

## **General Conditions of Purchase**

### **§ 1 Scope, form, fundamentals**

(1) The present General Purchasing Conditions (AEB<sup>1</sup>) of Böckmann Bekleidungshaus GmbH, Böckmann GmbH & Co. KG, Böckmann GmbH & Co. KG, Böckmann Modehaus GmbH, Böckmann Zentralverwaltungs GmbH & Co. KG, Kaufhaus Böckmann GmbH & Co. KG, Kaufhaus Böckmann GmbH & Co. KG Melle, Modehaus R+J Böckmann GmbH and Textilhaus Böckmann GmbH & Co. KG ("Böckmann") apply to all business relationships with our business partners and suppliers ("Sellers"). The AEB only apply if the seller is an entrepreneur (§ 14 BGB<sup>2</sup>), a legal entity under public law or a special fund under public law.

(2) The AEB apply in particular to contracts for the sale and/or delivery of movable items ("goods"), regardless of whether the seller manufactures the goods himself or buys them from suppliers (§§ 433, 650 BGB). The AEB accordingly apply to commission contracts. Unless otherwise agreed, the AEB in the version valid at the time of the purchaser's order or at least in the version most recently communicated to him in text form shall also apply as a framework agreement for future contracts of the same type, without us having to refer to them again in each individual case.

(3) These AEB apply exclusively. Deviating, conflicting or supplementary general terms and conditions of the seller only become part of the contract if and to the extent that we have expressly agreed to their validity in writing. This requirement for consent applies in any case, for example even if we accept the seller's deliveries without reservation, knowing the general terms and conditions of the seller.

(4) Individual agreements made with the seller in individual cases (including ancillary agreements, additions and changes) always take precedence over these AEB. Subject to proof to the contrary, an agreement in written or text form or our confirmation in written or text form is decisive for the content of such agreements.

(5) Legally relevant declarations and notifications by the seller in relation to the contract (e.g. setting a deadline, reminder, withdrawal) must be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax). Statutory formal requirements and other evidence, especially in the case of doubts about the legitimacy of the declarant, remain unaffected.

(6) References to the validity of legal regulations

are only of clarifying importance. Even without such a clarification, the statutory provisions apply unless they are directly modified or expressly excluded in these AEB.

### **§ 2 Conclusion of contract**

(1) Our order is considered binding at the earliest after confirmation in writing or in text form (offer). The seller must inform us of obvious errors (e.g. spelling and calculation errors) and incompleteness of the order including the order documents for the purpose of correction or completion before acceptance; otherwise the contract is deemed not to have been concluded.

(2) The seller is obliged to confirm our order in writing or in text form within a period of 14 calendar days or, in particular, to carry it out unconditionally by sending the goods (acceptance).

A late acceptance is considered a new offer and requires our acceptance.

(3) Irrespective of a confirmation according to Section 1, the contract is concluded in the case of electronic data transmission (e.g. EDI) at the latest when we unconditionally accept the goods sent by the seller on the basis of an order.

### **§ 3 Delivery, time of delivery and delay in delivery**

(1) The delivery time specified by us in the order is binding. If the delivery time is not specified in the order and has not been otherwise agreed, it is four weeks from the conclusion of the contract. The seller is obliged to inform us immediately in writing if he is unlikely to be able to meet the agreed delivery times - for whatever reason.

(2) If the seller does not provide his service or not within the agreed delivery time or if he is in default, our rights - in particular concerning withdrawal and damages - are determined according to the statutory provisions. The regulations in paragraph 3 remain unaffected.

(3) If the seller is in delay, we can - in addition to further legal claims - lump-sum compensation for our damage caused by default in the amount of 1% of the net price per full calendar week, but on the whole not more than 5% of the net price of the goods delivered late. We reserve the right to prove that higher damage has occurred. The seller reserves the right to prove that no damage or only a significantly lower damage has occurred.

(4) The supplier is not entitled to make partial deliveries without our prior written consent.

(As of 22 August 2023)

<sup>1</sup> AEB = abbreviation of "Allgemeine Einkaufsbedingungen". In the following the German abbreviation is used.

<sup>2</sup> Bürgerliches Gesetzbuch, i.e. the German Civil Code

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### § 4 Service, delivery, passing of risk, default of acceptance

(1) The seller is not entitled to have the service owed provided by third parties (e.g. subcontractors) without our prior written consent. The seller bears the procurement risk for his services, unless otherwise agreed in individual cases (e.g. limitation to stock).

(2) Unless otherwise agreed, delivery will be made to the location specified in the order. If the destination is not specified and nothing else has been agreed, delivery must be made to our place of business (Wiesengrund 44, 49509 Recke). The respective destination is also the place of performance for the delivery and any subsequent performance (obligation to deliver).

(3) The delivery must be accompanied by a delivery note stating the date (issuance and dispatch), the content of the delivery (item number and quantity) and – if available – our order ID (date and number). If the delivery note is missing or incomplete, we are not responsible for any resulting delays in processing and payment. A corresponding notification of dispatch with the same content must be sent to us separately from the delivery note.

