

Terms of Delivery and Payment of Leder Hofmann Handelsgesellschaft mbH, formerly Hofmann + Veicht

Unless expressly agreed otherwise in writing, the legal relations between the buyer and us shall be governed by German law and the following conditions. We trade exclusively with **special leather items (SI) particularly for the distributive trades.**

We are a

wholesale business

and exclusively serve business customers. Upon placing an order with us, the buyer assures that it is a

person carrying on a business

, and not an end consumer.

In any case, the customer shall be obliged to

verify

before further processing that the

material

we have delivered is fit for the intended purpose. We exclude any liability for suitability of the merchandise for the purpose of use intended by the customer. In particular, we exclude any liability for colourfastness, resistance to tearing, chemical treatment layers, changes due to treatment and processing.

Our quotations are always subject to change. Designs and drawings shall remain our property.

Our prices are net prices and do not include the respective applicable statutory VAT. The granting of a cash discount shall require written form; it shall be invalid if the buyer is in arrears with any of its payment obligations.

The **order** shall be accepted upon our written confirmation. In the event that it should turn out that the buyer is an end consumer, we shall be entitled to refuse performance of the contract; we shall be entitled to assert claims because of fraudulent behaviour.

Scheduled **periods of delivery** shall commence with conclusion of contract (date of order confirmation). They shall not be binding on us, unless otherwise agreed upon in writing. If a period of delivery guaranteed by us is not complied with, the buyer may refuse acceptance of performance if the delivery is delayed more than 4 weeks beyond the scheduled date of delivery, and the buyer has sent a written reminder about the delivery upon expiry of the scheduled period of delivery.

In cases of force majeure, with disruptions of transport, strikes, and other impediments to performance or obstacles to performance, including not only short-term difficulties in procurement of material, the period of grace specified in para. 1 shall be extended to 2 months. In such cases, we shall additionally be entitled to rescind the contract.

The buyer may assert non-compliance with the period of delivery against us only if the buyer itself

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has properly fulfilled its obligations under the contract.

Claims for damages can only be asserted in the event of gross negligence or intent; intent or gross negligence on the part of our vicarious agents shall be attributed to us. The claim for damages shall be limited to the amount of the order value, unless this is inappropriate.

The **delivery** shall be ex works or, in the case of rail or postal dispatch, free place of collection, for the account and at the risk of the buyer.

Shipping and packing charges shall be at the expense of the buyer. If the merchandise is dispatched by us, it shall travel at the buyer's risk. With collection of the merchandise by the buyer, the risk shall pass to the buyer upon advice of readiness to deliver.

Orders on call must be accepted within 6 weeks after the scheduled call date. There must be an appropriate period between call and desired dispatch. If we store the merchandise for the buyer in the event of default in acceptance, the storage shall be at the expense and at the risk of the buyer.

File boxes and canvas packaging shall remain our property; 2/3 of the amount charged shall be credited if they are returned to us, carriage paid, in usable condition. If the costs underlying our calculation should increase by more than 5% after conclusion of the contract, we shall be entitled to raise the agreed prices by the additional amount exceeding these 5%.

With contract processing orders, the merchandise required for processing shall be delivered free of charge. The contract-processed goods shall be returned carriage forward. We shall not be obliged to perform a suitability test of the merchandise sent to us for processing. Liability shall be excluded for damages and losses attributable to the quality of the merchandise. With contract processing orders, the risk of loss and of deterioration of the material to be processed shall be borne by the ordering party.

The merchandise shall remain **our property until full payment** of all outstanding debts, including accessory claims, claims for damages, claims arising in the future, and cashing of cheques and bills of exchange (

simple retention of title)

Upon release by us, the buyer shall be entitled to process and dispose of the merchandise, taking the following provisions into account

(transfer of ownership by way of security)

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The buyer exclusively shall be obliged to verify the suitability of the merchandise (**special items**) for the purpose intended by the buyer. We shall assume no liability for damages because of unsuitability for the purpose of use; replacement, in particular of processing costs and consequential damages, shall be excluded.

Notwithstanding a revocation by the seller which is permissible at any time, the buyer's entitlement to process goods sold subject to retention of title within the ordinary course of business shall end upon the occurrence of financial difficulties (buyer's crisis). In the event of cessation of payments or insolvency of the buyer (filing for bankruptcy), the entitlement to process the merchandise shall expire.

By processing the goods sold subject to retention of title, the buyer who processes the merchandise for us shall not acquire ownership of the new item pursuant to section 950 BGB (German Civil Code). If the goods sold subject to retention of title are processed, mixed, or mingled with other items, we shall acquire co-ownership of the new item in proportion of the value of our goods sold subject to retention of title to the overall value.

The buyer shall assign to us the claim with all ancillary rights from the resale or fitting of the goods sold subject to retention of title, and proportionally also to the extent that the goods have been processed, mixed, or mingled, and we have acquired co-ownership of the same to the amount of the invoice value. From this assignment, a fraction of the respective demanded purchase price corresponding to the proportion of the invoice value of our goods sold subject to retention of title to the invoice value of the item shall be due to us.

If the buyer has sold this claim within the scope of genuine factoring, the buyer shall assign to us the claim against the factor taking its place. We shall accept this assignment. We shall not collect the assigned claim as long as the buyer meets its payment obligations. On request, the buyer shall be obliged to provide us with a list of the claims due to us with the names and addresses of the customers, the amounts of the individual claims, invoice dates, etc., to inform his customers of the assignment, and to furnish us with any and all information required to assert the assigned claims.

