us do not correspond with the contents of the order confirmation and we are responsible for this. The buyer undertakes to maintain sufficient insurance against statutory product liability claims. We can demand the proof that the products delivered by us are covered with the insurance.

Incidentally our liability and the personal liability of our employees, workers, representatives and vicarious agents is limited to wilful intent and gross negligence insofar as this is permitted by law.

7. Marking of goods

The buyer may not resell or process the delivered object without the marking affixed by us.

8. Applicable law, place of jurisdiction, place of performance

German law and the German language are exclusively decisive. Insofar as not otherwise derived from the order confirmation and the buyer is a merchant, legal entity under public law or public special assets the place of jurisdiction and place of performance is our registered seat. We are however also entitled to take legal action against the buyer at the court of jurisdiction for his place of residence or registered seat.

9. Written form

All, in particular deviating, agreements must be made in writing. This shall also apply for a waiver of the written form.