



GENERAL TERMS AND CONDITIONS OF SALE

CLAUSE 1 SCOPE OF APPLICATION, FORM

- (1) These General Terms and Conditions of Sale (the "Terms") shall apply to all business relationships between us and our customers (the "Buyer"). The Terms shall apply only where the Buyer is a trader (Section 14 of the German Civil Code [*Bürgerliches Gesetzbuch* – hereinafter "*BGB*"]), a legal person under public law, or a special fund under public law.
- (2) The Terms shall apply in particular to contracts for the sale and/or supply of movable goods (the "Goods"), irrespective of whether we manufacture the Goods ourselves or purchase them from suppliers. Unless otherwise agreed, the version of the Terms in force at the time the Buyer places the relevant order shall apply. If we have notified the Buyer in writing of the Terms or any amendments thereto, in the event of doubt the most recently notified written version shall prevail. The Terms shall also serve as a framework agreement for future contracts of the same nature without requiring us to refer to them again in each individual case.
- (3) Our Terms shall apply exclusively. Any general terms and conditions of the Buyer which deviate from, conflict with or supplement these Terms shall only become part of the contract if and to the extent that we have expressly agreed to their application. This requirement for consent shall apply in all cases, including where the Buyer refers to their own general terms and conditions when placing the order and we do not expressly object thereto.
- (4) Individual agreements (e.g. framework supply contracts, quality assurance agreements) and any provisions contained in our order confirmation shall prevail over these Terms. In the event of doubt, commercial terms shall be construed in accordance with the Incoterms published by the International Chamber of Commerce in Paris (ICC), as in force at the time of conclusion of the contract.

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- (5) Any declarations or notices by the Buyer having legal effect in relation to the contract (e.g. the setting of time limits, notification of defects, withdrawal or price reduction) shall be made in writing. For the purposes of these Terms, "in writing" includes both written and text form (e.g. by letter, e-mail or facsimile). Any statutory formal requirements and any further evidence required, in particular where there are doubts as to the authority of the person making the declaration, shall remain unaffected.
- (6) References to the applicability of statutory provisions are for clarification purposes only. Accordingly, even in the absence of such clarification, the statutory provisions shall apply insofar as they are not directly amended or expressly excluded by these Terms.

CLAUSE 2 CONCLUSION OF THE CONTRACT

- (1) Our quotations are subject to change and non-binding. This shall also apply where we have provided the Buyer with catalogues, technical documentation, other product descriptions or documents, including in electronic form.
- (2) The Buyer's order for the Goods shall constitute a binding offer to enter into the contract. Unless otherwise stated in the order, we shall be entitled to accept such contractual offer within four weeks of its receipt by us.
- (3) Acceptance may be declared either in writing (e.g. by means of an order confirmation) or by delivery of the Goods to the Buyer.

CLAUSE 3 DELIVERY PERIOD AND DELAY IN DELIVERY

- (1) Any delivery periods and delivery dates specified by us shall always be approximate only (so-called "approximate deadlines"), unless a fixed delivery period or a fixed delivery date has been expressly confirmed or agreed in text form as binding. Transactions for delivery by a fixed date (*Fixgeschäfte* within the meaning of Section 323(2) No 2 BGB or Section 376 of the German Commercial Code [*Handelsgesetzbuch - hereinafter "HGB"*]) must be expressly confirmed by us as such.
- (2) If we are unable to comply with binding delivery periods for reasons beyond our control (non-availability of performance), we shall inform the Buyer thereof without undue delay and, at the same time, notify the Buyer of the expected new delivery period. If performance is not

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possible within the new delivery period either, we shall be entitled to withdraw from the contract in whole or in part. Any consideration already provided by the Buyer shall be reimbursed without undue delay. Non-availability of performance shall be deemed to exist, for example, in the event of our supplier's failure to make timely delivery to us, provided that we have entered into a corresponding cover transaction (*kongruentes Deckungsgeschäft*), in the event of other disruptions in the supply chain, for example due to force majeure (including, but not limited to, epidemics, pandemics, shortages of raw materials on the global market, acts of war, strikes, unforeseeable operational disruptions and governmental measures, such as import bans on certain raw materials), or if, in individual cases, we are not obliged to procure the Goods.