(4) A maximum of one invoice is to be issued for each delivery note; several delivery notes are to be merged into one collective invoice. However, a collective invoice may only refer to delivery notes with the same delivery date and place.

(5) Invoices have to be addressed to

**Böckmann Zentralverwaltungs GmbH & Co. KG**  
**Wiesengrund 44**  
**49509 Recke**

and preferably sent by email to

**rechnungen@boeckmann-mode.de**

(6) The risk of accidental loss and accidental deterioration of the item passes to us upon delivery at the place of performance. The handover is the same if we are in default of acceptance.

(7) The statutory provisions apply to the occurrence of our default of acceptance. However, the seller must also expressly offer us his service if a specific or determinable calendar time has been agreed for an action or cooperation on our part. If we are in default of acceptance, the seller can demand reimbursement of his additional expenses in accordance with the statutory

provisions (§ 304 German Civil Code).

### § 5 Prices, invoice and terms of payment and shipping

(1) The price stated in the order is binding. All prices are net prices, i.e. plus statutory sales tax.

(2) Unless otherwise agreed, deliveries and replacement deliveries are to be made free domicile.

(3) Additional costs for freight, postage and other ancillary costs as well as delays caused by non-compliance with these AEB shall be borne by the seller.

(4) If the billing is done via KATAG<sup>3</sup>, the terms of payment agreed with KATAG apply.

(5) If invoicing is not made via KATAG, the agreed price is due for payment within 60 calendar days of complete delivery and service (including any agreed acceptance) and receipt of a proper invoice. If we render payment within 14 calendar days, the seller grants us a 4% discount on the net amount of the invoice, and a 2.25% discount for payments within 30 calendar days. The term of the condition begins with the date of receipt of the invoice, but at the earliest with the receipt of the goods. In the case of a bank transfer, payment has been made on time if our bank transfer order is received by our bank before the payment deadline; we are not responsible for delays caused by the banks involved in the payment process.

(6) We do not owe any interest after due date. The statutory provisions apply to default in payment.

(7) We are entitled to rights of offsetting and retention as well as the defence of non-fulfilment of the contract to the extent permitted by law. In particular, we are entitled to withhold payments that are due as long as we are still entitled to claims from incomplete or defective services against the seller.

(8) The seller only has a right of offsetting or retention due to legally established or undisputed counterclaims.

### § 6 Waiver of Individual Returns, Defective Delivery

(1) Subject to other agreements in individual cases, a waiver of individual returns with the following conditions is deemed to have been agreed: Böckmann waives the return of individual products complained about by end customers to the seller and the corresponding claims for compensation.

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<sup>3</sup> KATAG = German Fashion Services Provider, Bielefeld Germany

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In return, the seller grants Böckmann a waiver discount of 1% on each outgoing invoice amount. The waiver of returns must be shown as a discount on every invoice.

(2) For our rights in the case of material defects and defects of title in the goods (including incorrect and short deliveries) and other breaches of duty by the seller, unless a waiver of individual returns (§ 6 Para. 1) has been agreed, the statutory provisions shall apply, unless otherwise stated below is determined.

(3) According to the statutory provisions, the seller is particularly liable for ensuring that the goods have the agreed quality when the risk passes to us. In any case, those product descriptions that are the subject of the respective contract or were included in the contract in the same way as these AEB – in particular by designation or reference in our order – shall be deemed to be an agreement on the quality. It makes no difference whether the product description comes from us, from the seller or from the manufacturer.

(4) We are not obliged to examine the goods or make specific inquiries about any defects upon conclusion of the contract. Partially deviating from § 442 par. 1 sentence 2 of the German Civil Code, we are therefore entitled to unrestricted claims for defects if the defect occurred to us at the time of conclusion of the contract as a result gross negligence remained unknown.

(5) The statutory provisions (§§ 377, 381 HGB<sup>4</sup>) apply to the commercial obligation to inspect and give notice of defects, with the following stipulation: Our obligation to inspect is limited to defects that come to light during our incoming goods inspection with an external assessment including the delivery documents (e.g. damage in transit, incorrect and short delivery) or are recognizable in our quality control in the random sample procedure. It also depends on the extent to which an investigation is feasible in the ordinary course of business, taking into account the circumstances of the individual case. Our obligation to give notice of defects discovered later remains unaffected. Irrespective of our obligation to inspect, our complaint (notification of defects) is considered to be immediate and timely if it is sent within 14 calendar days of discovery or, in the case of obvious defects, of delivery.

