



General Conditions of Sale ANDROS Group (August 2023)

1. In general

- 1.1 These General Conditions of Sale apply to the following companies of the ANDROS Group in Germany: Andros Deutschland GmbH, Andros Ingredients GmbH, ODW Frischprodukte GmbH, ODW Lebensmittel GmbH, Obst- und Gemüseverarbeitung Spreewaldkonserve Gollßen GmbH (hereafter consistently „ANDROS Group“ or „seller“).
- 1.2 These General Conditions of Sale apply to all - also future - contracts, offers, deliveries and other services of the seller. The applicability of any general terms and conditions of the buyer is hereby also contradicted in the event that they are sent to the seller in a letter of confirmation or otherwise.
- 1.3 These General Conditions of Sale apply exclusively to entrepreneurs in the meaning of § 14 BGB (German Civil Code) and not towards consumers.
- 1.4 Verbal collateral agreements, assurances or guarantee statements, the exclusion, changes or additions to these General Conditions of Sale require the express written confirmation of the seller in order to be valid. This also applies to the waiver of this written form requirement.

2. Offer and contract

The offers of the seller are non-binding. All orders are only binding for the seller with his written confirmation or with delivery of the goods.

3. Prices, calculation

Unless otherwise agreed, all prices are quoted plus the statutory sales tax and the cost of packaging and shipping, if and where applicable, and exclusive of any other taxes, customs duties, fees and insurances. All taxes, customs duties and fees related to the delivery are borne by the buyer or have to be reimbursed to the seller.

4. Delivery, accomplishment, call-off order, acceptance

- 4.1 The accomplishment obligation of the seller is subject to correct and timely delivery of himself.
- 4.2 Unless otherwise agreed, delivery is free domicile. Transport damages and losses must be reported to the seller immediately, accompanied by a damage or loss confirmation from the transport company. The damaged goods should be kept at the seller's disposal.
- 4.3 If the seller gave a minimum order value or a minimum order quantity to the customer before the order placement, or if the customer has confirmed his order after a appropriate notice in any way and the seller confirms and accepts the corresponding order below the minimum order value and/or the minimum order quantity, the actual freight costs for the delivery or the freight costs indicated by the seller specified for this case will be invoiced to the customer. The minimum quantity per order is 500 kg gross (also for direct delivery customers) or a full Euro pallet (does not apply to direct delivery customers, except for frozen goods). For determining the weight of the delivery, the weight determined upon dispatch at the delivery factory or warehouse is decisive. In the event of further export of the goods by the buyer, the supplier is not responsible for the fulfillment of the regulatory requirements for the export and/or further distribution of the goods, if not expressly agreed otherwise.
- 4.4 When delivered on Euro pallets, an exchange with the same number of empty pallets in ready-to-use condition (first quality of choice or good new pallets suitable for food) has to be carried out step by step. For culpably not timely, damaged or otherwise poorly returned exchange pallets, the seller is entitled to demand flat-rate compensation of € 10.00 per pallet without further proof. Unless the buyer proves that no damage or impairment has occurred at all or is significantly lower than the replacement value. The seller can refuse the return of accordingly offered pallets.
- 4.5 The buyer is obligated to accept partial accomplishment, unless this is unreasonable for him in individual cases.
- 4.6 If the buyer defaults on accepting the delivery, the seller is entitled to withdraw from the contract by setting a reasonable grace period. If the buyer is responsible for the default on accepting the delivery, the seller is entitled concerning the damage incurred by the delay to demand flat-rate compensation of 10% of the agreed net order value for the not accepted part of the delivery. The flat-rate compensation applies even after the seller withdraws due to the buyer's delay in acceptance. Further claims for damages and other rights of the seller remain unaffected.
- 4.7 If the buyer has to recall or accept the goods within an agreed period of time, the call-offs or the acceptances shall be distributed evenly over the period. In the absence of a deviating written agreement, the calls or acceptances must be made on a monthly basis. If the contractual call-off or the contractual acceptance is omitted, the payment of the price for the goods concerned shall be due immediately. Without prejudice to further rights, the seller can demand compensation for his additional expenses for the unsuccessful offer as well as for the storage and maintenance of the goods. If stored in the seller's warehouse, the seller may charge the buyer € 5.00 / pallet / month if the call-off or acceptance deadlines and dates are culpably exceeded.
- 4.8 The obligations entered into by the seller are subject to timely delivery to himself. Should the seller, due to circumstances for which he is not responsible, despite cover purchases, not be delivered on time from upstream, the obligation to deliver confirmed orders no longer applies. Such circumstances include in particular monetary, trade policy-related and other sovereign measures, bad harvests, absence of harvest workers or freight forwarders, essential operational disruptions (e.g. fire, machine breakdown, lack of energy, shortage of materials, missing packaging material), traffic restrictions, strikes and official measures, for example to protect the population from the effects of pandemics or war disputes and other cases of force majeure. If the seller can foresee that due to such circumstances delivery will not be made on time or in full, he will inform the buyer immediately. In these cases, the seller will allocate existing and/or late delivered goods to all affected customers according to fair criteria, in particular based on the quantities purchased in the past. Claims due to late, canceled or shortened deliveries do not exist in such cases. If the impediment lasts longer than three months, both parties are entitled to withdraw from the contract. By reason of the unfulfilled part of the delivery, the payment for a partial delivery that has already taken place cannot be refused.

