

Standard Terms and Conditions

Standard Terms and Conditions of Intertime AG, Endingen

A. Recitals

These Standard Terms and Conditions of Intertime AG (hereinafter: "Intertime") shall govern all transactions between Intertime and any contracting party (hereinafter: "Customer") and shall apply exclusively. Intertime shall not be deemed to have accepted any terms and conditions of any Customer that differ from or contravene these Terms and Conditions, except insofar as Intertime expressly accepts such terms and conditions via a certificate or other relevant writing.

These Terms and Conditions shall also apply to any Customer in cases where these Terms and Conditions are not expressly referenced; and/or Intertime unconditionally provides the Customer with deliverables having taken cognizance of terms and conditions that differ from or contravene these Terms and Conditions.

B. Digital signatures

An electronic signature authenticated by an accredited certification provider within the meaning of the Swiss federal law of 19 December 2003 on certification services in the field of digital signatures (ZertES, SR 943.03) and the ordinance of 3 December 2004 on certification services in the field of digital signatures (VzertES, SR 943.32) shall be deemed the equivalent of a manual signature.

Any owner of a signature key shall be liable for third party loss or damage resulting from the third party having relied on a valid signature authentication certificate from an accredited certification provider within the meaning of the Swiss federal law on digital signatures of 19 December 2003. Said liability shall be waived insofar as the owner of the signature key is able to demonstrate plausibly that said owner has taken reasonable precautionary measures to prevent any improper use of said owner's signature key.

C. Quotes and contracts

Quotes issued by Intertime shall be nonbinding except insofar as otherwise stipulated via a certified order confirmation or other writing. The validity of any contract or oral agreement shall be subject to issuance of a certified order confirmation or other writing confirming acceptance of the order in question. Said certified order confirmation or other writing confirming acceptance of the order in question shall be the applicable and overriding document in all cases, whereby the Customer shall assume responsibility for checking any such document for errors. By tacitly receiving an order confirmation, the Customer shall be deemed to have accepted Intertime's Standard Terms and Conditions.

D. Trademark protection

Intertime's trademark are protected by intellectual property rights laws. Any use of either element or of proprietary Intertime photographs for any purpose whatsoever, and in particular for advertising, shall be subject to prior written authorisation from Intertime.

E. Catalogues, samples, colour tolerances, and other specifications; purchase by description

Technical documentation such as diagrams, drawings, descriptions, illustrations, photographs, any information regarding dimensions, characteristics and/or weight, and any references to standards shall be deemed to have been provided for informational purposes only and shall not constitute any guarantee of any product characteristic of any kind whatsoever. Discrepancies in respect to any such element shall not constitute grounds for any warranty claim of any kind whatsoever.

Intertime shall retain title to any diagrams, drawings, catalogues, or leather/fabric samples provided by Intertime. The purchaser shall return any such element to Intertime on request from Intertime.

F. Purchase by description; modifications

Standard products shall be sold on the basis of samples of said products. Any right to the delivery of samples shall be excluded, except insofar as otherwise stipulated in a separate written or certified covenant at the time the contract is concluded.

Industry-standard and/or colour/structural discrepancies vis-à-vis samples or prior consignments remain reserved, including in connection with the provisioning of materials of the same type, quality and manufacturing process. Fabric and leather samples shall be deemed to be nonbinding indicative samples for viewing purposes only and may differ from the relevant delivered products. The lodging of any warranty claim on the basis of any discrepancy in respect to any such element shall be excluded.

G. Prices

All prices are ex works and pertain to products that are unpackaged, uninsured, and not cleared through customs; are exclusive of sales tax, customs charges and any other statutory charge. Insofar as any delivery time pursuant to the relevant contract and these Terms and Conditions exceeds four months as from the order issuance date, and the relevant prices and/or cost have changed during this period, Intertime shall be entitled to adjust the prices to the applicable current prices.

H. Terms of payment

Insofar as not otherwise stipulated in the relevant written or certified order confirmation, payment in full (without any discount) of the contractually covenanted amount shall be due within 30 days following the invoice date (pursuant to articles 102(2) and 108(3) of the Swiss Code of Obligations). Said payment shall be effected in accordance with the place of performance indicated in these Standard Terms and Conditions. Insofar as the Customer fails to effect payment in a timely manner, Intertime shall be entitled to charge the Customer interest on arrears amounting to eight percent above the published three-month Libor rate for Swiss francs. In such a case, the Customer shall be given the opportunity to prove to Intertime that Intertime has sustained no or substantially less loss or damage as a result of said Customer's dilatory payment.

