

## **General terms and conditions of Deutsche See GmbH, Bremerhaven**

1. All offers, deliveries, contracts and transactions entered into by Deutsche See GmbH – herein-after only referred to as Deutsche See – shall exclusively be governed by these general terms and conditions.

2. General terms and conditions of the customer shall not become part of the agreement. They shall be non-binding for Deutsche See and shall not oblige Deutsche See even if it does not contradict expressly. Such terms and conditions shall only be agreed upon written confirmation by Deutsche See but shall not be deemed incorporated into future agreements.

3. All deliveries are made to the agreed prices.

All prices are exclusive of VAT. VAT will be added in the amount applicable by law on all prices.

The customer is obliged to verify any invoice in due course. Complaints made more than three months after reception of the invoice shall not be honoured by Deutsche See any more.

4. If the dispatch is carried out to the agreed destination point by Deutsche See or if it is arranged by Deutsche See, the transport insurance shall be taken over by Deutsche See in the usual scope. In all other cases – in particular collection by the customer – the customer shall bear the risk as from the place of delivery.

5. Due to rising energy costs Deutsche See charges as of 17<sup>th</sup> October, 2005 an energy surcharge dependent on the respective invoice value of the delivery:

a) Invoice value to 250 €: Energy surcharge 4 €

b) Invoice value 250 € to 380€: Energy surcharge 3.50 €

c) Invoice value more than 380 €: Energy surcharge 3 €

VAT will be added to the precalled invoice values as well as the energy surcharges. Deutsche See reserves the right to adjust the energy surcharges to future changes of energy prices.

6. Any declaration of specific properties of the goods and the acceptance of any guarantee shall only be binding if explicitly confirmed by Deutsche See in writing.

Claims for compensation of the customer / buyer from contractual or other liability are excluded – irrespective of the legal reasoning used. The limitation of liability is not applicable in cases of any liability for intentional acts or gross negligence by Deutsche See or its vicarious agents or if the damages are due to the lack of any material property which has explicitly been guaranteed in writing if the customer was to be protected against such damages by the guarantee. The limitation of liability shall not apply in cases of minor negligence of Deutsche See or any of its agents, where liability is mandatory by law.

The liability to pay damages is always limited to the predictable damage.

7. Any obligations by Deutsche See under the Produkthaftungsgesetz (German Product Liability Law) shall remain unaffected.

8. The customer is obliged to examine the goods immediately upon reception. In case of any defects he must notify Deutsche See immediately. All defects must be described fully and confirmed in writing on the bill of lading.

In case of any complaint the consumer has to carry out in time all necessary measures including a full written description of all facts of the case. Deutsche See is to be notified immediately.

In addition to these checks, the consumer is obliged to verify the goods in regard to quantity, kind and quality immediately upon reception.

9. Possible complaints about smoked and fresh food must be notified within 24 hours after receipt, complaints about chilled products (e.g. marinades, special marinades and coalfish products) within 3 days.

10. In case of other goods, (e.g. deep-freeze products and canned goods) the claims must be made within three days for complaints regarding quantity and scope; quality complaints must be made within 8 days after delivery.

11. Latent defects must be complained of immediately after they are discovered.

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12. In case of a delay of the period to inform no warranty claims can be made. Deutsche See is not obliged to subsequent delivery, as long as the customer does not fulfil his contractual obligations. The guarantee duty does not exist if the customer treats the product improperly.

13. Declarations of weight of fresh and smoked products refer to the weight taken at the distribution centre Bremerhaven. The customer has to accept the characteristic natural weight decrease originating from its peculiarity. The weight values of freely programmable auxiliary facilities are indicated on the label with the scale no./ID - the calibrated weight values are available and can be inspected.

14. Payment is due upon reception of invoice without any deductions.  
The minimum order value is 150.00 Euros.

15. In case of delay of payment, Deutsche See is entitled to require payment of interest from the Client in the amount of 9 percentage points above the base interest rate of the European Central Bank (at least 10%) beginning at the time of the delay of payment. Cheques will only be accepted on account of performance. The right to enforce further claims for damages caused by delayed payment shall be reserved.

16. All delivered goods, including goods delivered in future, shall remain property of Deutsche See until full payment of all claims arising from the business relationship with the customer. This applies even if individual purchase invoices have been paid by the customer as the retention of title shall secure all obligations of the customer out of the business relationship

The customer may sell goods for which title is retained in due course of business; he hereby assigns all claims against his customer arising from the sale of any goods for which title is retained up to the full amount (including VAT) of customer's obligation out of the business relationship to Deutsche See, regardless of whether the subject goods have been resold with or without further processing. Deutsche See accepts the assignment. The customer is authorized to collect the claims against his customers. Deutsche See has the right to revoke such authorization if the customer fails to fulfil his payment obligations. In this case, the customer is obliged to inform Deutsche See of the assigned claims and their debtors, to provide all information necessary for collection, to provide the necessary documents to enforce the claims, and to notify his customers about the assignment.

