

GENERAL TERMS AND CONDITIONS OF SALE OF THE ONLINE SHOP OPERATED BY CELLOFOAM GMBH & CO. KG, BIBERACH, GERMANY – VALID AS OF 12/2009



1. Scope of application

The business relation between you as the customer and the online shop of Cellofoam GmbH & Co. KG shall be governed exclusively by the following General Terms and Conditions of Sale, at the exclusion of all other terms and conditions. The version valid at the moment of your placing the order shall be the only applicable version. Any rights that we are entitled to by law beyond the present General Terms and Conditions shall remain unaffected.

2. Conclusion of the contract

- (1) By placing an order, you are submitting a proposal for the conclusion of a purchase contract with us. The purchase contract will only be definitely concluded by our sending an order confirmation or dispatching the merchandise ordered. A simple confirmation of receipt of your order does not amount to the acceptance of the order.
- (2) Pictures and drawings as well as indications of weight, dimensions, performance and consumption or any other specifications of the merchandise in the documents pertaining to the order shall be deemed only approximate, except if they are explicitly marked as binding. They shall not constitute any guarantee or agreement as to certain characteristics of the merchandise.
- (3) The minimum order volume is €50.00, exclusive of VAT and shipping costs.

3. Your right of cancellation

Information on the right of cancellation for consumers within the meaning of § 13 of the German Civil Code (BGB)

Right of cancellation

If you are a consumer within the meaning of § 13 German Civil Code (BGB), you have the statutory right to cancel your contractual statement within two weeks without providing reasons. This cancellation can be made in written form (e.g. by letter, fax or email) or – if the merchandise has been delivered to you prior to the expiration of this period – by sending back the merchandise. The two-week period begins with the receipt of this information in written form, but not before the receipt of the merchandise by the recipient (in case of repeated deliveries of goods of the same nature, the period does not begin until the receipt of the first partial delivery) and also not before we have met our obligation to inform the customer according to § 312 c, para. 2 BGB in connection with § 1 para. 1, 2 and 4 BGB-InfoV as well as our obligations according to § 312 e, para. 1, clause 1 BGB in connection with § 3 BGB-InfoV. To comply with the cancellation period, it suffices to dispatch the notice of cancellation or the merchandise within this period. The notice of cancellation is to be sent to: Cellofoam GmbH & Co. KG, Business area soniflex, Freiburger Strasse 44, D-88400 Biberach, Fax: +49 (0) 7351 / 3402863, E-Mail: sales@soniflex.de.

Consequences of the cancellation

In the event of a valid cancellation of the purchase agreement, each party shall return to the other party the performances received, including compensation for uses drawn (e.g. interest) if applicable. If you are not able to return the merchandise and/or refund the performances received, either in full or in part or only in degraded condition, you shall be liable to compensate us for the corresponding loss in value, if applicable. This does not apply if the deterioration of the merchandise surrendered is to be attributed solely to the inspection thereof, in a manner similar to inspecting a product personally in a shop. Please note: If you want to avoid being made liable for compensation of loss of value because of degradation caused by the intended normal use of the merchandise, refrain from using the merchandise as your property and from any action that may lead to its deterioration. Merchandise that can be shipped in postal packages is to be returned at our cost and risk. If the merchandise received corresponds to the products ordered and the value of the merchandise returned does not exceed €40.00, the return is at your costs. The same applies in the case of products with a value in excess of €40.00, if at the moment of revocation of purchase, you have not yet provided the corresponding consideration or contractually agreed partial payment. In all other cases the return of the merchandise will not entail any costs for you. Merchandise that cannot be shipped in packages will be picked up. Obligations to refund any payments made have to be honored within 30 days. For you this period shall begin on the day that you posted the revocation of purchase or returned the merchandise, for us on the day of reception thereof.

Please note:

As stipulated in § 312 d, para. 4, No. 1 BGB, the right of cancellation does not apply to the supply of goods manufactured according to customer specification or clearly designed and produced to meet the customer's individual demand, or the nature of which makes them unfit to be returned.