Payment is deemed to have been made if the net amount due (without subtracting the transfer costs, etc.) is paid into Intertime's bank account in CHF and are cleared funds. With partial deliveries, the payments are made according to the scope of the supply. The items supplied by Intertime remain their property until payment has been made in full. Intertime will only accept cheques or bills of exchange as payment when they have cleared.

The Customer shall be deemed to have effected payment insofar as the total amount due (without any deductions for debit transfer costs or the like) has been credited to Intertime's bank account in Swiss francs and is available to Intertime. Payments for partial deliveries shall be effected in proportion to the scope of the goods delivered. Intertime shall retain title to all goods provisioned by Intertime until payment in full has been effected for such goods. Intertime shall accept checks or bills of exchange as conditional payment only.

The Vendor shall be entitled to require payment on account as well as pro forma payment for specific consignments insofar as any of the following events occur: if the Customer provides false information in respect to the Customer's creditworthiness; if the Customer falls into arrears on any payment to Intertime that postdates issuance of the purchase order; if any promissory note issued by the Customer is contested; if any other circumstance comes to light that could potentially preclude extending credit to the Customer for the purchase-order amount.

I. Delivery period

The delivery period shall begin on the date upon which the Customer issues the relevant complete purchase order to Intertime (i.e. the date of receipt of a written or certified order confirmation). If the delivery period is subject to a specific delivery date, said date shall be determined by the period that elapses between issuance of the relevant purchase order and submission by the Customer of the final advisory needed to complete said order. The foregoing shall also apply to any separate order placed by the Customer for upholstery fabric.

The delivery period shall be extended or the delivery date postponed insofar as any of the following events occur: any operational breakdown for which Intertime and/or any Intertime supplier is not liable or that is beyond the control of Intertime and/or any Intertime supplier, including any labour strike or lockout; or any instance of force majeure such as storms, armed forces mobilisation, military conflict, uprisings, or any similar event. Insofar as any such extension or postponement occurs, the Customer shall be entitled to terminate the contract insofar as such extension or postponement would nullify any Customer benefit that might be derived from the delivered products or insofar as waiting a longer time for delivery would be unreasonable for the Customer on any other grounds. Any such termination may be effected only insofar as six weeks have elapsed since the Customer sent Intertime a warning letter that failed to produce the desired result.

J. Deductions from invoices; right to withhold payment

The Customer may make a deduction from an invoice only insofar as the relevant counterclaim has been enforceably upheld in a court of law or by a ruling that has the authority of that issued by a court of law; is uncontested; or has been accepted by Intertime. In any other case, any such deduction shall be prohibited. The Customer shall be entitled to withhold payment insofar as an uncontested counterclaim or a counterclaim that has been enforceably upheld by a court of law pertains to the same contractual relationship as that which gave rise to the original order.

K. Shipping; passage of risk

Insofar as not otherwise stipulated in any written or certified order confirmation, delivery of the contractual products shall be effected on an ex works basis, exclusive of insurance costs, at the Customer's risk and on the Customer's account. The Customer shall pick up the products at Intertime, which shall also be entitled to make arrangements to ship the goods to the Customer.

Passage of risk in respect to any destruction or deterioration of the contractual goods shall pass to the Customer on receipt by the Customer of written or certified notification that the goods are available for pickup by the Customer at Intertime. Insofar as Intertime ships the goods, said risk shall pass to the Customer on handover of the goods to the shipper. Insofar as shipment is delayed for reasons that are attributable to the Customer, risk shall pass to the Customer as at the date of readiness for delivery.

Packaging shall be charged at cost and shall be non-returnable in all cases. One set of user instructions shall be supplied for each unit purchased. An additional charge shall be levied for any additional documentation that is ordered as well as for any special services such as documentation or certificates in any language.

Insofar as shipment or pickup is postponed at the behest of the Customer, risk shall pass to the Customer as from the time Intertime picks the products for shipping purposes. This procedure shall be deemed to have been substantiated by a printout of the relevant Intertime picking record. The consignment being shipped shall be insured insofar as requested by the Customer, which shall assume the cost of any such insurance. Insofar as the Customer wishes a consignment to be insured, the Customer shall provide Intertime with adequate advance notice of such wish.

In the event of any product loss or damage during shipping, the Customer shall enter an annotation to this effect on the receipt documents and shall immediately ask the shipper to issue a damage/loss report. Any shipping damage that is not readily detectable shall be reported to the shipper within eight working days following receipt of the consignment affected.

