

# General Terms and Conditions TRUEBNER GmbH

## 1. General Considerations and Scope

Our General Terms and Conditions (GTC) apply to all mutual claims that arise from and exist in conjunction with the conclusion of the contract regarding the services that we offer.

Our GTC apply exclusively; we do not recognise any conflicting terms and conditions, or terms and conditions of the buyer that deviate from our GTC, unless we have expressly agreed to the validity thereof in writing. Our GTC shall also apply if we deliver goods unconditionally with the knowledge of conflicting terms and conditions of the buyer that deviate from our General Terms and Conditions. Individual agreements have priority.

Our GTC apply both to consumers and entrepreneurs, unless a distinction is made in the respective clause.

## 2. Contractual Offer / Contract Content / Contractual Amendments

The customer's order represents a binding offer, which we may accept within a period of two weeks by sending an order confirmation or by delivering the goods. A written order confirmation containing the essential contractual content is equivalent to a contractual document between us and the buyer.

We reserve all property rights and copyrights to the offers, drawings, calculations and other documents that we create. The same applies to all documents that are identified as confidential. These may only be disclosed to third parties with our prior written consent.

## 3. Prices / Payment Conditions / Transfer of Risk / Shipping Costs

The price is the result of the respective order and is binding. Consumer prices include the statutory value added tax.

In the case of entrepreneurs, only the net prices are listed. Thus, in the case of entrepreneurs, the statutory value added tax is not included in our prices. It will be listed separately at the statutory rate in the invoice on the day of invoicing.

Insofar as no other agreement exists, prices for entrepreneurs are understood to be ex-works prices. Entrepreneurs are billed separately for extra and special services, customs duties and shipping, and therefore are not included in the net price listed.

Payment is due within 30 days upon receipt of the goods without discount deduction, unless otherwise agreed upon. The statutory provisions apply with respect to the consequences of a default of payment.

## 4. Terms of Delivery / Delivery Times / Default in Delivery / Impossibility of Performance

The delivery deadlines are listed in the respective offer. Insofar as delivery deadlines are agreed and these have been used as the basis for placing the order, these deadlines shall be extended by the duration of a delay arising in the event of a strike and in cases of force majeure. The same applies if the customer has not fulfilled the customer's obligation to cooperate.

If the delivery is delayed, we will inform the customer promptly and provide information regarding the expected duration of the delivery delay.

## 5. Retention of Title

In the case of contracts with consumers, we reserve ownership rights to the goods until complete payment of the purchase price. In the case of contracts with entrepreneurs, we reserve ownership rights to the goods until the fulfilment of all claims vis-a-vis the buyer, regardless of whether the specific goods have already been paid.

The buyer is obligated to inform us of any enforcement measures by third parties regarding reserved goods, and shall submit all documents needed to intervene. The buyer is obliged to inform the third party about existing rights to the goods in advance. The buyer shall bear any costs that we incur when intervening insofar as the third party is unable to reimburse these.

In the event of a resale or re-leasing of the reserved goods, and if the buyer is an entrepreneur, the buyer shall assign all claims arising from the transaction with the third party, immediately and as security, until the fulfilment of our claims. In the event that the reserved goods are processed, altered, or incorporated with other goods, we immediately acquire ownership of the manufactured goods. These goods shall be considered reserved goods.

Insofar as the value of the security exceeds our claims vis-a-vis the buyer by 20%, we shall release the securities to which we are entitled to the appropriate extent upon the request of the buyer and at our discretion.

## **6. Liability for Defects**

We are liable for defects as stipulated by the statutory provisions insofar as no restrictions arise from the following clause.

If the buyer is an entrepreneur, the buyer shall inspect the goods immediately upon receipt. Any material and legal defects must be reported immediately in writing. In the case of obvious defects, notification must be made within 2 weeks upon receipt. The warranty rights expire if the defect is not reported in a timely manner. This does not apply if the defect was fraudulently concealed.

If the buyer is an entrepreneur, we reserve the right to choose the type of supplementary performance in the event of a defect.

The warranty claims shall be void if changes are made to the goods, if parts are replaced, or if materials are used that contradict our original specifications without appropriate consent.

In the case of consumers, the limitation period for claims for defects is two years and begins upon the transfer of risk. The warranty period for entrepreneurs is one year and begins upon the transfer of risk. This does not apply in cases where we have acted intentionally or we have been grossly negligent, or in the event of the loss of life or limb or health of the customer.

## **7. Liability for Damages**

Our liability for contractual breaches of duty and liability based on tort is limited to intent and gross negligence. This does not apply to the loss of life or limb or health of the buyer, to claims for breach of cardinal obligations, i.e. obligations that arise from the nature of the contract, the violation of which risks the fulfilment and proper execution of the contract, or to compensation for damages due to a delay/default in performance according to § 286 of the German Civil Code (*BGB*). In this respect, we are liable for every degree of fault.

In the event of the violation of any essential contractual obligations due simple negligence, our liability is limited to compensation for typical, foreseeable damages. We are not liable for violations of non-essential contractual obligations resulting from simple negligence.

The aforementioned exclusion of liability also applies to breaches of duty caused by our vicarious agents as a result of negligence.

Liability in accordance with the Product Liability Act remains unaffected.

## **8. Choice of Law / Place of Jurisdiction**

The law of the Federal Republic of Germany applies to all contractual and non-contractual relations to the exclusion of the United Nations Conventions on the International Sale of Good.

The exclusive place of jurisdiction for contracts with merchants, legal entities under public law or special funds under public law is the competent court for our address of record.

July 23, 2016