

General terms and conditions

1. Exclusively our terms of delivery and payment will be applicable unless we expressly confirm anything else in writing. They will be binding even if we have not expressly rejected any conflicting terms of purchase on the part of the purchaser. In the dealings with bookselling distributors, the provisions in the bookselling dealings regulations valid in each case will be applicable in addition.
2. Any mistakes made while accepting orders by telephone will be borne by the orderer.
3. Any objections which do not arrive at our company within two months of the goods being received will be excluded.
4. Any complaints relating to damage on the transport route must be submitted not to us but instead to the forwarding agents.
- 5.
- 5.1 In principle, DVS Media will be liable within the framework of the statutory regulations, in so far as these are applicable.
- 5.2 However, with the exemption of injuries to a person's life, body or health, the liability will be limited as follows: - in the event of culpably caused damage: to cases of intent and gross negligence on the part of its organs and its vicarious agents; - in so far as the liability is mandatory because essential contractual obligations have been neglected: to the foreseeable damage typical of the contract; - otherwise, to direct damage; the obligation to pay compensation for indirect or consequential damage will be excluded.
- 5.3 Statutory or contractual compensation claims will become statute-barred after 24 months.
6. In principle, all deliveries will be made with simple retention of ownership according to Section 449 BGB (new version) as well as with extended retention of ownership. Until the payment has been effected for all the claims arising from the business relationship, the seller will retain the ownership of its delivered goods which may only be resold in the proper trading of goods. The purchaser will hereby assign to the seller the debt resulting from a resale. The seller will accept the assignment when accepting the order and will undertake, at the request of the purchaser, to release the securities to which it is entitled by its own choice according to the above terms in so far as the realisable value of the securities exceeds the debt to be secured by more than 20 %.
7. Unless anything else is noted on the invoices, invoice amounts will be due immediately and without deduction from the time when the invoice is received. Without any need for a demand for payment, the debtor will default 30 days after receiving the invoice. The costs incurred in making a demand for payment as well as default interest amounting to 8.62 % points will be charged for the period of the default in payment.
8. Any offsetting against debts which have not been acknowledged in writing or have not become legally binding will be excluded.
9. Sets of technical rules (e.g. DVS technical bulletins and technical codes, amongst others) will be neither taken back nor exchanged.
10. The place of performance will be Düsseldorf.
11. The business dealings with foreign customers will be governed exclusively by German law.
12. The place of jurisdiction will be Düsseldorf if the orderer is a fully qualified merchant or a legal entity under public law.
13. Within the framework of our business activities, we will make use of a data processing installation and store customer data in so far as this is necessary for the business and permissible within the framework of the Federal Data Protection Act.

Remarks:

Re. Point 3.

This term relates to the so-called preservation of the purchaser's defence based on warranty for defects, codified in Section 478 BGB until December 31, 2001 according to the old law. According to the court rulings issued on this subject until now, it was permissible, in general terms of business, to shorten the period in which the purchaser must report the defects from the time when the purchased object is accepted. Because Section 478 BGB has no longer existed with this content since January 1, 2002 and the legislative body has not adopted any corresponding new regulations in the reform of the law of obligations, the application of an EU directive issued with regard to this problem is recommended by the prevailing specialist literature: Art. 5, Para. 2 of the Consumer Goods Directive makes provision for a two-month period from the time when the goods are received in which the consumer/purchaser must notify the seller of the defects.

Re. Point 5.3

According to Section 438, Para.1, No. 2 BGB (new version), the statutory minimum statute of limitations within the framework of the liability for quality defects has now been two years since January 1, 2002 and, moreover, cannot be shortened by general terms of business (the statutory protection of the general regular limitation period is even three years according to Section 195 BGB).

Re. Point 6.

The retention of ownership is now governed by Section 449 BGB (previously by Section 455 BGB) - with largely the same content as in the old version.

Re. Point 7.

1. Since May 1, 2001 (Act Concerning the Acceleration of Due Payments), Section 284 III BGB has stipulated a statutorily standardised default regulation amounting to 30 days from the time when an invoice or an equivalent request for payment is received. Any shortening of this period in general terms of business is ineffective in regular cases.
2. The former formulation ("... 8 % above the base interest rate ...") is notionally incorrect: Section 288 I BGB (since May 1, 2001) prescribes "... that a money debt must yield interest amounting to 5 % points above the base interest rate during the default ...".
3. Furthermore, the current base interest rate is 3.62 % points so that default interest amounting to max. 8.62 % can be demanded at present; therefore, the formulation proposal specified above; if the old formulation were still applied, this would result in an impermissible interest rate which would amount to 11.62 % points and would require a separate (well-founded) legal basis (e.g. the recourse to an ongoing business loan from a current account at a German bank).