

Section 1 General

- (1) Our Terms and Conditions of Sale, Delivery and Payment (T&Cs) only apply towards „entrepreneurs“ within the definition of Section 310(1) German Civil Code (Bürgerliches Gesetzbuch, „BGB“).
- (2) These T&Cs apply to all the equipment we offer for sale. They shall also apply to the conclusion of future purchase contracts with the Customer even if no renewed reference is made to them. Our standard terms and conditions apply exclusively. They shall also apply if we perform the delivery to the Customer unreservedly even in the knowledge of the Customer's contrary or alternative terms and conditions.
- (3) Individual agreements concluded in specific cases (including subsidiary agreements, additions and amendments) take precedence over these T&Cs.
- (4) Even if no separate clarification is provided, the statutory provisions shall apply in supplementing these T&Cs insofar as these provisions are not modified or explicitly excluded within these T&Cs.

Section 2 Conclusion of contract / Quality of the purchased goods

- (1) Our quotations always remain subject to change and are made without obligation. In the absence of an alternative agreement, the purchase contract shall come into effect through our acceptance of the Customer's purchase order. This generally takes the form of the communication of an order confirmation or an invoice if payment in advance has been agreed. This applies equally in the case where we have provided the Customer with technical documents (such as drawings, data sheets, specifications), product descriptions or other documentation for its perusal – including in an electronic format.
- (2) The object of purchase solely concerns the device configuration (technical specifications) set out in our quotation. The technical data and product information enclosed as attachments to the quotation are for demonstration purposes only, and do not describe the scope of delivery nor do they constitute an assurance or guarantee regarding the quality of the object of purchase. Public statements in particular, whether made by us, the manufacturer, their vicarious agents or by other third parties (including public representations of product characteristics) do not contain any descriptions of the object of the delivery such as to supplement or modify the technical specifications.

Section 3 User's right of rescission (cancellation)

- (1) We reserve the right to rescind the purchase contract if, following the conclusion of contract, an inspection of a device performed by us or an independent service company commissioned by us, determines that a used object of purchase does not meet our high quality standards, or a supplier is unable to procure the used item for us and we are therefore unable to deliver the used object of purchase in a condition that is accordance with the contract. We will inform you without delay if this occurs, and promptly refund the purchase price paid you have paid.
- (2) The forenamed contractually agreed right of rescission shall be separately repeated again within our order confirmation.

Section 4 Prices and conditions of payment

- (1) The prices listed in our quotations are net prices.
- (2) The quoted price does not include the costs of packing, dispatch, freight, installation, postage charges, costs of insurance, any possible banking and payment transaction costs, or any other ancillary costs.
- (3) Value-added tax is not included in the quoted price; this will be separately listed in our invoice at the statutory rate applicable on the day of billing.
- (4) The purchase price is due for payment in full following the hand-over of the object of purchase and the receipt of the invoice. The Customer shall be in default of payment if it has not paid the purchase price within 14 days; we are not required to make any additional declaration for the default to become effective.
- (5) By selecting the „ALBIS Leasing“ payment method, the Customer acknowledges and agrees that the data provided will be passed onto the ALBIS Leasing Group where it will be processed in accordance with the Privacy Statement of the Albis Leasing Group.

Section 5 Right of retention and offsetting

- (1) In the case of payment arrears, we shall be entitled to make subsequent deliveries subject to the complete payment of said arrears.
- (2) We are entitled, moreover, to refuse to render performance if a circumstance arising after the conclusion of the contract leads us to fear that we will not receive the Customer's counter-performance on time and in full, unless the Customer pays the counter-performance or provides us with adequate security. This particularly applies in the case that, following the conclusion of the contract, our credit insurer refuses to insure the purchase price for the payment of the object of the delivery for reasons pertaining to the Customer's credit rating.