5. Passing of risk

- 5.1 Unless otherwise agreed, the risk passes to the buyer while leaving the factory or warehouse from which the delivery is dispatched, but at the latest upon handover to the transport person. Furthermore, the risk passes to the buyer at that point in time in which the shipping or delivery is delayed for reasons the buyer is responsible for or if the buyer defaults on acceptance.
- 5.2 The buyer bears the risk during the return transport of the delivery, insofar as the return transport takes place after the seller withdraws due to a breach of duty by the buyer or as a goodwill gesture on the part of the seller.

6. Payment, set-off, retention

- 6.1 Payments must be made within 10 days of the invoice date without deduction. For the correctness of payments, it depends on the time of receipt of money or of the unconditional credit on the account of the seller.
- 6.2 The seller is not obliged to accept payment by check or bill of exchange; in any case, the surrender of checks and bills of exchange takes place only on account of performance. The dedication does not lead to a deferral of the seller's claim. The costs associated with the utilization of a check or bill of exchange shall be borne by the buyer.

If the payment of the purchase price is effected with means of payment which the buyer has procured by discounting an acceptance change, then the purchase price claim expires only with redemption of the change by the buyer.

- 6.3 In the event of default by the buyer, the seller is entitled to charge default interest in the amount of eight percentage points above the base interest rate. The assertion of further damage remains reserved.
- 6.4 The seller may require security prior to delivery if after completion of the contract a significant deterioration in solvency or creditworthiness of the buyer becomes apparent, which jeopardises the seller's claim, especially in the event of a cessation of payments, of an application for the opening of insolvency proceedings over the buyer's assets or a seizure. If the buyer refuses to provide security within a reasonable period of time set for him, the seller may withdraw from the contract in whole or in part. All other rights of the seller remain reserved.
- 6.5 If several claims against the buyer are open and a payment by the buyer does not suffice for the repayment of all claims, the repayment takes place according to the legal regulations (§ 366 para. 2 BGB [German Civil Code]), even if the buyer has expressly paid for a specific claim.
- 6.6 A possible right of set-off is entitled to the buyer only in view of undisputed, legally established claims. Any legal right of retention or refusal of performance, for example due to defects in the goods, shall be entitled to the buyer only in respect of such undisputed, legally established claims arising from the same contractual relationship with the seller.