Any handling or processing of the retained of title on behalf of Deutsche See shall not create any obligations for Deutsche See. In case of processing, combining or mixing of the retained goods with other goods not belonging to Deutsche See, Deutsche See shall acquire joint ownership of the new item in proportion to the invoice value of the reserved goods to the invoice value of the other goods. The customer shall store the new goods free of charge for Deutsche See.

To secure any claims of Deutsche See against the customer, the customer also assigns to Deutsche See any receivables from third parties that arise for the purchaser as a result of the incorporation of the conditional goods in real property; Deutsche See hereby accepts this assignment.

If the customer acts in breach of contract, Deutsche See is entitled to take back the retained goods, the customer is obliged to surrender the goods. The return of the goods shall not constitute rescission from the contract, unless Deutsche See declares this in writing.

The buyer is obliged to insure the reserved goods at his own expense against theft, breakage, fire and water damage.

17. The customer shall until further notice be entitled to claim all assigned claims against the final customer provided he has duly fulfilled all payment obligations against Deutsche See.

Until full payment of all obligations of the customer out of the business relationship, any further action in regard to the assigned claims shall only be allowed against payment of the received funds to Deutsche See. Deutsche See may revoke the customer's right to claim the assigned claims if serious doubts regarding the creditworthiness of the customer arise.

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In the case of payment default of the customer, the right to claim the assigned claims is revoked automatically. The customer is obliged to name the final customers and provide all information or documentation required or demanded by Deutsche See upon demand of Deutsche See – especially in the case of a revocation of the right to claim the assigned claims

18. The reservation of title shall automatically lapse upon full payment of all obligations of the customer to Deutsche See out of the business relationship. Should the value of the claims assigned to Deutsche See exceed 120% of the customer's obligation towards Deutsche See, Deutsche See will reassign such excess claims to the customer upon his demand.

19. Transfer of rights and obligation: All rights and obligations may not be transferred to a third party by the customer without the written approval of Deutsche See. Should however the transfer of such rights be valid under § 354 HGB (German Commercial Code), the right of Deutsche See to set off claims against the transferor against the transferee shall remain unaffected.

20. In cases of serious doubt regarding the creditworthiness of the customer or application for insolvency proceedings, Deutsche See shall without further notice be entitled to claim all goods for which title is retained to the extent that these are deemed required to fulfil all obligations of customer from the business relationship. In this case Deutsche See shall be entitled to enter the premises of the customer in which the goods are stored and claim these goods. This right extends to all premises of a third party where the goods are stored. The customer is obliged to take all necessary measures to ensure access to such premises. All cost of reclaiming the goods is borne by the customer.

21. In case of payment default of the customer or application for insolvency proceedings the customer shall no longer be entitled to the sale of goods for which title is retained. In this case he is obliged to store these goods separately and provide for appropriate marking. In such case, all payments on claims assigned to Deutsche See must be made to a separate account.

22. The provided Deutsche See returnable boxes (shown as such in the invoice) shall remain the property of Deutsche See. They must be treated carefully and may not be used for any purpose other than the storage of the products supplied. The customer shall be liable for damages which are based upon non-compliance of this condition, unless he can prove he was not responsible for the damage. The deposit fees will be refunded upon return.

23. In accordance with § 26 BDSG (German Federal Data Protection Act) the customer is hereby informed, that all data in connection with the business may be stored both by Deutsche See and by other companies Deutsche See may cooperate with.

24. Place of performance for the delivery is the warehouse from where the product is shipped.

25. Place of performance for the payment is Bremerhaven.

26. All contractual relationships between the parties shall be governed exclusively by German law; Place of jurisdiction – to the extent allowed by law – shall be Bremerhaven.

Unless specified differently in our terms and conditions or at contract signature, the uniform law for the international purchase of chattels or the conclusion of these sales contracts (Hague agreement) as well as the Viennese UNCITRAL agreement about international goods sales contracts shall not apply.

27. If any of these terms are or shall become ineffective, the remaining parts shall stay effective. Any ineffective clause shall be replaced by a suitable clause, which shall, as closely as possible, correspond to the intentions of the parties at the time when the ineffective term was agreed upon.

As at: 2018-04-01  
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Domicile Bremerhaven  
Court of Registry Bremen, Reg. no. HRB 5040 BHV  
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