End of the information on your right of cancellation

4. Delivery and return

- (1) We shall only accept orders from and execute deliveries to countries within the European Union. Except if expressly agreed otherwise, the merchandise ordered shall be delivered by DHL to the delivery address specified by you.
- (2) In general, the merchandise will be dispatched within two to five days after receipt of payment. Except if expressly agreed otherwise, statements as to the expected delivery date are non-binding.
- (3) For any transactions with merchants within the meaning of § 14 BGB, we reserve the right to production-related excess or short delivery of up to 5 % of the quantity ordered. In the event of short delivery, there shall be no refund.
- (4) Partial deliveries shall be admissible.
- (5) If we cannot deliver because the merchandise ordered is not available, we shall immediately notify you thereof. In this case we shall have the right to withdraw from the purchase contract. Any consideration already paid by you shall be refunded without delay. This will not affect your rights as defined by law.
- (6) If you are a merchant within the meaning of § 14 BGB, you are required to inspect the merchandise immediately after delivery for any damage incurred during transport. If any damage is discovered, a written complaint has to be filed without delay. Such transport damages must be confirmed in writing by the DHL agent upon delivery.
- (7) If you fail or refuse to accept the merchandise ordered, we shall charge a processing fee of € 40.00 in addition to the costs for postage and packaging incurred by us. You shall have the right to prove that we incurred no or lesser costs for processing or for postage and packaging.
- (8) If the merchandise will be returned, please contact us. We shall not take over additional costs caused by your sending the merchandise back by other means.

5. Prices, shipping costs and retention of title

- (1) Our prices are "ex works" and inclusive of statutory VAT. They are only valid for orders placed via our online shop. The prices and shipping costs valid at the moment of your placing the order shall apply, except if the prices and shipping costs on the day of order confirmation or on the day of shipping are more favorable to you.
- (2) We shall retain title to the item(s) purchased until we have received all payments under the delivery contract.

6. Payment

- (1) Payments shall be made in advance via bank transfer or via PayPal, credit card or cash on delivery (only in Germany). If specifically agreed, purchase on account is possible.
- (2) For payments via bank transfer, we shall send you our bank account data together with the order confirmation.
- (3) In the event that cash on delivery is chosen as mode of payment, we shall charge an additional cash collection fee of € 2.00 per box. This fee shall be paid directly to the carrier.
- (4) In case of purchase on account we reserve the right to deliver the merchandise only against immediate payment upon delivery. In this case you shall be notified of this procedure in due time prior to delivery.

- (5) All amounts invoiced are due immediately upon receipt of invoice, and without deduction.
- (6) If you are in default of payment, we shall be entitled to demand interest on arrears: from consumers within the meaning of § 13 BGB at a rate of 5 %, and of merchants as defined by § 14 BGB at a rate of 8 % over the current base rate per annum as published by the European Central Bank. If you are in default of payment, we shall reserve the right to charge, in addition to the above mentioned interest on arrears, a flat fee of € 5.00 per reminder letter. You shall have the right to prove that sending the reminder caused us no or lesser costs. Our right to prove that the default of payment caused higher damage than that shall remain unaffected.
- (7) Offsetting of counterclaims against our claims to payment under the contract shall be only permitted if your counterclaims have either been legally settled or accepted by us. You shall be only entitled to withhold payment if your counterclaim arises from the same contractual relationship as our claim to payment.
- (8) Payment refunds shall be made to a bank account specified by you. Only bank accounts within the European Union shall be accepted for that purpose.