- (3) The point at which we are deemed to be in delay in delivery is determined in accordance with the statutory provisions. In all cases, however, a reminder by the Buyer shall be required. If we are in delay in delivery, the Buyer may claim liquidated damages for the loss caused by such delay. The liquidated damages shall amount to 0.5% of the net price (delivery value) for each completed calendar week of delay, but not more than a maximum of 5% of the delivery value of the Goods delivered late. We reserve the right to prove that the Buyer has suffered no loss at all or only a substantially lower loss than the above lump sum.
- (4) The Buyer's rights pursuant to Clause 8 of these Terms and our statutory rights, in particular where the obligation to perform is excluded (e.g. due to impossibility or unreasonable burden of performance and/or cure (*Nacherfüllung*)), shall remain unaffected.

CLAUSE 4 DELIVERY, PASSING OF RISK, ACCEPTANCE, DEFAULT OF ACCEPTANCE

- (1) Delivery shall be made from our warehouse, which, in accordance with the statutory provisions (Section 269 BGB), shall be the place of performance for the delivery and any cure. At the Buyer's request and expense, the Goods shall be dispatched to another destination (sale involving carriage of the Goods [*Versendungskauf*]). Unless otherwise agreed, we shall be entitled to determine the method of dispatch (in particular the carrier, the route of shipment and the packaging).
- (2) The risk of accidental loss or accidental deterioration of the Goods shall pass to the Buyer at the latest upon handover of the Goods. In the case of a sale involving carriage of the Goods (*Versendungskauf*), however, the risk of accidental loss or accidental deterioration of the Goods, as well as the risk of delay, shall pass to the Buyer upon delivery of the Goods to the freight forwarder, the carrier or any other person or institution designated to carry out the dispatch.

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for the passing of risk. In all other respects, too, the statutory provisions governing contracts to produce a work (*Werkverträge*) shall apply mutatis mutandis to any agreed acceptance. Handover or, where applicable, acceptance shall be deemed to have occurred if the Buyer is in default in acceptance.

- (3) If the Buyer is in default in acceptance, fails to perform an act of cooperation required on their part, or if our delivery is delayed for any other reason attributable to the Buyer, we shall be entitled to claim compensation for the resulting loss, including any additional expenses incurred (e.g. storage costs and the costs of re-dispatch or return transport). Where delivery is made DAP (Delivered at Place in accordance with Incoterms® 2020) to the agreed destination and the Buyer is in default in acceptance at such place or fails to perform an act of cooperation required on their part (e.g. lack of unloading capacity or refusal to accept delivery), the Buyer shall bear all additional expenses incurred as a result thereof.
- (4) Dietary supplements and food products are subject to product-specific storage and transport conditions (in particular with regard to temperature, humidity and exposure to light). From the passing of risk, the Buyer is obliged to store and transport the Goods properly and in accordance with the instructions set out on the product labels, the product specifications and the applicable statutory provisions. The Buyer's claims in respect of defects shall be excluded if a defect (e.g. caking, loss of active ingredients or spoilage) is due to the Goods having been improperly stored or transported after the passing of risk. Where the Buyer alleges that a defect existed at the time of the passing of risk, the Buyer shall bear the burden of proof that the Goods were, without interruption, properly stored and transported after the passing of risk.

CLAUSE 5 PRICES AND TERMS OF PAYMENT

- (1) Unless otherwise agreed in the individual case, our prices in force at the time of conclusion of the contract shall apply on an ex warehouse basis, plus statutory value added tax (VAT). Notwithstanding the foregoing, the following shall apply to products from our "Sports Nutrition" product range: Due to the volatility of the raw materials markets, the prices applicable to such products shall be those in force at the time of delivery. If the applicable price exceeds the price stated at the time of the Buyer's order by more than 15%, the Buyer shall be entitled to a separate right of withdrawal from the Contract in respect of such products, provided that the Buyer does not wish to accept the price increase. The right of withdrawal must be exercised within five calendar days after notification of the prices applicable at the time of delivery by e-mail to bestellung@krafticus.de.

