

## TERMS AND CONDITIONS

Opus GmbH ( „Opus“ ) | Status: 01.07.2019

### § 1 Regulation provisions

These terms and conditions regulate both the rights and obligations of the contract partners in regard to individual deliveries of goods (Section 1) as well as regarding the subordinate, permanent master agreement contract (Section 2). Whereupon general rules apply to all contractual relationships between the contracting parties (Section 3).

### Section 1: deliveries of goods

#### § 2 Order acceptance

- 2.1 Opus reserves a period of two weeks prior to order acceptance.
- 2.2 All sales are only finalized for specific quantities, articles, qualities, and fixed prices. Both parties are bound by these terms.
- 2.3 Delivery dates are only specified as delivery months + twelve days subsequent delivery period. Fixed dates are not accepted.
- 2.4 Cancellations of orders require express permission by Opus GmbH. In this case, there will be a cancellation fee of twenty percent on the net order value will be billed to the buyer by Opus.

#### § 3 Delivery

- 3.1 Delivery of the goods is Oelde ex stock. The shipping and packaging costs is covered by the buyer, unless expressly agreed otherwise. They will be billed to the buyer as a separate item. Partial deliveries are permitted, provided they take into account the interests of the buyer within reason.
- 3.2 The transport risk of the delivery is at the expense of the receiver. The shipping is uninsured.

#### § 4 Interruption of delivery

- 4.1 If the adherence to delivery dates is delayed by external reasons, or made impossible, by natural forces of nature or by actions of a third party, that even after human insight and experience, could not be foreseen, avoided or rendered harmless with commercially reasonable means, even after taking the greatest care, and which must not be accepted by the company because of its frequency (force majeure), such as labor disputes, (also with subcontractors and vicarious agents), official measures, delivery delays from the sub-suppliers, operational interruptions beyond the supplier's control, then the acceptance period will be reasonably extended without further notice for the duration of the hindrance plus an appropriate additional delivery period. According to the circumstances and taking into consideration mutual interests, Opus also reserves the right to withdraw from the contract. The two preceding sentences do not apply if Opus has a takeover, precaution or avoidance measures as part of an industrial dispute or action, or if Opus has taken on a procurement risk.
- 4.2 The buyer's withdrawal from the contract is, in the events of paragraph 1, only possible if Opus has not complied with the subsequent delivery period according to paragraph 1; or, according to the circumstances and taking into consideration mutual interests, the buyer is given a right of withdrawal. The buyer shall give Opus at least two weeks notice, prior to exercising the right of withdrawal, via registered letter informing of the intended withdrawal.
- 4.3 Opus shall be liable for all damages caused by gross negligence or intent, as incurred by employees, subcontractors, and vicarious agents, or other persons whom they use to fulfill their contractual obligations. As far as negligent causation is present, Opus is liable then, if the damage is due to the breach of a contractual obligation (cardinal obligation).

As a contractual obligation is an obligation, whose fulfillment is the proper implementation of the contract in the first place, and compliance of which the other party may regularly depend on. In that regard, the obligation to pay compensation is limited to the typical and foreseeable damage. In the case of damage that is due to injury to life, body, or health, as well as in the case of liability due to mandatory statutory liability regulations, such as the Product Liability Act and/or the Liability Act, Opus shall be liable in accordance with statutory provisions. Claims for lost profits as well as other indirect damages or consequential damages that may occur between the parties are not claimed, unless a party has acted deliberately.

#### § 5 Notice of defects | Warranties

- 5.1 The buyer is obliged to investigate the goods immediately upon receipt and to report, in writing, any deficiencies, either with or without a proper examination, that are identifiable (open defects), to the seller within an exclusion period of 8 days after receipt of the goods. Otherwise, the goods are considered approved. The goods are valid and even considered approved, if the buyer, in the event of a complaint, does not send back the goods to Opus within a week upon Opus request. The costs of the return shall, in the case of a justifiable complaint, be assumed by Opus.
- 5.2 Customary or minor technically unavoidable variations in terms of quality, fit, equipment, width, color, weight, or of the design et al., may not be contested.
- 5.3 In the case of justifiable complaints, Opus has the right to repair or deliver faultless replacement goods within 30 days after receipt of the rejected goods.
- 5.4 After failure of a repair attempt or non-compliance as referred to in paragraph 3, the buyer may be entitled to withdraw from the contract or demand reduction in price. Damage claims can be asserted only in accordance with 4.3.
- 5.5 Hidden defects must be reported in writing immediately after detection by the buyer to Opus. For hidden defects, an exclusion period of 6 months from delivery applies.
- 5.6 The warranty of properties is only effective with written confirmation by Opus.
- 5.7 The mere return of goods to Opus does not replace justifiable complaint.
- 5.8 Returns of wrong deliveries will only be accepted if the goods are returned in original condition, including packaging and labeling. The wrong delivery shall be indicated according to para. 1.

