

Basic and Extended Retention of Title

In accordance with Section 4.3 of the General Terms and Conditions of Delivery, all deliveries by FRÄNKISCHE are subject to basic and extended retention of title.

1. The title to all delivery items (the goods subject to retention of title – “Goods”) remains with FRÄNKISCHE until all claims arising from the business relationship due to FRÄNKISCHE against the customer have been fulfilled. If the realisable value of all security interests held by FRÄNKISCHE exceeds the amount of all secured claims by more than 10 %, FRÄNKISCHE will release a corresponding portion of the security interests at the customer's request. It will be assumed that the conditions mentioned in the previous sentence are met if the estimated value of the interests due to FRÄNKISCHE amounts to or exceeds 150 % of the value of the secured claims. FRÄNKISCHE may, at its option, decide which security interests to release.
2. As long as FRÄNKISCHE retains title to the Goods, the customer may not pledge or assign the Goods as security and may only resell the Goods to resellers within the ordinary course of business, provided that these resellers receive payment from their subpurchaser or that title to the Goods will only pass to their subpurchasers when these have fulfilled their payment obligations.
3. If the customer resells the Goods, they herewith assign to FRÄNKISCHE by way of security, without any special notice being required, any future claims they might have against their subpurchasers from the resale, including all ancillary rights pertaining thereto – inclusive of possible outstanding balance claims. The proportion of the claim assigned to FRÄNKISCHE must be given priority. If the Goods are resold together with other goods, without a separate selling price having been agreed upon for the Goods, the customer assigns to FRÄNKISCHE the claim for that portion of the total price demand that equals the amount invoiced by FRÄNKISCHE for the Goods.
4.
 - a) The customer may process the Goods or mix them with or connect them to other goods. The Goods may be processed for FRÄNKISCHE only. The customer will store the newly created product for FRÄNKISCHE with the diligence of a prudent businessman. The new product will be subject to retention of title.
 - b) FRÄNKISCHE and the customer agree in advance that, if the Goods are connected to or mixed with other goods not belonging to FRÄNKISCHE, FRÄNKISCHE will become joint owner of the new product, their respective interests in the new property being determined by the value of their respective Goods as compared to the value of the other goods at the time of connection or mixing. The new product will be subject to retention of title to this extent.
 - c) The provision regarding the assignment of claims in the foregoing Section 3 also applies to the new product. However, such an assignment is only valid up to the amount that equals the amount invoiced by FRÄNKISCHE for the processed, connected, or mixed Goods.
 - d) If the customer connects the Goods to real property or movable property, they assign to FRÄNKISCHE by way of security, without any special notice being required, any claim they might be entitled to for the connection proceeds, including all ancillary rights pertaining thereto, their respective interests in the end property being determined by the value of their respective Goods as compared to the value of the other goods at the time of connection.
5. Until a notice of revocation, the customer may collect the assigned outstanding balance claims for resale proceeds. The customer will immediately transfer any payments made for assigned outstanding balance claims to FRÄNKISCHE up to the amount of the secured claims. FRÄNKISCHE may, for good cause, in particular in the case of default in payment, non-payment, institution of insolvency proceedings, bill protest, or reasonable grounds to suspect over-indebtedness or imminent insolvency of the customer, revoke the customer's right to collect outstanding balances. Furthermore, FRÄNKISCHE may, after having set a reasonable deadline and threatened to do so, disclose such information regarding assignments by way of security, exploit assigned outstanding balance claims, and require the customer to disclose any assignments by way of security to their subpurchasers.
6. The customer must promptly notify FRÄNKISCHE of any attachments, seizures, or other dispositions or interventions by third parties. If FRÄNKISCHE can substantiate a legitimate interest, the customer must provide to FRÄNKISCHE such information and submit such documents as are required to assert FRÄNKISCHE's rights against the customer.
7. If the customer breaches any of their obligations, in particular in the case of default in payment, FRÄNKISCHE may, after unsuccessful expiration of a reasonable deadline set by FRÄNKISCHE for performance, in addition to taking back the Goods, also withdraw from the contract; the statutory provisions regarding the dispensability of setting deadlines remain unaffected. The customer is obligated to surrender the Goods. Take-back and assertion of the reservation of title, respectively, or seizure of the Goods does not signify FRÄNKISCHE's withdrawal from the contract, unless such has been expressly declared by FRÄNKISCHE.
8. The place of performance for all deliveries is Königsberg in Bavaria, Germany. The exclusive place of jurisdiction is Königsberg in Bavaria, Germany. FRÄNKISCHE is entitled, however, to sue the customer at its place of general jurisdiction or at any place of performance. The laws of the Federal Republic of Germany apply, excluding the United Nations Convention on the International Sale of Goods of 11 April 1980. If the customer is not domiciled within the Federal Republic of Germany, FRÄNKISCHE can also assert the law that applies at the customer's domicile or the law of the place of performance. These regulations remain binding in general even in the case of legal invalidity of individual provisions.