7. Product defect claims and liability

- (1) If the merchandise shows any deficiency, the general legal provisions shall apply for transactions with consumers within the meaning of § 13 BGB. For transaction with merchants within the meaning of § 14 BGB, the following provisions shall apply:
 - a) The exercise of your right to claim a defect presupposes that you have examined the merchandise upon delivery and immediately notified us in writing of any defects found, at the latest two weeks after delivery of the merchandise. Hidden defects have to be reported in writing immediately after discovery. The report shall include a description of the defect(s).
 - b) In case of defective merchandise, you are entitled to subsequent performance, either in the form of reworking (remediation of the defect) or replacement delivery, at our choice. In the event that we undertake a remediation of defect, all expenditures for the necessary reworking, including in particular costs of transport, travel, wages and material, fall under our responsibility, except for additional costs caused by the fact that the merchandise has been transported to a location different from the delivery address. Personnel and non-personnel costs that you claim in this connection shall be calculated at cost price.
 - c) If we will not or cannot remedy the defect, you are entitled to withdraw from the contract or demand reduction of the purchase price. This provision shall apply also if the remediation fails, or if you cannot reasonably be expected to accept it, or if it is delayed beyond an acceptable period for reasons that fall under our responsibility.
 - d) The period of limitation for all claims of defects shall be one (1) year except if the defective merchandise has been used as intended in a building and caused a defect of that building. The period of limitation also applies for claims in tort arising from a defect of the merchandise. The period of limitation starts with the day of delivery. Our unlimited liability for product defects, or for damages arising from a breach of warranty, or caused by intention or gross negligence on our part, or for loss of life, physical injury or damage to health shall remain unaffected.
 - (2) An assignment of claims of defect or claims under warranty shall not be admissible.
 - (3) In the event of a replacement delivery you shall return the initially delivered merchandise to us within 30 days, as stipulated by law and at our costs. We reserve the right to claims for damages, in accordance with the legal regulations.
 - (4) We shall be liable without limitation for damages arising from a breach of warranty or from loss of life, physical injury or damage to health. The same shall apply in case of intention or gross negligence on our part. We shall be only liable for slight negligence if we are in breach of essential contractual obligations that arise from the nature of the contract or are of special importance for the achievement of the contractual purpose. In the event that such obligations have been breached or in the case of delay or impossibility of performance, our liability shall be limited to foreseeable, typical damages in the scope of such a contract. The obligatory provisions of the law on product liability shall remain unaffected.

8. Responsibilities of the customer in regard to any picture files transmitted

- (1) All and any responsibility for the contents of and the rights to any picture files put at our disposition lies solely with the customer who sent the said files.
 - (2) The data and pictures that the customer put at our disposition are processed and used in an automated technical process without preliminary manual control, adaptation or adjustment by us. By uploading the file(s), the customer confirms that he/she has the right to use, duplicate and distribute the data and materials contained in the file(s).
 - (3) The customer guarantees that none of the data and materials contained in a file transmitted to us violates any laws in force.
 - (4) The customer guarantees in particular that
 - a) the files put at our disposition do not contain any illegal, violence-glorifying or -inciting, racist or subversive design masters, materials, contents, means of propaganda or symbols of unconstitutional parties or their substitute/affiliate organizations or any instructions or incitements to perpetrate criminal offences; nor any pornographic design masters, materials or contents that depict sexual abuse of children or sexual acts with animals; nor any statements or depictions discriminating against people on the basis of their race, gender, religion, nationality, disability, age or sexual preferences;
 - b) no penal laws or laws protecting children and youth are violated – this applies in particular to the legal provisions set forth in the German Criminal Code StGB, sections §184 et sqq. (Distribution of Pornography) and §185 et sqq. (Insult, Slander, Libel) as well as to the provisions of the State Treaty on Media Protection of Young Persons (Jugendmedienschutz-Staatsvertrag);
 - c) the use of all and any design masters (especially picture and text files), contents and materials sent to us does not infringe upon any copyrights, trademark rights or other intellectual property rights, nor upon personality rights or other rights of third parties.By way of precaution we point out that third parties owning such rights may file substantial claims for compensation against the customer in case that their rights are infringed upon. For the event that any of the above-named rights is infringed upon, the customer takes over full liability for this infringement and all its consequences and exempts us from any third-party claims.
- ## 9. Copyrights
- (1) We are not the originator of the pictures used as design masters for the soni PICTURE products offered on our Internet pages. The copyrights to these pictures belong either to one of our partners for this purpose or to customers who sent us their own pictures as master copies.
 - (2) We have obtained from each of these partners the unrestricted usage rights and are authorized to use the pictures for our range of products, offer and sell the resulting products to our customers, grant our customers the right of use, and transfer title to these products to our customers, so that the products delivered are exempt of any third-party rights.
 - (3) Moreover, the partners concerned have assured us that the use of their respective pictures as described in clause 2 is not in conflict with any copyrights, other intellectual property rights or other third-party rights.
 - (4) The customer has the right to use the products as such without temporal or geographical limitation. However, the products may not be reproduced, modified or edited in any way.