L. Retention of title

Intertime shall retain title to all delivered goods (hereinafter: "Conditional Goods") until such time as the Customer has settled all Intertime claims against the Customer arising from the entire contractual relationship between the Customer and Intertime.

In signing the relevant contract and/or purchase order, the Customer consents to entry in the jurisdictional Swiss Retention of Title Register any instance of retention of title arising from the contractual relationship. Any Customer placement or any encumbrance of any kind whatsoever on any Conditional Goods – particularly by integrating any such Goods into another product or modifying them – shall be prohibited while any retention of title is in effect. Moreover, during any such period, Conditional Goods may only be resold via standard business processes and if the Customer receives payment for such goods from the Customer's Customer; the Customer asserts the right of retention vis-à-vis such goods in respect to the Customer's customer; transfer of title to the goods to the Customer is contingent upon the Customer having effected payment in full of all amounts due Intertime.

The Customer shall notify Intertime promptly in the event of any pledging, seizure, or any other third party disposal or intervention in respect to the goods, so that Intertime can file a law suit in accordance with articles 106 et. seq. and 242 et. seq. of the Swiss law on prosecution and bankruptcy (SchKG). Insofar as the third party affected is unable to indemnify Intertime for any litigation related costs of any kind whatsoever incurred by Intertime within the meaning of articles 106 et. seq. and 242 et. seq. of the Swiss law on prosecution and bankruptcy (SchKG), the Customer shall be liable for such costs.

Insofar as the Customer defaults on any contractual duty, particularly in respect to the Customer's duty to accept delivery and effect payment, Intertime shall be entitled to terminate the contract and take back any goods that have been delivered. Any instance of Intertime taking back goods or asserting Intertime's right of retention shall not be contingent upon termination of the contract by the Customer. Any such action on the part of Intertime, or any pledging of any Conditional Goods by Intertime, shall not terminate the contract, except insofar as Intertime expressly indicates this to be the case.

M. Dilatory acceptance

Acceptance of delivery is one of the Customer's cardinal contractual duties. Insofar as, following expiration of a reasonable grace period granted to the Customer, the Customer fails to accept or refuses to accept the goods, or if the Customer expressly indicates ahead of time that the Customer does not intend to accept the goods, Intertime shall be entitled to terminate the contract or to lodge a claim for loss or damages on the grounds of non-performance.

a) Insofar as the Customer has not accepted delivery of the goods within one month following the declared date of readiness for acceptance, the Customer shall pay Intertime or a provider retained by Intertime a storage charge amounting to one percent of the amount of the relevant order, for each additional month of storage or any part thereof, insofar as the Customer fails to demonstrate that Intertime has not incurred said storage costs at all or has incurred a lesser amount of storage costs than those claimed by Intertime.

b) Intertime shall be entitled to store the goods at the facility of a shipper.

- c) In the event of any dilatory acceptance on the part of the Customer, Intertime shall be entitled to charge the Customer 25 percent of the purchase-order price of the goods (without any deduction) as indemnification for loss or damage resulting from non-performance, insofar as the Customer fails to demonstrate that no such loss or damage was incurred or that a lesser amount of loss or damage was incurred than that claimed by Intertime.
- d) The foregoing shall be without prejudice to Intertime's right to assert a claim (as is also the case with special orders) for a higher amount of damages (insofar as such damages can be substantiated).

N. Termination

Intertime shall be under no obligation to effect deliveries insofar as the manufacturer of any goods ordered by the Customer suspends production or in the event of any instance of force majeure, insofar as Intertime learned of such circumstance following the effective date of the contract and no gross negligence was involved. In such a case, Intertime shall notify the Customer accordingly without delay.

O. Warranty; liability for defects

Intertime is liable for material defects as follows:

The warranty and guarantee period is for 24 months. This also applies to all electrical parts such as batteries, chargers or power supply units. Warranty claims for material defects will lapse within 24 months in accordance with Article 210 OR. The period begins with the delivery of the item to the customer. This applies unless Intertime has granted a longer warranty period.

Having regard to any component or service (hereinafter: "Element"), Intertime shall, in its discretion, either optimise the Element, provide a new Element, or perform the Element again, insofar as the Element exhibits any defect prior to the date of transfer of risk and irrespective of the operating time accruing to the Element. Any replaced component shall become the property of Intertime, and the Customer shall assume the cost of disposing of such component.

Intertime's warranty for any product that is manufactured in accordance with the Customer's specifications, drawings or models shall be limited to a warranty for product workmanship and the characteristics of the materials.