#### § 6 Payment

- 6.1 Invoices are payable, unless otherwise agreed:
  - a) within 10 days from the invoice date with 4% discount;
  - b) Direct debit to net partner price after 10 days
- 6.2 Payments must be made directly to Opus.
- 6.3 If checks are issued instead of cash, they will only be accepted as conditional payment. Bills of exchange are only accepted by special arrangement, and only on account of performance.
- 6.4 Payments are always made to settle the oldest debts due from deliveries of goods plus any interest accrued on arrears. Opus is not bound to any other provisions by the buyer. A deviating repayment regulation of the buyer has precedence, however, if it should be exceptionally paid on a debt which does not result from a delivery of goods.
- 6.5. Before complete payment of due invoice amounts including costs and interest, or in the event of unjustified refusal to accept previous deliveries, Opus shall be under no obligation to make further deliveries arising from any existing contract with the buyer.

6.6 The buyer is only permitted to offset against claims by Opus to the extent that the claims are not undisputed or legally binding.

## § 7 Reservation of proprietary rights

The delivered goods remain the property of Opus until full payment of all claims has been made. Any pledge or assignment of the goods in favor of third parties is prohibited without the consent of Opus. In the event that there is an attachment or seizure of the goods by third parties, the buyer must notify Opus immediately. The notification must include: address of the creditor, amount of the sum owed, list of the seized objects, auction date, and address of the responsible bailiff.

## § 8 Deviating agreements

8.1 Agreements that deviate from the above payment and delivery terms are binding for Opus only after written confirmation; the written form cannot be waived.

8.2 Opus district managers have neither power of attorney to issue declarations for Opus, nor are they entitled to receive declarations for Opus.

## Section 2: master agreement

### § 9 Advertising

The partner shall not use the name, Opus, to advertise beyond the given advertising proposal, since this contradicts the no advertising company policy of Opus. Exceptions to this rule are measures that improve the ability to find offers from partners on the internet, as long as they do not affect Opus image. For the rest, exceptions require written permission by Opus.

### § 10 Digital tools

10.1 The partner may use the digital tools of Simplicity Trade GmbH such as „LISA“, „DIMA“ and „Digital Active Seller“ during the contractual cooperation period by registering for them.

10.2 The partner is not allowed to make any edits or any changes in any way whatsoever, or to duplicate the digital tools, unless this is essential for use in the context of contractual cooperation. The partner is not permitted to make the digital tools available to third parties. The content for the „Digital Active Seller“ is provided exclusively by Simplicity Trade GmbH. The prerequisite for the dynamic transmission of content is an accessible and constant WiFi connection with the partner.

10.3 The partner is responsible for continuously checking the legitimacy Seller of the users registered in his name. If a user is no longer entitled to act on behalf of a partner, the respective Seller partner should report this to Simplicity Trade GmbH immediately, in order to avoid a misuse of the digital tools and/or the content transmitted by the digital tools.

10.4 If the partner receives a „Visual Merchandising Paper“ via the digital tools, they are prohibited from reproducing it and/or making it accessible to third parties.

10.5 The partner of Simplicity Trade GmbH is directly liable for damages arising from a violation Seller of the above obligation Seller of the partner (contract for the benefit of third parties).

### § 11 EDI | Subsequent delivery

11.1 The partner names Opus as the respective contact for EDI, goods and space management, before the first delivery of goods.

11.2 The partner shall provide Opus with a daily sales report (via EDI). The partner agrees to the automatic replenishment of ROS items and hot sellers. The goal is to work together to achieve a high covering result (business result for the partner).

### § 12 Non-binding selective reduction recommendation

12.1 In order to achieve the agreed return targets, Opus recommends, without obligation, that the products be offered at the recommended retail prices and the selective reduction recommendations.

12.2 Opus recommends that selective reductions be made in view of the collections that appear in short four-week periods. Opus will provide the partner in a timely manner with an appropriate non-binding recommendation.

## 13. Termination

13.1 Both parties may terminate the contract at any time by notification given to the other party with a notice period of three months.

13.2 Written agreements can be terminated without notice, if the other party, despite a warning, violates the provisions of the respective agreement.

13.3 Opus reserves the right to change any agreements made at any time, subject to a reasonable notice period of at least two weeks. The partner has the right, within this time period, to object to the change or to act exceptionally to cancel the change. If no objections are given within this period or if the contractual relationship is terminated, the amended version of the agreement shall be deemed to be accepted. In the announcement of the change, the importance of the two-week period shall be separately noted.

## Section 3: general rules for all contractual relationships

### § 14 Settlement of disputes

14.1 Disputes arising from this contract and other agreements between the parties are to be decided by ordinary courts. The place of performance for all services provided in the delivery contract and the exclusive place of jurisdiction, including for bills of exchange and checks, is Oelde.

14.2 For disputes, inclusive with foreign buyers, German law applies exclusively. The Uniform Law on the International Sale of Goods does not apply.

14.3 The written agreements govern all matters of the contractual relationship. Subsidiary agreements, changes, and additions must be made in writing with the consent of both parties. This also applies to changes to this written form clause.

14.4 Should any provision of these terms, in whole or in part, be or become ineffective, the other regulations remain valid. The parties agree herewith that the legally ineffective provision be replaced with a valid provision corresponding to the economic purpose.

14.5 In addition, unless otherwise stated here, the standard conditions of the German clothing industry apply.