

# General Terms and Conditions

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## 1) Scope of Application

**1.1** These General Terms and Conditions (hereinafter referred to as "GTC") of the company Delicatino GmbH (hereinafter referred to as "Seller") shall apply to all contracts concluded between a consumer or a trader (hereinafter referred to as "Client") and the Seller relating to all goods and/or services presented in the Seller's online shop. The inclusion of the Client's own conditions is herewith objected to, unless other terms have been stipulated.

**1.2** Regarding the purchase of vouchers, these GTC shall apply accordingly, unless expressly agreed otherwise.

**1.3** For contracts regarding the delivery of vouchers, these GTC shall apply accordingly, unless expressly agreed otherwise.

**1.4** A consumer pursuant to these GTC is any natural person concluding a legal transaction for a purpose attributed neither to a mainly commercial nor a self-employed occupational activity.

**1.5** A trader pursuant to these GTC is a natural or legal person or a partnership with legal capacity who, when concluding a legal transaction, acts in the exercise of his commercial or independent professional activity.

## 2) Conclusion of the Contract

**2.1** The product descriptions in the Seller's online shop do not constitute binding offers on the part of the Seller, but merely serve the purpose of submitting a binding offer by

the Client.

**2.2** The Client may submit the offer via the online order form integrated into the Seller's online shop. In doing so, after having placed the selected goods and/or services in the virtual basket and passed through the ordering process, and by clicking the button finalizing the order process, the Client submits a legally binding offer of contract with regard to the goods and/or services contained in the shopping cart. The Client may also submit his offer to the Seller by e-mail, fax, per online contact form or telephone.

**2.3** The Seller may accept the Client's offer within five days,

- by transferring a written order confirmation or an order confirmation in written form (fax or e-mail); insofar receipt of order confirmation by the Client is decisive, or
- by delivering ordered goods to the Client; insofar receipt of goods by the Client is decisive, or
- by requesting the Client to pay after he placed his order.

Provided that several of the aforementioned alternatives apply, the contract shall be concluded at the time when one of the aforementioned alternatives firstly occurs. Should the Seller not accept the Client's offer within the aforementioned period of time, this shall be deemed as rejecting the offer with the effect that the Client is no longer bound by his statement of intent.

**2.4** If a payment method offered by PayPal is selected, the payment will be processed by the payment service provider PayPal (Europe) S.à r.l. et Cie, S.C.A., 22-24 Boulevard Royal, L-2449 Luxembourg (hereinafter referred to as "PayPal"), subject to the PayPal Terms of Use, available at [https://www.paypal.com/de/webapps/mpp/ua/useragreement-full?locale.x=en\\_DE](https://www.paypal.com/de/webapps/mpp/ua/useragreement-full?locale.x=en_DE) or, if the Client does not have a PayPal account, subject to the Terms for payments without a PayPal account, available at <https://www.paypal.com/uk/webapps/mpp/ua/privacywax-full>. If the Client pays by means of a method of payment offered by PayPal which can be selected in the online order process, the Seller hereby declares the acceptance of the Client's offer at the time when the Client clicks on the button concluding the order process.

**2.5** When submitting an offer via the Seller's online order form, the text of the contract is stored by the Seller after the contract has been concluded and transmitted to the Client in text form (e.g. e-mail, fax or letter) after the order has been sent. The Seller shall not make the contract text accessible beyond this. If the Client has set up a user account in the Seller's online shop prior to sending his order, the order data shall be stored on the Seller's website and can be accessed by the Client free of charge via his password-protected user account by specifying the corresponding login data.

**2.6** Prior to submitting a binding order via the Seller's online order form, the Client may recognize input errors by reading attentively the information displayed on the screen. The enlargement function of the browser to enlarge the display on the screen may be an effective method for better recognizing input errors. The Client can correct all the data entered via the usual keyboard and mouse function

during the electronic ordering process, until he clicks the button finalizing the ordering process.

