

**General Terms and Conditions of mode...information ltd. (MI)  
for business transactions**

**mode...information GmbH (MI)**

[www.modeinfo.com](http://www.modeinfo.com)

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**I. Area of Application**

- (1) Our terms and conditions shall exclusively be valid; we shall not accept any conditions of Purchaser that contravene or deviate from our terms and conditions, unless we have expressly given our written consent to their applicability. Our terms and conditions shall also be applicable if we perform delivery to Purchaser without any reservation, even if we are aware of Purchaser's conditions contravening or deviating from our terms and conditions.
- (2) All agreements made between us and Purchaser for the execution of this contract have been laid down in writing in this contract.
- (3) Our terms and conditions shall be applicable only to enterprisers as defined in sec. 310 Para. 1 BGB (German Civil Code) i.e., to any natural or legal entity or a personal society with legal capacity, which acts in fulfilment of his/her commercial or free-lance activities when concluding the contract.
- (4) Our terms and conditions shall also be applicable to all future business transactions with Purchasers.
- (5) In addition, the INCOTERMS 2000 shall be applicable as far as they are not inconsistent with our conditions or other agreements made between us and Purchaser.

**II. Offer, Offer Documents and Conclusion of Contract**

- (1) Our offers are subject to confirmation unless otherwise stated in the order confirmation.
- (2) We reserve proprietary rights and copyrights in illustrations, drawings, calculations, and other documents. This shall also apply to such written documents which are designated as "confidential". Purchaser requires our express written consent prior to passing any such document on to third parties.

**III. Prices and Terms of Payment**

- (1) If not stated otherwise in the order confirmation, our prices are to be understood ex warehouse Overath-Obersteeg. Packaging material can be invoiced separately.
- (2) The prices valid at the day of receipt of the order shall always be agreed upon. MI reserves the right to increase or reduce prices if price alterations had been made by the publishers or in case of changes in currency exchange rates between the Euro and the currency of the originating country of the title.
- (3) In case of an increase in the subscription rate of more than 30%, Purchaser shall be entitled to a special right of termination which he must exercise immediately after receipt of the invoice for the new subscription period.
- (4) Our prices do not include legal value added tax. In accordance with the E-Commerce Directive regarding the collection of value added tax on Online Services (Council Directive 2002/38/EC) the added value tax rate currently valid in Germany shall be applicable for all subscription extensions in the countries of the European Community (EC) since the place of business of MI is in Germany. EC companies are exempted from taxation insofar as they indicate their EC added value tax ID. Companies and individuals residing in countries outside the EC shall also be exempted from taxation.
- (5) Deduction of discounts is subject to special written agreement.

- (6) If not stated otherwise in the order confirmation, the due net purchase price becomes payable within 14 days from the date of invoice.
- (7) Purchaser shall be entitled to offsetting only if his counterclaims have been legally established, found indisputable and been admitted by us.
- (8) Purchaser shall have the right of retention only if his counterclaims have been legally established, found indisputable und been admitted by us.

#### **IV. Delayed Payment**

In case of the Purchaser's delayed payment of the issued invoices we shall have the right of retention of goods even if the delivery of goods is based on another legal transaction/contractual relationship.

