



**General Terms and Conditions of Sale, Delivery and Payment of DALLI-WERKE GmbH & Co. KG and its following affiliated companies: WIN COSMETIC GmbH & Co. KG, WIN Aerosol GmbH & Co. KG and Dalli Export GmbH  
Valid from 01.03.2022**

By placing an order, the buyer accepts our general terms and conditions of sale, delivery and payment. These also form the basis for all future business with the buyer. Other general terms and conditions of sale, delivery and payment shall not apply.

Deviating or supplementary terms and conditions of the buyer shall only be binding for us if this has been specifically agreed in writing.

These terms and conditions of sale, delivery and payment shall only apply to entrepreneurs (Section 14 of the German Civil Code, "BGB"), legal entities under public law or special funds under public law within the meaning of Section 310 para. 1 BGB.

**Offer:** The prices and delivery options stated in our price lists, catalogues and otherwise are non-binding and an invitation to the buyer to submit a corresponding offer to us.

**Acceptance and rejection of orders:** An order shall only be deemed to have been accepted if and to the extent that a dispatch notification is sent or the goods and invoice are sent. We reserve the right to reduce the quantities ordered or to cancel items that are not in stock if the goods are out of stock and not available at short notice. In this case, we shall only invoice the buyer for the goods delivered. If goods ordered but not in stock and not available to us at short notice are not included in the first delivery, a subsequent delivery will only be made if this is expressly notified in writing or if the buyer places a new order in this respect.

**Price:** The goods shall be invoiced at the prices valid on the day of the conclusion of the contract for the respective delivery date.

**Delivery:** The minimum order value is € 1,000. In principle, we deliver ex works (named factory or warehouse) EXW (Incoterms 2020). On request, we deliver free domicile, however, the choice of shipping method is left to us. Additional expenses for express deliveries shall be borne by the recipient, unless these are due to delivery difficulties for which we are responsible. Delivery shall be made at the risk of the buyer.

**Delivery on pallets:** If delivery on pallets is requested by the buyer, we shall deliver exclusively on Euro pallets (unless Düsseldorf pallets are used or agreed in exceptional cases). Immediately upon delivery on pallets, an equal number of corresponding exchangeable pallets shall be handed over step by step. Pallets that are not exchanged will be invoiced. Only pallets in perfect condition are exchangeable.

**Right of withdrawal:** We are contractually entitled to the right of withdrawal in the event of force majeure in accordance with the explanations under "Liability" (see below).

Our right to withdraw from the contract in accordance with the statutory provisions without setting a deadline remains unaffected.

**Warranty for defects:** As a matter of principle, we shall not be liable for defects of which the buyer is aware at the time of conclusion of the contract or is not aware due to gross negligence (Section 442 BGB). Furthermore, the buyer's claims for defects presuppose that he has fulfilled his statutory obligations to inspect and give notice of defects (Sections 377, 381 of the German Commercial Code,



**"HGB"**). The buyer must inspect the consignment on receipt and immediately notify the carrier or us of any transport damage and to immediately notify us of any defects which can be detected immediately on careful inspection. The same applies if the delivery of goods other than those ordered or the quantity is objectionable. Other defects must be notified to us without delay, but no later than 8 days after discovery of the defect, unless the period should be unreasonably short in individual cases.

In the event of a justified notice of defect, the buyer's claims for defects shall be limited to either withdrawal from the contract or subsequent free of charge delivery of defect-free goods. If the buyer chooses subsequent delivery of defect-free goods, he shall receive a credit note in the amount of the invoice value of the defective goods and may order the subsequent delivery at the original price. Any transport costs and handling charges shall only be invoiced once. If a subsequent delivery is impossible or unreasonable, if it remains unsuccessful at least twice, if it is not carried out within the reasonable period of time set by the buyer in writing or if the setting of a deadline is dispensable due to the existence of special circumstances, taking into account the interests of both parties, the buyer may reduce the purchase price or withdraw from the contract. In the event of fault on our part or on the part of our vicarious agents, the buyer shall be entitled to claim damages in accordance with the provisions set out under "Liability". Claims due to defects shall become time-barred within one year after delivery of the goods to the buyer. This limitation period shall not apply in the case of defects caused intentionally or by gross negligence or in the case of defects caused by simple negligence resulting in injury to life, limb or health; in this case the statutory limitation periods shall apply.

**Liability:** We shall be liable without limitation in the event of wilful conduct and gross negligence on our part or on the part of our vicarious agents. We shall also be liable without limitation for non-compliance with guarantees, in the event of the assumption of a procurement risk, in the event of culpable injury to life, limb and health and within the scope of liability under the German Product Liability Act ("Produkthaftungsgesetz").

We shall be liable on the merits for any culpable breach of material contractual obligations, i.e. contractual obligations that enable the proper performance of the contract and on the performance of which the buyer regularly relies and may rely. In the event of a simple or slightly negligent breach of material contractual obligations, the amount of liability shall be limited to compensation for the typically foreseeable damage.

