

Terms and Conditions of Sale for Second-Hand Goods

In the following text the masculine gender is used for space-saving reasons and is intended to be gender-neutral, also implying the feminine gender as appropriate

1. General

1.1 Sale and delivery, along with any other such legal transactions between the vendor (user of these conditions of sale) and the purchaser as may occur, shall take place solely under the conditions described below. Said conditions take precedence over, and absolve the vendor of any obligation in respect of, whatever conditions of purchase may apply on the side of the purchaser. These conditions of purchase shall not be binding upon the vendor even in the case where no additional and express repudiation of same shall have been made at the time of the closing of the contract. The purchaser shall count as having recognized the conditions described below, if at no earlier point, then certainly at the point of his acceptance of the vendor's goods.

1.2 Online sales transactions and correspondence concerning the vendor's website are also governed by the information contained in the liability disclaimer in the imprint and the data protection information at www.gb-mediensysteme.de.

1.3 The regulations in accordance with Clause 1.1 and 1.2 can be accessed at any time on the vendor's homepage www.gb-mediensysteme.de or through a dedicated link for every online purchase. Also available for download.

1.4 Previously-made offers of delivery shall remain binding during a period of six calendar weeks, after which period they shall be considered as offers subject to confirmation. Obvious errors can be corrected before an order is confirmed. The regulations of this sub-clause do not apply to online sales transactions.

2. Handling of online sales

2.1 Upon receipt of an online order from the purchaser, the vendor shall reply electronically by sending a personalised email directly to the purchaser. When contact has been established in this way, further communication between purchaser and vendor may take place in any form. Conclusion of the contract shall be in the form of a personalised written order confirmation emailed in pdf format by the vendor to the purchaser.

2.2 The written order confirmation shall be stored in pdf format in the vendor's merchandise management system, from where it can be retrieved and resent upon the request of the purchaser.

2.3 Correspondence relating to conclusion of the purchase contract may be in German or English.

3. Prices

Except where written agreement has been made to some other effect, the vendor's prices shall be understood to be strictly net, ex works. Packing and transport costs, as well as all other expenses and disbursements, as for example customs and excise duties, shall be borne by the purchaser. All prices shall be understood to be exclusive of VAT.

4. Forms and Modes of Payment

4.1 The goods shall be paid for exclusively in advance or - up to an invoice amount of 1.000 EUR - alternatively cash upon collection.

4.2 It shall be possible for the purchaser to enjoy a set-off on the claim of the vendor, or to exercise, in this regard, a right of retention, only in the case where the purchaser's counter-claim shall remain uncontested or shall be confirmed by way of a final decision by the courts.

5. Reservation of Proprietary Rights

5.1 The vendor shall retain title to the item delivered until payment in full of all amounts owed under the supply contract.

5.2 Until ownership is passed over to the purchaser, the purchaser shall be obliged to handle the purchased item with care. If maintenance and inspection work needs to be carried out, the purchaser must carry this out in good time at its own expense. Until ownership is passed over to the purchaser, the purchaser must inform the vendor immediately in text form if the delivered item is distrained or subject to other interventions by third parties. If the third party is not able to reimburse the vendor for the court costs and out-of-court costs of a legal action pursuant to § 771 of the German Rules of Civil Procedure, the purchaser shall be liable for any resulting loss incurred by the vendor.

5.3 Any treatment, processing or remodelling of the purchased item by the purchaser shall always take place in the name of and on behalf of the vendor. In this case, the purchaser's expectant right to the purchased item shall be carried over to the remodelled item. If the purchased item is processed together with other items not owned by the vendor, the vendor shall acquire co-ownership in the new item in the ratio of the objective value of the purchased item to the other processed items at the time of processing. The same shall apply in the case of mixing. If mixing takes place in such a way that the item of the purchaser is to be regarded as the main item, it is deemed to be agreed that the purchaser proportionately assigns co-ownership to the vendor and holds the thus created sole property or joint property in safe custody for the vendor.

5.4 The vendor undertakes to release the securities it is entitled to upon the purchaser's request if their value exceeds the receivables to be secured by more than 20%.

6. Delivery (Collection)

In the existence of a special agreement between the vendor and purchaser, delivery also means the provision of the sold goods at a subsidiary operated by the vendor in the Federal Republic of Germany for collection by the purchaser. Part deliveries may be made.