#### **V. Delivery**

- (1) As far as the ordered goods are available in stock, MI shall endeavour to ship the goods ordered by the customer within short time after dispatch of the order confirmation, normally within 24 hours.
- (2) All statements provided about delivery times shall be non-binding. The delivery time shall always take place under reserve of correct and timely self supply, free company resources and, in cases designated therefore, timely receipt of payment by Purchaser.
- (3) In the case that delivery is unacceptably complicated due to circumstances caused neither by MI nor by the customer or due to circumstances exclusively or predominately caused by the customer, the delivery time shall be extended by a period equivalent to the period of the existence of the according circumstance.
- (4) We shall be liable pursuant to legal regulations as far as the underlying purchase contract constitutes a firm deal within the meaning of § 286, para. 2, no. 4 BGB (German Civil Code) or of § 376 BGB (German Commercial Code). We shall also be liable pursuant to legal regulations as far as due to delayed delivery on our part Purchaser is entitled to claim that his interest in continuing performance of contract has ceased.
- (5) We shall furthermore be liable pursuant to legal regulations as far as delayed delivery is due to deliberate or grossly negligent violation of contract on our part; default of our agents or servants shall be accountable to us. As far as delayed delivery is not due to deliberate violation of contract on our part, our liability for damages shall be limited to foreseeable, typically occurring damage.
- (6) We shall also be liable pursuant to legal regulations as far as delayed delivery on our part is due to culpable violation of an essential contractual obligation; in such case, however, liability for damages shall be limited to foreseeable, typically occurring damage.
- (7) In case of delay on delivery, we shall otherwise be liable to pay a lump sum penalty for each full week of delay, amounting to 3 % of the delivery value but not more than 15 % of the delivery value.
- (8) Further legal claims and rights of Purchaser are reserved.
- (9) We shall not be liable for delayed deliveries for which the manufacturer of the product or the publisher is responsible.
- (10) The observance of our delivery commitment is subject to the timely and orderly fulfilment of Purchaser's obligation. Plea of an unfulfilled contract shall be reserved.
- (11) In case of Purchaser's default in taking delivery or in case of Purchaser's non-accidental breach of other duties to cooperate, we shall be entitled to demand compensation for the damage including any additional expenditure occurred to us this way. Advanced claims reserved.

## **VI. Returned goods without permission**

Goods that are returned to mode...information without permission shall be kept in the stock for a period of four weeks. After this period the goods shall be destroyed. If the customer wishes the goods to be resent to him, the forwarding charges will be borne by the customer. Goods that had been assembled and/or converted on demand of the customer cannot be returned or exchanged.

## **VII. Production Stop of an Article**

- (1) In the case that a publisher stops the production of an article without MI being responsible for it, Purchaser of a subscription who had paid in advance shall only be entitled to partial repayment of an amount equivalent to the products that had not been delivered. In this case, a claim for damages against MI is excluded.
- (2) In the case of a production stop of an article, MI shall have the right to supply Purchaser a substitute product of similar content. In case of non-satisfaction, Purchaser shall have the right to return the substitute product.

## **VIII. Single Issue Order**

In case of a single issue order, MI shall deliver the current issue or the next reachable issue of the ordered title.

## **IX. Term of Contract**

- (1) Subscription starts with the next deliverable issue.
- (2) Subscription is automatically extended by periods of 12 months unless notice in writing had been submitted three months prior to expiration. The receipt of the notice at MI is decisive for its timeliness.

## **X. Transfer of Perils**

- (1) Transfer of perils to Purchaser takes place upon delivery of the goods at our warehouse Overath-Obersteeg. Unless otherwise stated in the order confirmation, delivery "ex warehouse Overath-Obersteeg" shall be agreed.
- (2) If desired by Purchaser, we shall provide transport insurance cover for the delivery, the relevant cost of which shall be borne by Purchaser.

## **XI. Purchaser's Obligations of Fact Finding and Reapproval**

Damages and any other complaint about deficient and uncompleted deliveries must be reported immediately after receipt of goods. In case this notification is omitted, the delivery is considered to be approved unless it is a defect that was not identifiable upon examination. If such a defect becomes apparent later on, notification shall be made immediately upon detection; if not, the goods are considered to be approved despite this defect.

## **XII. Warranty Claims and Liability for Defects**

- (1) Warranty claims of Purchaser imply that he has properly complied with his obligations of fact-finding and reapproval.
- (2) As far as a defect exists, Purchaser shall be limited, at our discretion, to demand subsequent performance in the form of having the defect remedied or replacement delivery of an object free from defects. In the case of remedying we shall be obliged to

bear all the expenses required for remedying, in particular costs for transport, travelling, labour and material, provided that such costs do not increase as a consequence of the object of sale having been transferred to a place other than the place of performance. The claim to reimbursement of the expenses shall be limited to the amount of the purchase price.