Any further liability is excluded. Insofar as our liability is excluded or limited, this shall also apply to the personal liability of our employees, workers, staff, representatives or vicarious agents. We shall not be liable for impossibility of delivery or for delays in delivery insofar as these are caused by force majeure or other events that were not foreseeable at the time of conclusion of the contract (e.g. disruptions of any kind, failure of production facilities, fire, flooding, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, shortage of labour, energy or raw materials, difficulties in procuring necessary official permits, pandemics or epidemics, official measures or the failure of suppliers to deliver, to deliver correctly or to deliver on time despite a congruent hedging transaction concluded by the seller) for which we are not responsible. If such events make it considerably more difficult or impossible for us to deliver or to perform and the hindrance is not only of temporary duration, we shall be entitled to withdraw from the contract. In the event of hindrances of temporary duration, the delivery or service deadlines shall be extended or the delivery or service deadlines shall be postponed by the period of the hindrance plus a reasonable start-up period. Insofar as the buyer cannot reasonably be expected to accept the delivery or service as a result of the delay, he may withdraw from the contract by means of an immediate written declaration to us.

**Returns:** Properly delivered goods will only be taken back by us if we have agreed to this in writing in advance. Notwithstanding any other agreement, we shall be entitled to reduce the credit of the price to be refunded by a reasonable lump sum for discounts, bonuses and other benefits granted as well as



refurbishment costs. If the buyer does not agree to the deduction of the lump sums, the return of the goods shall be cancelled. The same shall apply if the goods prove to be no longer in perfect condition or unsaleable for other reasons after receipt by us. Within the scope of the present provision, returns to us and returns to the buyer shall be made at the risk and expense of the buyer. The foregoing provisions shall not affect the rights of the buyer in the event of defects.

**Condition:** Our products may only be sold in or from the original packaging. Refilling or repacking of bottled goods or repacking of cardboard boxes is not permitted.

Unless we instruct the buyer in writing to license the sales packaging used with a dual system, we shall carry out the necessary licensing ourselves as the distributor of the products.

**Retention of title:** We deliver subject to retention of title. Ownership shall not pass to the buyer until all liabilities, including future liabilities, arising from the joint business relationship have been settled. The buyer is entitled to resell the goods delivered under retention of title in the ordinary course of business. The buyer hereby assigns claims from the sale of the goods to us by way of security. We hereby accept this assignment. However, the buyer is authorised to collect these claims until revoked, whereby we will not declare the revocation as long as the buyer duly fulfils his contractual obligations and no application for the opening of insolvency or similar proceedings has been filed and there is no cessation of payments.

The buyer is not entitled to pledge, assign by way of security or exchange goods delivered under retention of title.

We must be informed immediately of any enforcement measures (seizures by third parties of goods subject to retention of title or assigned claims).

Upon request, the buyer shall at any time provide information (also in the form of an affidavit for presentation in judicial and official proceedings) on the whereabouts of goods delivered under retention of title or on claims that have replaced our ownership rights, together with all documents required to assert the respective rights. If it transpires that the buyer is not creditworthy, in particular if he defaults on payment of a not insignificant amount or stops his payments altogether or if an application for insolvency is filed against his assets, we shall be entitled to prohibit the resale of the goods delivered under retention of title. In the event of insolvency and the opening of insolvency proceedings, resale is not permitted. If the buyer does not fulfil his payment obligation and we declare our withdrawal from the contract for this or another justified reason, we are entitled to charge the buyer an appropriate lump sum for discounts, bonuses and other benefits granted as well as for return and reconditioning costs, handling and depreciation, unless the buyer proves that no damage or depreciation was incurred or that it was significantly lower than the lump sum. In case of breach of contract by the buyer, including default of payment, we are entitled to take back the goods.

Insofar as the above-mentioned securities exceed the claims to be secured by more than 10%, we are obliged to release the securities at our discretion at the request of the buyer.

**Payment:** Our terms of payment, unless expressly agreed otherwise, are: 14 days direct debit from the date of invoice /. 2% discount.

If, after conclusion of the order, concrete circumstances give rise to doubts about the creditworthiness of the buyer and our claims for payment are thereby jeopardised, we shall be entitled to demand advance payment of the purchase price.



Bills of exchange and cheques are only accepted on account of performance. Bills of exchange must be made payable at a financial institution. In the case of bills of exchange to secondary places, the usual bank charges are to be reimbursed. We are not obliged to accept bills of exchange in payment that exceed the target of 6 weeks. In the case of such bills of exchange, interest of 2% above the base rate will be charged. In the event of acceptance of several bills of exchange or postdated cheques, the deferment of payment thereby granted shall automatically lapse if one of the instruments is protested, even if this was not specifically mentioned in a letter confirming acceptance of the instruments.

The buyer shall only be entitled to rights of set-off or retention to the extent that his claim has been legally established, is ready for decision or is undisputed.

**Assignment:** We have the right to assign our claims against the buyer to a third party.

**Default:** In the event of default in payment, we shall charge the buyer the statutory default interest. We reserve the right to assert further damage caused by default. In the event of default in payment of a claim, all other outstanding claims against the buyer may be made due by us.

**Place of performance and jurisdiction, applicable law:** The place of performance for all obligations is Stolberg/Rhld. The sole place of jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Aachen. However, we are also entitled to sue the buyer at his place of business. The law of the Federal Republic of Germany shall apply exclusively, to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and notwithstanding any other assignment by the conflict-of-law rules of private international law. The buyer shall bear all fees, costs and expenses incurred in connection with any legally successful legal action against him outside Germany.

**Validity:** Should any of the foregoing conditions be or become invalid, this shall not entail the invalidity of the remaining conditions. Statutory law (Section 306 para. 2 BGB) shall take the place of any General Terms and Conditions that are not included or are invalid. In all other respects, the parties shall enter into negotiations in order to replace the void or invalid provision with a valid provision that comes as close as possible to it in economic terms, insofar as no supplementary interpretation of the contract takes precedence or is possible.

Status: March 2022