7. Retention of title

- 7.1 All goods supplied by the seller (hereinafter also referred to as "reserved goods") remain the seller's property until all his claims, including future claims, against the buyer arising from the business relationship have been fulfilled. For current accounts, the retention of title is considered a security for the seller's respective balance claim.
- 7.2 Processing or transformation of the reserved goods always takes place for the seller as manufacturer with the meaning of § 950 BGB (German Civil Code), without any obligations resulting for the seller thereof. In the case of processing or transformation of the reserved goods with other goods not supplied by the seller, co-ownership for the seller of the new item shall be proportional to the invoice amount for the reserved goods at the purchase price of the other processed or modified goods at the time of processing or remodeling. In the event that reserved goods are combined, mixed or blended in such a manner with the buyer's movable goods that the buyer's item is to be regarded as the main item, the buyer hereby assigns to the seller his ownership of the entire item in proportion of the value of the reserved goods to the value of the other connected, mixed or blended things. If reserved goods are connected, mixed or blended with movable goods of a third party in such a way that the third party's goods are to be regarded as the main object, the buyer hereby assigns to the seller the claim for compensation due from the third party in the amount corresponding to the invoice amount of the reserved goods. The property created by processing, transformation, combination or mixing (hereinafter referred to as the "new item") or the title to or ownership of the new item to be transferred under this clause 7.2 as well as compensated claims in accordance with this clause 7.2 serve in the same way to safeguard the seller's claims as the reserved goods themselves according to section 7.1.
- 7.3 The buyer is authorized to resell the reserved goods or the new object in the proper course of business under retention of title. The buyer is obliged to ensure that the claims arising from such resale transactions can be transferred to the seller in accordance with section 7.4.
- 7.4 The claims of the buyer from a resale of the reserved goods are already assigned to the seller. They serve the seller's security to the same extent as the reserved goods. If the buyer sells the reserved goods together with other goods not supplied by the seller, the assignment of the claim shall only apply in the amount of the invoice amount resulting from the resale of the reserved goods. In the sale of goods, according to section 7.2 or to the statutory provisions on the connection, mixing and blending of property in co-ownership of the seller, the assignment of the claim in the amount of the seller's co-ownership share applies.
- 7.5 The buyer is authorized to collect the claims assigned to the seller from the resale of the reserved goods or new items. An assignment of the claims from the resale to third parties, also in the context of a genuine factoring contract, is not permitted to the buyer.
- 7.6 The seller may revoke the authorization of resale of the reserved goods or a new object in accordance with section 7.3 and the authorization to collect the claims assigned to the seller in accordance with section 7.5 in the event of default of payment or suspension of payments by the buyer, as well as in the case of a petition for the opening of insolvency proceedings or in other cases of impaired credit and trustworthiness of the buyer. In the case of revocation of the resale or collection authorization, the buyer is obliged to inform his customers of the assignment of the claim to the seller without delay and to hand over to the seller all information and documents necessary for collection. In addition, in this case, he is obliged to surrender or transfer to the seller any collateral that he is entitled to for customer claims.
- 7.7 The buyer is obliged to notify the seller immediately of a seizure or any other legal or actual impairment or endangerment of the reserved goods or the other securities existing for the seller.
- 7.8 The buyer undertakes to treat the reserved goods with care. The buyer undertakes to sufficiently insure the reserved goods against fire, water and theft damage at their new value. He already assigns his claims under the insurance contracts to the seller.
- 7.9 In the event of default in payment or other not only minor unlawful behavior of the buyer as well as in the event of the cancellation of the contract, the buyer already now confirms his consent to the condition that the seller removes or lets remove the goods subject to retention of title, as far as the seller is their sole owner, or the new item in the meaning of clause 7.2. Such repossession shall only constitute notice of cancellation of the contract if we expressly state this.

In order to carry out these measures as well as for a general inspection of the goods in reserve or a new item, the buyer has to grant access to the seller's agents at any time.

8. Notification of defects and rights of the buyer in case of defects

- 8.1 The material defects immediately recognizable upon delivery of the goods after delivery must be reported to the seller immediately, at the latest within one week after delivery of the goods, other material defects without delay, at the latest within one week after their discovery. For the timeliness of the notice it depends on the time when the seller received it. Failure to timely notice of defects lets expire any rights of the buyer due to the defect.
- 8.2 At the seller's request, the buyer must send the goods in question to the seller or a third party named by the seller.
- 8.3 Any claims of the buyer due to a defect are limited to the right of subsequent performance. The subsequent performance is carried out at the seller's discretion by removing the defect or by delivering a defect-free item. If the subsequent performance fails, the buyer may, at his discretion, rescind the purchase contract or reduce the purchase price.
- 8.4 Insofar as the seller is obliged to pay damages for a defect in accordance with the statutory provisions - regardless of the legal grounds including any claims for damages arising from positive breach of contract, contractual debts and tort - this obligation to pay compensation is limited in accordance with section 9.
- 8.5 Any recourse claims of the buyer according to § 478 BGB (German Civil Code) remain untouched. Insofar as the seller is obliged to compensate for damages within the scope of such a recourse claim in accordance with the statutory provisions, this liability for damages is limited in accordance with section 9.