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- (2) In the case of a sale involving carriage of the Goods (Clause 4(1)), the Buyer shall bear the transportation costs from our warehouse and the costs of any transport insurance requested by the Buyer. The Buyer shall also bear any customs duties, fees, taxes and other public levies.
- (3) The purchase price shall be due and payable within 14 days from the date of the invoice and delivery or, where agreed, acceptance of the Goods. Notwithstanding any ongoing business relationship, we shall be entitled at any time to make delivery, in whole or in part, subject to advance payment. We shall notify the Buyer of any such reservation no later than upon issuing the order confirmation.
- (4) Upon expiry of the above payment period, the Buyer shall be in default. During the period of default, interest shall accrue on the purchase price at the applicable statutory default interest rate. We reserve the right to assert any further claims for loss caused by the default. As against merchants, our statutory entitlement to commercial interest (Section 353 HGB) shall remain unaffected.
- (5) The Buyer shall be entitled to set-off or to exercise a right of retention only to the extent that their claim has been established by a final and binding judgment or is undisputed. In the event of defects in the Goods delivered, the Buyer's rights and remedies shall remain unaffected, in particular pursuant to Clause 7(5), second sentence, of these Terms.
- (6) If, after conclusion of the contract, it becomes apparent (e.g. as a result of an application for the opening of insolvency proceedings) that our claim for payment of the purchase price is jeopardised by the Buyer's inability to perform, we shall be entitled, in accordance with the statutory provisions, to refuse performance and, where applicable following the setting of a reasonable period, to withdraw from the contract (Section 321 BGB). In the case of contracts for the manufacture of non-fungible goods (custom-made products), we may declare withdrawal from the contract immediately. The statutory provisions governing circumstances in which the setting of a reasonable period is not required shall remain unaffected.

CLAUSE 6 RETENTION OF TITLE

- (1) We retain title to the Goods sold until all our present and future claims arising out of the contract of sale and an ongoing business relationship (secured claims) have been paid in full.
- (2) The Goods subject to retention of title may neither be pledged to third parties nor transferred by way of security prior to full payment of the secured claims. The Buyer shall notify us in writing without undue delay if an application for the opening of insolvency proceedings is

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filed or if the Goods belonging to us become subject to third-party enforcement measures (e.g. attachment).

- (3) In the event of a breach of contract by the Buyer, in particular non-payment of the purchase price when due, we shall be entitled, in accordance with the statutory provisions, to withdraw from the contract and/or to demand the return of the Goods on the basis of the retention of title. A demand for the return of the Goods shall not, in itself, constitute a declaration of withdrawal from the contract. Rather, we shall be entitled merely to demand the return of the Goods while reserving the right to withdraw from the contract. If the Buyer fails to pay the purchase price when due, we may exercise these rights only if we have first granted the Buyer a reasonable period for payment without success or if the granting of such a period is not required under the statutory provisions.
- (4) Until revoked in accordance with sub-clause (c) below, the Buyer shall be entitled to resell and/or process the Goods subject to retention of title in the ordinary course of business. In such case, the following provisions shall apply in addition.
 - (a) The retention of title shall extend to the full value of any products resulting from the processing, mixing or combination of our Goods, whereby we shall be deemed to be the manufacturer. If, in the event of processing, mixing or combination with goods belonging to third parties, their title remains unaffected, we shall acquire co-ownership in proportion to the invoice values of the processed, mixed or combined Goods. In all other respects, the same shall apply to the resulting product as to the Goods delivered subject to retention of title.
 - (b) The Buyer hereby assigns to us, by way of security, all receivables against third parties arising from the resale of the Goods or the resulting product, either in full or, where applicable, a corresponding portion thereof equal to our co-ownership share, as set out in the preceding paragraph. We hereby accept such assignment. The Buyer's obligations set out in paragraph 2 shall also apply in respect of the assigned receivables.
 - (c) The Buyer shall remain authorised, in addition to us, to collect the assigned receivables. We undertake not to collect the assigned receivables for as long as the Buyer duly performs their payment obligations towards us, there is no indication of the Buyer's inability to perform, and we do not enforce the retention of title by exercising a right pursuant to paragraph 3. If, however, this should be the case, we may require the Buyer to disclose the assigned receivables and the identity of the respective debtors, provide all information necessary for collection, hand over the relevant documents and notify the debtors (third parties) of the assignment.

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Furthermore, in such event, we shall be entitled to revoke the Buyer's authorisation to resell and process the Goods subject to retention of title.