The buyer shall be entitled to collect the claims unless we instruct it otherwise. The buyer authorises us to inform the customers of this assignment and to collect the claims ourselves as soon as the buyer is in arrears with any payment, or its financial position deteriorates in an essential manner.

In this case, we may demand that the buyer allow us to have the list of assigned claims inspected by our representatives on the basis of the buyer's accounting. Amounts received from assigned claims shall be kept separately for remittance.

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The retention of title shall continue to exist even if individual claims of the seller have been included in a current account, and the balance has been struck and accepted. The retention of title shall be due to the seller not only with regard to the accepted and abstract closing balance, but also with regard to the "causal" balance.

Already now, we release fully paid deliveries if the security provided by the retention of title exceeds the claim to be secured by 10%.

Pledging or transfers by way of security of the goods sold subject to retention of title or of the assigned claims and factoring shall not be permissible. We must be informed immediately of attachments, indicating the attaching creditor.

As soon as the buyer has ceased to make payments, i. e. immediately after announcement of the cessation of payments, the buyer shall be obliged to provide us with a list of the remaining goods sold subject to retention of title, also to the extent that they have been processed, and with a list of the claims against third-party debtors plus the copies of the invoices.

If we take back the delivered goods based on our retention of title, this shall constitute a cancellation of the contract.

The buyer shall hold the goods sold subject to retention of title in custody for us. It shall insure them against fire, theft, and water damage. To the amount of our claim, the buyer hereby assigns to us its claims for compensation due to it for damages of the aforementioned kind from insurance companies or other parties liable. We accept this assignment.

Rights arising from the retention of title and all special forms thereof stipulated in the present conditions shall be valid until full release of the contingent liabilities we have entered into in the buyer's interest. m) In the case of the buyer's insolvency, we shall be entitled already before maturity of setoff claims to set off against our outstanding claims, section 94 InsO (German Insolvency Act).

Rights arising from product defects:

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The merchandise delivered by us must be inspected immediately. Possible defects shall be reported immediately, otherwise the goods shall be deemed as accepted.

In the event of justified complaints, we shall be obliged, at our option, to either rectify the defects and/or to make a substitute delivery. The limitation of liability shall not apply in the case of fraudulent intent or lack of guaranteed characteristics.

Liability for damages caused by defects and consequential damages caused by defects shall be excluded, unless we or our vicarious agents are chargeable with intent or gross negligence.

If the buyer has already treated or processed our merchandise, it shall not be able to make any claims in respect of a defect. If the merchandise was provided with the buyer's company name or with other trademarks or signs desired by the buyer, the buyer shall only be able to make any claims in respect of a defect if and to the extent that it cannot be reasonably be expected to accept the merchandise because of significant defects in quality.

Negligible deviations in quality, material strength, colour, etc. shall not constitute an entitlement to give notice of defects. In particular, excess or short deliveries with a deviation of 10% shall not constitute an entitlement to give notice of defects.

As long as the buyer itself has not complied with its obligations under the contract, our obligations with regard to the notice of defect shall be suspended. The expiry of the period of limitation shall not be suspended thereby.

The **period of limitation** is 1 year.

Invoices shall be issued with the date of dispatch or of acceptance of the merchandise, respectively.

On principle, the **terms of payment** specified in the order confirmation or with each invoice shall apply.

The following applies in general:

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Bills of exchange and cheques shall only be accepted as payment. If several bills of exchange or cheques of a buyer have been accepted by us, we shall be entitled to demand immediate payment of all of our claims even if only one of them is protested/not cashed. Discount and recovering charges shall be at the buyer's expense.

We shall be entitled to demand advance payments for our deliveries. c) Date of payment shall be the date of receipt of the payment by us.

If the fulfilment of a claim for payment is endangered because of a deterioration of the financial situation of the buyer which has occurred or become known after conclusion of the contract, we may demand advance payment and immediate payment of all outstanding invoices, even of those which are not due yet, and retain merchandise which has not been delivered yet. These rights shall be due to us even if the buyer does not make any payments despite a reminder giving rise to the default.

With orders on call, the purchase price shall, in the absence of any other agreement, be due if the scheduled call date has been exceeded by 4 days.

Cancellation costs for deliveries which are not carried out: As flat-rate damages, we may always demand 10% of the invoice amount, unless the Buyer furnishes proof that no damage or decrease in value has occurred at all. We reserve the right to assert additional damages.

Default interest to the amount of 8 percentage points above the base rate from the date of default, in any case from the 30th day after invoicing, shall be due to us.

Right to data storage and data use: The customer agrees that we and our affiliated companies may store and use its contact information, including names, telephone numbers, and email addresses. Such data may be processed and used within the scope of the existing business relationship and passed on to partners and authorised representatives for the purpose of joint business activities.

Subsidiary agreements and modifications of the contract shall only be binding on us if they have been confirmed by us in writing.

Place of performance for delivery and payment is Munich. Exclusive place of jurisdiction shall be Munich, if the buyer is a fully qualified merchant. 17. In the event that any of the foregoing provisions should not be enforceable for any reason, the effectiveness of the other provisions shall not be affected thereby. The parties shall make an adjustment to the contract constituting the closest possible equivalent to what the parties intended.