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8.6 Claims of the buyer due to defects expire one year from the delivery of the goods. This does not apply in case of intent or fraudulent concealment of the defect and in case of deviation from any guarantee accepted by the seller according to § 433 BGB (German Civil Code). The aforementioned one-year limitation period does not apply to claims for damages due to defects even if the damage is due to gross negligence on the part of the seller's legal representatives or executives, or if personal injury occurs or if the seller is liable for tort. The one-year limitation period for claims for defects also does not apply to deficiencies that exist in a real right of a third party on the basis of which the matter may be required to be surrendered or in any other right entered in the land register; in these cases, the limitation period is three years. The legal provisions on the statute of limitations of any recourse claims according to § 479 BGB (German Civil Code) as well as the statute of limitations and exclusions under the Product Liability Act remain unaffected.

9. Liability

- 9.1 The seller shall be liable for damage caused intentionally or through gross negligence on the part of his legal representatives or executives, as well as for personal injury, in accordance with the statutory provisions. In the case of intent or gross negligence of simple vicarious agents as well as in the case of slightly negligent violation of essential contractual obligations, which are indispensable for the achievement of the purpose of the contract and whose strict adherence to the buyer must be able to trust, the seller is liable in accordance with the statutory provisions limited to such damages that were foreseeable for the seller upon conclusion of the contract in nature and extent. Incidentally, the buyer's claims for compensation for direct or indirect damage - whatever the legal grounds including any claims for damages for breach of pre-contractual obligations and tort - are excluded.
- 9.2 Without prejudice to the provisions of section 9, the seller shall be liable without limitation for damage to life, limb and health resulting from a negligent or intentional breach of duty by his legal representatives or vicarious agents, as well as for damages covered by liability under the Product Liability Act and for all damages that are based on intentional or grossly negligent breaches of contract as well as malice of the legal representatives or vicarious agents of the seller.
- 9.3 Any legal liability due to the lack of a quality guaranteed by the seller or according to the Product Liability Act remains unaffected.
- 9.4 The limitations of liability mentioned in this clause 9 shall also apply to any liability of the seller's legal representatives, executive employees and other vicarious agents towards the buyer.

10. Place of performance, place of jurisdiction, applicable law

- 10.1 The place of fulfillment for all obligations of the seller and the buyer arising from the contract is the registered office of the individual company of the ANDROS Group.
- 10.2 If the buyer is a merchant, a legal entity under public law or a public law special fund, Breuberg is the exclusive place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship. Instead of the court of the jurisdiction agreed above, the ANDROS Group may appeal to any other court having jurisdiction.
- 10.3 The law of the Federal Republic of Germany applies, excluding the provisions of the United Nations Convention on Contracts for the International Sale of Goods.

11. Other provisions

- 11.1 The above provisions also apply if the buyer uses his own terms and conditions that deviate from the seller's terms and conditions or if there is no reference to the seller's terms and conditions. The buyer's general terms and conditions only become part of the contract if and to the extent that the seller has expressly agreed to their validity. This consent requirement applies in all cases, e.g. even if the seller carries out the delivery to the buyer without reservation in the knowledge of the buyer's terms and conditions.
- 11.2 Provisions agreed in writing in the contract prevail over these General Conditions of Sale of the seller.
- 11.3 The nullity or invalidity of individual provisions do not affect the validity of the remaining provisions. They do not result in the nullity or ineffectiveness of the seller's General Conditions of Sale. The ineffective or void provisions must be reinterpreted in such a way that the intended economic purpose is achieved. If a reinterpretation is not possible, the contractual partners are obliged to reach an agreement that comes as close as possible to the economic purpose of the ineffective or void provision.

NOTE

Data of the buyers are stored and processed by the ANDROS Group in consideration of the valid data protection regulations, as far as this is necessary for the orderly completion of the contractual relations. The current General Data Protection information of the ANDROS Group is accessible at www.andros.de/datenschutz