7. Shipment

In the matter of the transport of goods, the onus shall lie on the purchaser – that is to say, transport shall occur on his account and at his own risk. In the case of damage occurring during transport by heavy goods vehicle the purchaser must obtain from the haulage contractor a counter signature upon a written confirmation on the consignment note by purchaser or receiver of the type and extent of the damage.

8. Warranty and Liability

8.1 As regards sales transactions with commercial customers (businessmen pursuant to § 14 German Civil Code), the warranty is excluded. § 444 German Civil Code remains unaffected. As regards sales transactions with private customers (consumers pursuant to § 13 German Civil Code), the warranty period is 12 months and starts on the date of delivery.

8.2 The prerequisite for the warranty is that the vendor can view and inspect the goods at the purchaser's premises. If it transpires that there are no defects, the vendor can charge the purchaser to a reasonable extent for any expenses ensuing as a result of the inspection. Alternatively, at the request of the vendor, the purchaser shall, at its own expense, send the goods concerned back to the vendor for inspection. In the event that there is a defect, the transport costs shall be refunded.

8.3 If modifications or repairs are carried out by the purchaser or a third party, liability for the ensuing consequences shall be excluded. At the same time any warranty claim shall expire.

8.4 If the delivered goods are defective, the purchaser can choose first of all whether supplementary performance should take place by means of rework or substitute delivery/performance. The vendor shall however be entitled to reject the type of supplementary performance chosen if this is only possible by incurring excessive costs and the other type of supplementary performance would not have significant disadvantages for the purchaser. In the cases provided for by law, the vendor shall be entitled to totally refuse supplementary performance. Rework that is carried out during the warranty period does not in principle result in an extension of the warranty period. Title to the replaced parts shall pass to the vendor.

8.5 If supplementary performance fails or if it is refused by the vendor, the customer can in principle demand that payment is reduced (reduction of the purchase price) or that the contract is cancelled (revocation). Revocation shall be excluded if the vendor's breach of obligation is only minor. Supplementary performance has failed if it has been attempted several times and if the purchaser cannot reasonably be expected to agree to further supplementary performance.

8.6 The vendor shall only assume liability for information and consultancy services if a written consultancy contract has been concluded. Otherwise they are non-binding.

9. Liability

9.1 The purchaser shall be entitled to lodge contractual and statutory claims for damages if it is proven that these are based on a wilful or grossly negligent breach of obligation by the vendor, its legal representatives or executive personnel.

9.2 Except in the case of injury to life, body or health, the vendor shall only be liable for ordinary negligence if fundamental contractual obligations (cardinal duties) are breached and this liability shall be limited to foreseeable average damage that is typical for the contract. A fundamental contractual obligation is an obligation which, when honoured, allows the contract to be duly executed and the purchaser regularly relies on or may rely on compliance with such an obligation.

9.3 Liability for indirect and unforeseeable damages, consequential damages caused by a defect, lost profit and for breaches of secondary obligations and a lack of commercial success is excluded.

9.4 Liability ensuing from the product liability law as well as liability ensuing from non-compliance with a guarantee and the fraudulent concealment of a defect shall remain unaffected.

9.5 If the liability of the vendor is excluded or limited, this shall also apply to the personal liability of its managers, employees, co-workers, executive bodies, representatives and vicarious agents.

10. Venue for the Settlement of Disputes and Place of Fulfilment

10.1 Place of fulfilment for the vendor's deliveries is the respective place of despatch.

10.2 The place of fulfilment for payments is the head office of the vendor as this shall apply at any specific time (presently: Bergisch Gladbach).

10.3 It is agreed that the venue for the settlement of disputes for both parties shall be the magistrate's or district court situated, in each case, closest to the vendor's place of dispatch.

10.4 In the event of deliveries outside the Federal Republic of Germany, German law shall apply in addition to the terms and conditions agreed herein, to the exclusion of the UN Convention on the International Sale of Goods.

11. Written form and severability clause

All agreements between vendor and purchaser apart from online sales transactions must be made in writing. No commercial agent or travelling salesman shall have the right to make agreements or to accept payments without the written consent thereto of the vendor. No verbal agreements have been reached. Should any individual provision of these conditions of sale be or become void, the validity of the remaining provisions shall remain unaffected.