**2.7** The German and the English language are exclusively available for the conclusion of the contract.

**2.8** Order processing and contacting usually takes place via e-mail and automated order processing. It is the Client's responsibility to ensure that the e-mail address he provides for the order processing is accurate so that e-mails sent by the Seller can be received at this address. In particular, it is the Client's responsibility, if SPAM filters are used, to ensure that all e-mails sent by the Seller or by third parties commissioned by the Seller with the order processing can be delivered.

**2.9** When ordering alcoholic beverages, the Client confirms, by submitting the order, that he satisfies the legal minimum age requirement and that he undertakes to ensure that only he or an authorized adult person will receive the goods.

### **3) Right to Cancel**

**3.1** Consumers are entitled to the right to cancel.

**3.2** Detailed information about the right to cancel are provided in the Seller's instruction on cancellation.

### **4) Prices and Payment Conditions**

**4.1** Unless otherwise stated in the Seller's product description, prices indicated are total prices including the statutory sales tax. Delivery costs, where appropriate, will be indicated separately in the respective product description

**4.2** Payment can be made using one of the methods mentioned in the Seller's online shop .

**4.3** In case of delivery to countries outside the European Union, additional costs may incur in individual cases for which the Seller is not responsible and which have to be borne by the Client. This includes for example transfer fees charged by banking institutes (transfer charges, exchange fees) or import duties or taxes (customs). Such costs regarding money transfer may also incur, if delivery is not made in a country outside the European Union and the Client carries out the payment from a country outside the European Union.

**4.4** If prepayment by bank transfer has been agreed upon, payment is due immediately after conclusion of the contract, unless the parties have arranged a later maturity date

**4.5** If the payment method "purchase on account" is selected, the purchase price is due after the goods have been delivered and invoiced. In this case, the purchase price is to be paid within 7 (seven) days from receipt of the invoice without deduction, unless otherwise agreed. The Seller reserves the right to offer the payment method "purchase on account" only up to a certain order volume, and he may refuse this payment method

if the specified order volume is exceeded. In this case, the Seller will inform the Client in his payment information displayed in the online shop of a corresponding payment restriction.

**4.6** If the payment method "PayPal invoice" is selected, the Seller assigns his payment claim to PayPal. Before accepting the Seller's declaration of assignment, PayPal carries out a credit check using the transmitted Client data. The Seller reserves the right to refuse the Client the payment method "PayPal invoice" in case of a negative credit check. If the payment method "PayPal Invoice" is accepted by PayPal, the Client must pay the invoice amount to PayPal within 30 days from receipt of the goods, unless PayPal specifies a different payment term. In this case, he can only make payments with debt-discharging effect only to PayPal. However, in the event of assignment of claims, the Seller shall remain responsible for general customer inquiries, e. g. regarding the goods, delivery time, dispatch, returns, complaints, cancellation declarations and dispatches or credit notes. In addition, the General Terms and Conditions of Use for the use of the payment method "purchase" on account with PayPal shall apply; these conditions can be viewed at [https://www.paypal.com/de/webapps/mpp/ua/ppkar-tnc?locale.x=en\\_DE](https://www.paypal.com/de/webapps/mpp/ua/ppkar-tnc?locale.x=en_DE).

**4.7** If the SEPA direct debit payment method is selected, the invoice amount is due for payment after a SEPA direct debit mandate has been issued, but not before the deadline for pre-notification has expired. The direct debit will be collected when the ordered goods leave the Seller's warehouse, but not before the deadline for pre-notification has expired. Pre-notification means any communication (e. g. invoice, policy, contract) of the Seller to the Client which announces a debit by means of SEPA direct debit. If the direct debit is not honored due to insufficient account coverage or due to the indication of an incorrect bank account, or if the Client objects to the debit, even though he is not entitled to do so, the Client shall bear the fees arising from the reversal of the respective bank, if he is responsible for this.

**4.8** If the payment method "PayPal direct debit" is selected, PayPal collects the invoice amount from the Client's bank account on behalf of the Seller after a SEPA direct debit mandate has been issued, but not before the deadline for pre-notification has expired. Pre-notification means any communication (e. g. invoice, policy, contract) to the Client announcing a debit via SEPA direct debit. If the direct debit is not honored due to insufficient account coverage or due to the indication of an incorrect bank account, or if the Client objects to the debit, even though he is not entitled to do so, the Client shall bear the fees arising from the reversal of the respective bank, if he is responsible for this.