- (d) If the realisable value of the securities exceeds our claims by more than 10%, we shall, at the Buyer's request, release securities of our choice.
- (e) The Buyer shall not be entitled to assign to third parties any receivables arising from the resale of the Goods subject to retention of title (in particular not by way of an assignment for security or in connection with non-recourse factoring). The only exception shall be the assignment of receivables by way of true factoring (with the factor assuming the full del credere risk), provided that (i) the Buyer notifies us of the factoring arrangement in text form in advance, (ii) the proceeds payable by the factor correspond to at least the amount of our secured claim, and (iii) the factoring proceeds are credited to one of the Buyer's accounts for their unrestricted disposal. The Buyer hereby assigns to us, in advance, their claim against the factor for payment of the factoring proceeds up to the amount of the secured claims to which we are entitled from time to time. We hereby accept such assignment. As soon as the factoring proceeds are credited to the Buyer's account, our claim against the Buyer shall become immediately due and payable.

CLAUSE 7 BUYER'S CLAIMS FOR DEFECTS

- (1) Unless otherwise specified below, the statutory provisions shall apply to the Buyer's claims arising from defects in quality and defects in title (including incorrect delivery, short delivery, improper assembly/installation or defective instructions). The statutory provisions governing the purchase of consumer goods (Sections 474 et seq. BGB) and the Buyer's rights arising from separately issued guarantees, in particular those granted by the manufacturer, shall remain unaffected in all cases.
- (2) Our liability for defects is based, first and foremost, on the agreement regarding the quality and intended use of the Goods (including accessories and instructions). For the purposes of this provision, all product descriptions and manufacturer's specifications forming part of the individual contract or made publicly available by us (in particular in catalogues or on our website) at the time of conclusion of the contract shall be deemed to constitute an agreement on quality. Where no agreement on quality has been made, the existence of a defect shall be determined in accordance with the statutory provisions (Section 434(3) BGB). In this respect, public statements made by the manufacturer or on the manufacturer's behalf, in particular in

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advertising or on the product label, shall take precedence over statements made by other third parties.

- (2a) A specific remaining shelf life of the best before date (BBD) shall be deemed to constitute an agreed quality characteristic only if this has been expressly confirmed in text form. The mere fact that the remaining shelf life of the best before date is shorter than desired by the Buyer for resale shall not constitute a defect in quality. Furthermore, the natural deterioration of the Goods or the expiry of the best before date after the passing of risk shall not give rise to any claims for defects.
- (3) If the Goods delivered are defective, we shall initially be entitled to choose whether to effect cure (*Nacherfüllung*) by remedying the defect (*repair - Nachbesserung*) or by supplying defect-free Goods (replacement delivery - *Ersatzlieferung*). If the method of cure chosen by us is unreasonable for the Buyer, in a particular case, they may refuse it. Our right to refuse cure in accordance with the statutory conditions shall remain unaffected.
- (4) We shall be entitled to make our obligation to effect cure conditional upon the Buyer having paid the purchase price when due. The Buyer shall, however, be entitled to withhold a portion of the purchase price that is reasonable in relation to the defect.
- (5) The Buyer shall grant us the time and opportunity required to effect cure, in particular by making the Goods subject to the complaint available for inspection at the place where the cure is to be effected (Section 439(5) BGB). In the event of replacement delivery, the Buyer shall, at our request, return the defective Goods to us in accordance with the statutory provisions. The Buyer shall not, however, have any claim for their return.
- (6) If a defect actually exists, we shall bear or reimburse the expenses required for the purposes of inspection and cure, in particular transport, workers' travel, labour and material costs, in respect of the place where the cure is to be effected, in accordance with the statutory provisions and these Terms. Otherwise, we may require the Buyer to reimburse the costs incurred as a result of an unjustified request for the remedy of defects, provided that the Buyer knew or could reasonably have recognised that no defect actually existed.
- (7) In urgent cases, e.g. where operational safety is at risk or to prevent disproportionate damage, the Buyer shall be entitled to remedy the defect themselves and to claim reimbursement from us for the objectively necessary expenses incurred for that purpose. We shall be notified of any such self-remedy without undue delay and, where possible, in advance. The right of self-remedy shall not apply where we would be entitled to refuse the corresponding cure under the statutory provisions.

- (8) If a reasonable period to be set by the Buyer for effecting cure has expired without success, or if the setting of such a period is not required under the statutory provisions, the Buyer may, in accordance with the statutory provisions, withdraw from the contract or reduce the purchase price. However, the Buyer shall have no right to withdraw from the contract in the case of an insignificant defect.
- (9) The Buyer's claims for reimbursement of expenses pursuant to Section 445a(1) BGB shall be excluded unless the last contract in the supply chain constitutes a purchase of consumer goods (Sections 478 and 474 BGB). Even in the event of defects in the Goods, the Buyer's claims for damages or reimbursement of futile expenses (Section 284 BGB) shall only arise in accordance with Clauses 8 and 9 below.