10. Privacy policy

Privacy policy statement

The protection of any personal data collected during your visit to our online shop is very important to us. Your data shall be collected, processed and used strictly within the scope of the relevant legal stipulations. Here you'll find all information on which data will be collected during your visit to our online shop and how they will be used:

1. Data collection and processing

Every visit to our online shop and the retrieval to any file stored on our website will be recorded. These records will serve for purposes of internal system management and statistics. The following data will be recorded: name of the file retrieved, access date and time, data volume transmitted, confirmation of successful retrieval, web browser and inquiring domain. In addition, the IP addresses of the inquiring computers will be recorded. Additional personal data will only be collected if you enter such data yourself, for example for inquiry or registration purposes.

2. Use and disclosure of personal data

All personal data that you have made available to us will only be used for answering your inquiries and/or processing any contracts concluded with you, and for technical administration purposes. We will only pass your personal data on to third parties or disclose them in any other way, insofar as this is necessary for order processing purposes (for instance, disclosure of order data to suppliers, or of address data to the carrier, or of payment data to organizations involved in the payment per credit card, direct debit or purchase on account) or if you have expressly agreed to such disclosure. Your personal information will not be disclosed to any other third parties than the ones described above and not used for direct marketing purposes. Use of your customer login: Your customer login allows you to monitor the progress of your orders and to change your customer data and password. You have the right to cancel a given consent at any time, but only with effect for the future.

Your personal data stored in our system will be deleted if you withdraw your consent to storage, if they are not necessary anymore for the fulfillment of the purpose for which they were originally recorded, or if their storage is not admissible for other legal reasons.

3. Right to demand information

We will gladly answer your written inquiry about your personal data stored in our system.

Please address your inquiry to Cellofoam GmbH & Co. KG, Geschäftsbereich soniflex, Freiburger Strasse 44, 88400 Biberach, Germany, Fax: +49 (0) 7351 / 3402863, Email: sales@soniflex.de.

Data security:

We are taking every possible measure on the technical and organizational levels to ensure that your data are stored in a way that prevents any access by third parties. Your personal data are encrypted (128 bit SSL) for transmission via the Internet. Notwithstanding our best efforts, complete data security and protection against all risks is not possible. In case of communication via email, we cannot guarantee complete data security.

11. Who we are

Cellofoam GmbH & Co. KG, Business area soniflex, Freiburger Strasse 44, 88400 Biberach, Germany, Phone: +49 (0) 7351 / 3402861, Fax: +49 (0) 7351 / 3402863, Email: sales@soniflex.de
Commercial Register: District court Ulm HRA 640971

12. Final provisions

(1) The contractual relationship between you and us shall be subject to the law of the Federal Republic of Germany with the exception of the provisions on international private law and to the exclusion of the unified UN Law on International Sales.

(2) If you are a merchant within the meaning of § 14 BGB, the sole and exclusive venue for any and all disputes arising from the business relationship between you and us shall be the court of the district where Cellofoam GmbH & Co. KG has its principal seat. We shall also be entitled to file a claim at the court of your principal seat or at any other venue permitted by law.

(3) If you are a merchant within the meaning of § 14 BGB, the place of fulfillment of all performances under the contract shall be our principal seat.

(4) In the event that any of the clauses of these General Terms and Conditions should be or become invalid or impracticable, in full or in part, or if these conditions should prove to be incomplete, the validity of the remaining provisions shall remain unaffected. Any invalid or impracticable provision shall be considered replaced by a valid or practicable provision that comes as close as possible to the purpose and intention of the original, invalid or impracticable provision. In the event that these conditions should prove to be incomplete, it shall be assumed that the contractual parties have agreed on a provision that corresponds to the purpose and intention of what the parties would have stipulated if they had taken the matter into consideration from the outset.

Please note: Our General Terms and Conditions were originally written in German. The present English translation of the German text serves only for information purposes. The content of the German version shall be the only legally applicable version.

For further information:

If you have any questions or need further information, please call our customer service, Monday to Thursday between 8 a.m. and 4 p.m., Friday 8 a.m. to noon.
Phone: +49 (0) 7351 / 3402861, Email: sales@soniflex.de