**4.9** Credit card payment via Secupay

When selecting the payment method credit card, the invoice amount is due immediately upon conclusion of the contract. Payment by credit card is processed in cooperation with secupay AG, Goethestr. 6, 01896 Pulsnitz ([www.secupay.ag](http://www.secupay.ag)) to which the Seller assigns his payment claim. secupay AG collects the invoice amount from the Client's credit card account. In the event of assignment, payment can only be made to secupay AG with debt-discharging effect. The credit card will be debited immediately after the Client has

placed his order in the online shop. The Seller remains responsible for general customer enquiries, e.g. regarding goods, delivery time, dispatch, returns, complaints, declarations of revocation and deliveries or credit notes, even if the payment method credit card payment via secupay AG has been selected.

**4.10** If the payment method "immediate bank transfer" is selected, payment processing is carried out via the payment service provider SOFORT GmbH, Theresienhöhe 12, 80339 Munich (hereinafter referred to as "SOFORT"). If he wants to be able to pay the invoice amount via "immediate bank transfer," the Client must have an online banking account that is activated for participation in "immediate bank transfer". Furthermore he must have the appropriate credentials during the payment process, and must confirm the payment instruction to SOFORT. The payment transaction will be executed immediately afterwards and the Client's bank account debited accordingly. Further information on the payment method "immediate bank transfer" can be called up by the Client at <https://www.klarna.com/sofort/>.

## **5) Shipment and Delivery Conditions**

**5.1** If the Seller offers to ship the goods, delivery shall be made within the delivery area specified by the Seller to the delivery address specified by the Client unless otherwise agreed. When processing the transaction, the delivery address specified in the Seller's order processing shall be decisive.

**5.2** Should the assigned transport company return the goods to the Seller, because delivery to the Client was not possible, the Client bears the costs for the unsuccessful dispatch. This shall not apply, if the Client exercises his right to cancel effectively, if the delivery cannot be made due to circumstances beyond the Client's control or if he has been temporarily impeded to receive the offered service, unless the Seller has notified the Client about the service for a reasonable time in advance.

**5.3** Personal collection is not possible for logistical reasons.

**5.4** Vouchers will be provided to the Client as follows:

- by e-mail
- by post

**5.5** The Seller reserves the right to withdraw from the contract in the event of incorrect or improper self-supply. This only applies if the Seller is not responsible for the non-supply and if he has concluded a concrete hedging transaction with the supplier. The Seller shall make all reasonable efforts to obtain the goods. In case of non-availability or partial availability of the goods he shall inform the Client and grant him immediately counterperformance.

## **6) Reservation of Proprietary Rights**

If the Seller provides advance deliveries, he retains title of ownership to the delivered

goods, until the purchase price owed has been paid in full.

## **7) Warranty**

**7.1** Unless otherwise stipulated, the provisions of the statutory liability for defects shall apply. Deviating therefrom, the following shall apply to contracts for the delivery of goods:

**7.2** If the Client acts as trader

- the Seller may choose the type of subsequent performance,
- for new goods, the limitation period for claims for defects shall be one year from delivery of the goods,
- for used goods, the rights and claims for defects are excluded,
- the limitation period shall not recommence if a replacement delivery is made within the scope of liability for defects.

**7.3** The above-mentioned limitations of liability and shortening of the period of limitation do not apply

- to claims for damages and reimbursement of expenses of the Client,
- if the Seller has fraudulently concealed the defect,
- for goods which have been used in accordance with their customary use for a building and which have caused its defectiveness,
- for any existing obligation of the Seller to provide updates for digital products with respect to contracts for the supply of goods with digital elements.

**7.4** Furthermore, for traders, the statutory limitation periods for any statutory right of recourse that may exist shall remain unaffected.

**7.5** If the Client is a businessperson pursuant to section 1 of the German Commercial Code (HGB) he has the commercial duty to examine the goods and notify the Seller of defects pursuant to section 377 HGB. Should the Client neglect the obligations of disclosure specified therein, the goods shall be deemed approved.