- (3) If subsequent performance fails, Purchaser shall have the right at his discretion to demand rescission or reduction in purchase price
- (4) We shall be liable pursuant to legal regulations insofar as Purchaser makes a claim for damage, which is due to deliberate act or gross negligence, including deliberate act or gross negligence on the part of our agents or servants. As far as we are not accused of deliberate violation of contract, our liability for damages shall be limited to foreseeable, typically occurring damage.
- (5) We shall be liable pursuant to legal regulations as far as we culpably violate an essential contractual obligation; in such case, however, liability for damages shall be limited to foreseeable, typically occurring damage.
- (6) As far as Purchaser is entitled to indemnification in lieu of performance, our liability for damages, also pursuant to para. (3), shall be limited to foreseeable, typically occurring damage.
- (7) Liability shall be excluded, unless otherwise provided hereinabove.
- (8) The statutory period of limitation shall be 12 months from the transfer of perils.
- (9) In the case of recourse subsequent to delivery pursuant to §§ 478, 479 BGB (German Civil Code), the statutory period of limitation shall not be affected.

### **XIII. Joint liability**

- (1) Further liability for damages beyond the extent provided for in no. XI shall be excluded regardless of the nature of law, under which the claim is made. This applies in particular to claims for damages from default upon conclusion of contract, further breach of duty or tort claims for damage to property pursuant to § 823 BGB (German Civil Code).
- (2) The limitation as provided for in para. (1) also applies insofar as, instead of a claim for damages, Purchaser demands replacement in lieu of performance of the useless expenses.
- (3) As far as our liability for damages is precluded or limited, this shall also apply to the personal liability for damages on the part of our employees, jobholders, staff-members, agents and servants.
- (4) The publisher shall exclusively be responsible for design and contents of the publishing products and for any trademark and copyright infringements. MI cannot take responsibility for any trademark and copyright infringements.

### **XIV. Privacy Policy**

- (1) [Privacy Policy](#)

### **XV. Reservation of Ownership**

- (1) MI reserves the right of ownership in all delivered goods until all payments resulting from the business relationship with MI have been received. This right of ownership shall also apply until all payments have been received for any admitted current account balance.
- (2) In case of default on the part of Purchaser, in particular delayed payment, MI shall have the right of redemption of the object of sale. Redemption of the object of sale means cancellation of contract. After redemption of the object of sale, MI shall have the right of its utilisation with the proceeds to be set off against Purchaser's liabilities by deducting reasonable expenses of utilisation.

- (3) Purchaser is obliged to handle the object of sale with care; he is obliged in particular to take out adequate replacement value insurance at his cost, covering damage by fire, water, and theft.
- (4) Purchaser shall immediately notify us in writing of any action of distraint or other third party intervention so as to allow us to take proceedings pursuant to § 771 ZPO (Code of Civil Procedure). As far as the third party is not able to reimburse us the court and out-of-court costs of proceedings pursuant to § 771 ZPO (Code of Civil Procedure), Purchaser shall be liable for the loss suffered by us.

#### **XVI. Termination**

The termination periods shall depend on the product-specific publication dates for the corresponding product and on the agreed subscription term.

#### **XVII. Copyrights**

All copyrights and all other rights of publishing and all proprietary rights in the delivered products belong to the publisher of the respective product. Further commercial use or duplication of texts, pictures and other product contents are not allowed. This shall refer to all products and to the complete Internet offer of MI.

#### **XVIII. Place of Performance, Legal Venue, Applicable Law, Final Clauses**

- (1) For all disputes arising out of or in connection with this business relation the venue shall be our place of business. We shall have the right, however, to sue Purchaser also at the court at his place of residence
- (2) The law of the Federal Republic of Germany shall be the applicable law; validity of the UN sales law shall be excluded.
- (3) If these General Terms and Conditions are partially held ineffective, the validity of the remaining provisions shall not be in any way affected or impaired thereby.

**mode...information GmbH**