CLAUSE 8 OTHER LIABILITY

- (1) Unless otherwise provided in these Terms, including the provisions set out below, we shall be liable, in the event of a breach of contractual or non-contractual obligations, in accordance with the statutory provisions.
- (2) We shall be liable for damages, irrespective of the legal grounds, under the principles of fault-based liability in cases of wilful misconduct (*Vorsatz*) and gross negligence (*grobe Fahrlässigkeit*). In cases of ordinary negligence (*einfache Fahrlässigkeit*), subject to the statutory limitations of liability (e.g. the standard of care exercised in one's own affairs or an insignificant breach of duty), we shall be liable only:
 - a) for damage arising from injury to life, body or health;
 - b) for damage arising from the breach of a material contractual obligation (i.e. an obligation the performance of which is essential for the proper performance of the contract and on the fulfilment of which the contractual partner regularly relies and may reasonably rely); in such case, however, our liability shall be limited to compensation for the foreseeable damage typically arising.
- (3) The limitations of liability set out in paragraph 2 shall also apply to third parties and in the event of breaches of duty by persons (also for their benefit) for whose fault we are responsible under the statutory provisions. They shall not apply where a defect has been fraudulently concealed, where a guarantee as to the quality of the Goods has been given, or to the Buyer's claims under the German Product Liability Act (*Produkthaftungsgesetz*).

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- (4) The Buyer may only withdraw from the contract or terminate it due to a breach of duty that does not consist of a defect if we are responsible for such breach. The Buyer's statutory right to terminate the contract for convenience pursuant to Sections 650 and 648 BGB shall apply only in the case of custom-made products. In all other respects, the statutory requirements and legal consequences shall apply.

CLAUSE 9 LIMITATION PERIOD

- (1) Notwithstanding Section 438(1) No 3 BGB, the general limitation period for claims arising from defects in quality and defects in title shall be one year from the date of delivery.
- (2) The above limitation periods applicable to contracts of sale shall also apply to the Buyer's contractual and non-contractual claims for damages based on a defect in the Goods, unless the application of the regular statutory limitation period (Sections 195 and 199 BGB) would, in the individual case, result in a shorter limitation period. The Buyer's claims for damages pursuant to Clause 8(2), first sentence and sentence 2(a), and claims under the German Product Liability Act, shall be subject exclusively to the statutory limitation periods.

CLAUSE 10 PRODUCT SAFETY AND PRODUCT RECALLS

- (1) The Buyer is obliged to fully comply with the mandatory requirements of food law (in particular in their capacity as a food business operator within the meaning of Article 19 of Regulation (EC) No 178/2002). The Buyer shall inform us without undue delay in text form if they become aware of any circumstances giving rise to a suspicion that the Goods supplied may pose a risk to human health or otherwise call into question whether the Goods may lawfully be placed on the market.
- (2) If a product recall ordered by the competent authorities or a voluntary product recall initiated by us becomes necessary, the Buyer is obliged to provide us with the best possible assistance in carrying it out. In particular, the Buyer shall ensure full traceability of the Goods to their commercial customers and shall immediately cease the sale of the affected batch(es).
- (3) We shall bear the costs of a product recall only to the extent that the recall is due to a defect in the Goods for which we are responsible and we are legally obliged to do so under the relevant statutory provisions (in particular product liability law). In all other cases, in particular where the recall is due to improper handling, processing or incorrect labelling of the Goods

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by the Buyer or third parties after the passing of risk, the Buyer shall bear the costs of the recall and indemnify us against any claims by third parties.

CLAUSE 11 GOVERNING LAW, JURISDICTION

- (1) These Terms and the contractual relationship between us and the Buyer shall be governed by the laws of the Federal Republic of Germany, to the exclusion of uniform international law, in particular the UN Convention on Contracts for the International Sale of Goods.
- (2) The exclusive place of jurisdiction, including international jurisdiction, for all disputes arising directly or indirectly out of or in connection with the contractual relationship shall be Saarlouis, Germany, being our registered office. Overriding statutory provisions, in particular those relating to exclusive jurisdiction, shall remain unaffected.

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