**7.6** If the Client acts as a consumer, the forwarding agent has to be immediately notified of any obvious transport damages and the Seller has to be informed accordingly. Should the Client fail to comply therewith, this shall not affect his statutory or contractual claims for defects.

## **8) Redemption of Campaign Vouchers**

**8.1** Vouchers which are issued by the Seller free of charge, for a specific period of validity in the context of promotional activities and which cannot be purchased by the Client (hereinafter referred to as "campaign vouchers") can only be redeemed in the Seller's online shop and only within the indicated time period.

**8.2** Individual products may be excluded from the voucher campaign, if such a restriction results from the conditions of the campaign voucher.

**8.3** Only one campaign voucher can be redeemed per order.

**8.4** The goods value should meet at least the amount of the campaign voucher. The Seller will not refund remaining assets.

**8.5** If the value of the campaign voucher is not enough for the order, the Client may choose one of the remaining payment methods offered by the Seller to pay the difference.

**8.6** The campaign voucher credit will not be redeemed in cash and is not subject to any interest.

**8.7** The campaign voucher will not be redeemed if the Client, in the context of his legal right to cancel, returns goods paid fully or partially by a campaign voucher.

**8.8** The campaign voucher is transferable. The Seller may render performance with discharging effect to the respective owner who redeems the campaign voucher in the Seller's online shop. This does not apply if the Seller has knowledge or grossly negligent ignorance of the non-entitlement, legal incapacity or of the missing right of representation regarding the respective owner.

## **9) Redemption of Gift Vouchers**

**9.1** Vouchers which can be purchased via the Seller's online shop (hereinafter referred to as "gift vouchers") can only be redeemed in the Seller's online shop, unless otherwise stipulated in the voucher.

**9.2** Gift vouchers and remaining assets of gift vouchers can be redeemed by the end of the third year following the year of the gift voucher purchase. Remaining assets will be credited to the Client's voucher account.

**9.3** Gift vouchers can only be redeemed prior to the conclusion of the order procedure. Subsequent offsetting is not possible.

**9.4** Only one gift voucher can be redeemed per order.

**9.5** Gift vouchers can only be used for the purchase of goods and not for the purchase of other gift vouchers.

**9.6** If the value of the gift voucher is not enough for the order, the Client may choose one of the remaining payment methods offered by the Seller to pay the difference.

**9.7** The gift voucher credit will not be redeemed in cash and is not subject to any interest.

**9.8** The gift voucher is transferable. The Seller may render performance with discharging effect to the respective owner who redeems the gift voucher in the Seller's online shop. This does not apply, if the Seller has knowledge or grossly negligent

ignorance of the non-entitlement, legal incapacity or of the missing right of representation regarding the respective owner.

## **10) Applicable Law**

The law of the Federal Republic of Germany shall apply to all legal relationships between the parties under exclusion of the laws governing the international purchase of movable goods. For consumers, this choice of law only applies to the extent that the granted protection is not withdrawn by mandatory provisions of the law of the country, in which the consumer has his habitual residence.

## **11) Place of Jurisdiction**

If the Client is a businessman, a legal entity of public law or a separate estate under public law with its seat in the territory of the Federal Republic of Germany, the Seller's place of business shall be the sole place of jurisdiction for all legal disputes arising from this contract. If the Client is domiciled outside the territory of the Federal Republic of Germany, the Seller's place of business shall be the sole place of jurisdiction for all legal disputes arising from this contract provided that the contract or claims from the contract can be assigned to the Client's professional or commercial activities. In any event however, regarding the aforementioned cases the Seller is entitled to call the court responsible for the seat of the Client.

## **12) Alternative dispute resolution**

**12.1** The EU Commission provides on its website the following link to the ODR platform: <https://ec.europa.eu/consumers/odr>.

This platform shall be a point of entry for out-of-court resolutions of disputes arising from online sales and service contracts concluded between consumers and traders.

**12.2** The Seller is neither obliged nor prepared to attend a dispute settlement procedure before an alternative dispute resolution entity.