Material defects shall be reported in writing or via a certificate within eight working days following receipt of the goods at their final destination, and in any case no more than three months following receipt of the goods. In the event the Customer issues a notice of defect, the Customer shall be entitled to withhold payment solely in a reasonable proportion to the scope of the material defects that have come to light; and insofar as Intertime has not contested the relevant notice of defect or said defect has been upheld enforceably by a court ruling or the equivalent thereof. Insofar as the Customer lodges a notice of defect that proves to be unfounded, Intertime shall be entitled to charge the Customer for any expenses incurred by Intertime as a result of such notice, plus interest on arrears at the interest rate referred to above.

In all cases, Intertime shall be allowed a reasonable period to rectify any defect.

Insofar as any such rectification fails to achieve the desired result, the Customer shall be entitled to terminate the contract or reduce the amount of the Customer's payment, without prejudice to any other damage claim that may be or may have been lodged. The Customer shall be entitled to lodge a damage claim against Intertime in respect to a material defect only insofar as said defect is attributable to wilful misconduct or gross negligence on the part of Intertime.

The following scenarios shall be excluded from any Intertime warranty:

- Any loss or damage resulting from improper use, improper handling, or any use of excessive force.
- Any loss or damage attributable to normal wear and tear, dampness, extremely high indoor ambient temperatures, or any other effect exerted by any temperature or weather conditions.
- Any softening of the upholstery.
- Any creases in the upholstery resulting from any softening of the upholstery or spreading of the upholstery fabric.
- Any damage resulting from any product modification and any improperly performed repair or maintenance that were not undertaken or authorised by Intertime.
- Any Intertime liability shall be excluded for any upholstery fabric whose use was not authorised by Intertime for the relevant product. The foregoing shall also apply to any defect in workmanship that may occur at a later time resulting from the manner in which the relevant work was performed.
- Any further right arising from the provisioning of a defective product shall be excluded, except insofar as a characteristic guaranteed by Intertime is missing from the product, or in the event of any wilful misconduct or gross negligence on the part of Intertime agent or any legal representative of Intertime.

P. Joint liability

Any Customer claim against Intertime for loss or damage shall be excluded, regardless of the grounds for said claim.

The foregoing shall not apply to any claim in respect to any of the following:

- a) loss or damage resulting from any breach of a material contractual duty;
- b) any loss or damage resulting from any injury to life, limb or health, insofar as Intertime is liable for the relevant contractual violation;
- c) any other loss or damage that is attributable to wilful misconduct or gross negligence, in which case any contractual breach on the part of any Intertime representative or agent shall be tantamount to a breach by Intertime;
- d) any loss or damage attributable to any instance of any incapacity to perform that predates the passage of risk.

Any Intertime liability in the event of any minor negligence by Intertime in respect to the scenarios referred to in items a) through d) of this section shall be excluded.

Insofar as liability for damages incurred by Intertime is limited or excluded, such limitation or exclusion shall also apply in respect to any personal liability for injury to life, limb or health on the part of any Intertime employee, agent, commercial representative, or contractual representative.

Intertime's liability for any direct consequential loss or damage (property damage or personal injury) that is attributable to any action by Intertime shall be limited to CHF 1 million per instance of loss, damage and/or injury.

Q. Final provisions; place of jurisdiction; applicable law

The place of performance and place of characteristic contractual performance shall be **the location of the statutory head office of Intertime.**

The sole place of jurisdiction for any dispute resulting from or in connection with application or interpretation of the contract or the Standard Terms of Business and Delivery, including any dispute regarding conclusion of the contract or the validity thereof, or the clause regarding the place of jurisdiction, shall be the statutory head office of Intertime.

All aspects of the contractual relationship between Intertime and the Customer, including any assessment regarding the validity and conclusion of the contract, as well as the clause regarding the place of jurisdiction, shall be governed solely by Swiss law, to the exclusion of international law and the UN Sales Convention or any other international agreement regarding the sale of goods.

Should any individual provision hereof be or become void, illegal or unenforceable, the validity of the remaining provisions hereof shall in no way be affected. In such a case, the parties shall replace any provision of the Agreement that becomes ineffective with a clause whose effectiveness and feasibility are as close as possible to the intentions of the invalid clause.

R. Data handling

Insofar as allowed by the Federal law on data protection, data supplied by the Customer, including personal data, may be stored and processed via an electronic information system. The Customer hereby authorises such storage and processing, and furthermore authorises Intertime to disclose such data to third parties such as subcontractors in Switzerland and abroad for customer relationship management purposes.

These Standard Terms and Conditions shall render null and void any previous versions of said Standard Terms.

Endingen, 1 January 2014