(6) Irrespective of our statutory rights, the following applies: If the seller does not meet his obligation to provide supplementary performance - at our discretion by eliminating the defect (rectification

of defects) delivering an item free of defects (replacement delivery) - within a reasonable period set by us, we can eliminate the defect ourselves and demand reimbursement of the necessary expenses or a corresponding advance payment from the seller. If the supplementary performance by the seller has failed or is unreasonable for us (e.g. due to particular urgency, endangerment of operational safety or imminent occurrence of disproportionate damage), no deadline is required; We will inform the seller of such circumstances immediately, if possible beforehand.

(7) Otherwise, we are entitled to reduce the purchase price or withdraw from the contract in the event of a defect in quality or title in accordance with the statutory provisions. In addition, we are entitled to compensation for damages and reimbursement of expenses in accordance with the statutory provisions.

(8) If a waiver of individual returns (§ 6 paragraph 1) has not been agreed or if the seller insists on the return of the defective goods for other reasons, Böckmann has the right to charge an administration fee of EUR 25 per item.

### § 7 Supplier's regress

(1) We are unreservedly entitled to our statutory recourse claims within a supply chain (supplier recourse in accordance with §§ 445a, 445b, 478 German Civil Code) insofar as a waiver of individual returns has not been agreed (§ 6 par. 1) in addition to the claims for defects. In particular, we are entitled to demand exactly the type of supplementary performance (rectification of damages or replacement delivery) from the seller that we owe our customer in the individual case. Our statutory right to choose (§ 439 par. 1 German Civil Code) is not restricted by this.

(2) Before we acknowledge or fulfil a defect claim asserted by our customer (including reimbursement of expenses according to §§ 445a par. 1, 439 par. 2 and 3 German Civil Code), we will notify the seller with a brief description of the facts and we will ask for a written statement. If a substantiated statement is not made within a reasonable period of time and no amicable solution is brought about, the claim for defects actually granted by us is deemed to be owed to our customer. In this case, the seller is responsible for providing counter-evidence.

### § 8 Manufacturer's liability

(1) If the seller is responsible for product damage, he must indemnify us from third-party claims to the

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<sup>4</sup> HGB = Handelsgesetzbuch, German Commercial Code

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extent that the cause lies within his sphere of jurisdiction and organization and he is himself liable in legal relationships with third parties.

(2) As part of his indemnity obligation, the seller must reimburse expenses pursuant to §§ 683, 670 German Civil Code that result from or in connection with claims by third parties, including recall campaigns carried out by us. We will inform the seller - as far as possible and reasonable - about the content and scope of recall measures and give him the opportunity to comment. Further legal claims remain unaffected.

### § 9 Property rights

(1) In accordance with the stipulations of paragraph 2, the seller is responsible for ensuring that the products he supplies do not infringe any property rights of third parties in countries of the European Union or other countries in which he manufactures the products or has them manufactured.

(2) The seller is obliged to indemnify us from all claims that third parties raise against us due to the infringement of industrial property rights mentioned in paragraph 1, and to reimburse us for all necessary expenses in connection with this claim. This does not apply if the supplier proves that he is neither responsible for the infringement of property rights nor should he have known it at the time of delivery if he had exercised commercial care.

(3) Our further legal claims due to defects of the products delivered to us remain unaffected.

### § 10 Ceding

The seller is not entitled to cede his claims from the contractual relationship to third parties without our written consent.

### § 11 Limitation of claims

(1) The mutual claims of the contracting parties fall under the statute of limitations in accordance with the statutory provisions, unless otherwise specified below.

(2) Contrary to § 438 par. 1 no. 3 German Civil Code, the general period of limitation for claims for defects is 3 years from the transfer of risk. The 3-year period of limitation also applies accordingly to claims arising from deficiencies in title, whereby the statutory period of limitation for third-party claims for restitution in rem (§ 438 par. 1 no. 1 German Civil Code) remains unaffected; In addition, claims arising from deficiencies in title do not lapse under any circumstances as long as the

third party can still assert the right against us – in particular due to the lack of statutory limitation.

(3) The periods of limitation of the sales law, including the above extension, apply - to the extent permitted by law - to all contractual claims for defects. Insofar as we are also entitled to non-contractual claims for damages due to a defect, the regular statutory limitation period (§§ 195, 199 German Civil Code) applies, unless the application of the periods of limitations of the purchase law leads to a longer period of limitation in individual cases.

### § 12 Choice of law and place of jurisdiction

(1) The law of the Federal Republic of Germany applies to these AEB and the contractual relationship between us and the seller, to the exclusion of uniform international law, in particular the UN Sales Convention.

(2) If the seller is a merchant within the meaning of the German Commercial Code, a legal entity under public law or a special fund under public law, the exclusive – also international – place of jurisdiction for all disputes arising from the contractual relationship is our place of business in 49509 Recke. The same applies if the seller is an entrepreneur within the meaning of § 14 of the German Civil Code. In all cases, however, we are also entitled to file suit at the place of performance of the delivery obligation in accordance with these AEB or a prior individual agreement or at the seller's general place of jurisdiction. Overriding legal regulations, in particular regarding exclusive responsibilities, remain unaffected.

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