- (3) In the case of the existence of defects, the Customer shall not have any right of retention insofar as this is disproportionate to those existing defects and the anticipated costs of the subsequent performance (especially any fault elimination process).
- (4) Even if the Customer has issued notifications of defects or asserts counterclaims, it shall only be entitled to claim an offset of price if these counterclaims have been confirmed by an enforceable court judgement, or have been acknowledged by us, or they are undisputed. The Customer may only exercise this right if its counterclaim is established under the same contract.
- (5) Any notification of defects raised by the Customer shall not affect its obligation of payment nor the maturity of the debt. It shall refrain from exercising its right of retention in this respect, unless we are culpable of gross infringements of contract or the counterclaims underlying the right of retention are undisputed, acknowledged or have been confirmed by an enforceable court judgement.

Section 6 Retention of title and securities

- (1) We shall retain our title to the object of purchase until we have received all the payments under the purchase contract.
- (2) If the Customer has acted in breach of the contract, especially if it is default of payment, we shall be entitled to cancel the contract in accordance with the statutory provisions and demand the return of the object of purchase and – possibly in addition to the cancellation – to demand damages from the Customer for a culpable breach of contract, if we have unsuccessfully set the Customer a reasonable period of time to pay, except where the statutory provisions provide there is no requirement to set such a deadline. The demand for return of the object of purchase also constitutes simultaneous notice to cancel the contract. We shall be entitled to realise the value of the object of purchase returned to us. Following the deduction of reasonable costs for realising the value, the proceeds of the sale shall be taken into account against the Customer's liabilities.
- (3) The Customer is duty bound to treat the object of purchase carefully until it has made full payment of the purchase price. It is duty bound, in particular, to insure the object of purchase at its own cost against the risks of fire, water damage and theft up to a reasonable value, which shall usually be the purchase price agreed between the Customer and us. If servicing and inspections are necessary, the Customer must perform these in good time at its own cost.
- (4) The Customer must notify us in writing without delay in the case of any distraint orders or other such third-party interference with our title, in order that we can assert our existing rights against the third party. If the third party is unable to reimburse us the judicial and out-of-court costs of our legal action, the Customer shall be liable to pay us the loss incurred.
- (5) The Customer is entitled to resell the object of purchase as part of its regular business activities. Nevertheless, it assigns to us, here and now, all receivables equal to the gross invoice amount (VAT included) to which it is entitled from its customer or other third party under the resale, irrespective of whether or not the object of purchase was reprocessed prior to the sale. The Customer remains entitled to collect this receivable including after the said assignment. Our authority to personally collect the receivable remains hereby unaffected. However, we undertake to refrain from collecting the receivable as long as the Customer fulfils its payment obligations from the proceeds it receives, and it is not in default of payment, and, in particular, that no application is made for the commencement of settlement or insolvency proceedings and that the Customer does not cease servicing its debts. However if this is the case, we may demand that the Customer informs us of the receivables that have been assigned and the identities of the relevant debtors, and that it provides us with all information required to perform the collection along with the accompanying documentation, and that it informs the debtors (third parties) of the assignment.
- (6) Any reprocessing or transformation of the object of purchase by the Customer is always performed on our behalf. If the object of purchase is reprocessed together with other items not belonging to us, we shall acquire co-ownership in the new item at a ratio proportionate to the value of the object of purchase (gross invoice amount, VAT included) compared to that of the other processed items at the time the processing is performed. New goods created through reprocessing are otherwise subject to the same retention of title as the delivered object for purchase.
- (7) If the object of purchase is inextricably mixed with other items not belonging to us, we shall acquire co-ownership in the new object at a ratio proportionate to the value of the object of purchase (gross invoice amount, VAT included) compared to that of the other mixed items at the time of processing. If the mixing is performed in such a way that the Customer's item shall be regarded the main item, it is deemed agreed that the Customer shall assign us a proportionate amount of co-ownership. Acting on our behalf, the Customer shall safeguard the sole or co-ownership established in this way.

Labexchange's Terms and Conditions of Sale, Delivery and Payment, updated 7/2021

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(8) In order to secure our receivables against it, the Customer shall also assign us its receivables against any third party as may arise against that party when the object of purchase is connected to real property.

(9) If the value of the security exceeds the value of our receivables by more than 10%, we undertake, if requested by the Customer, to release the security to this extent. We shall have discretion in selecting the security to be released.

Section 7 Conditions of delivery

(1) Unless otherwise explicitly agreed, delivery takes place ex our warehouse (obligation to deliver). Packaging is non-returnable.

(2) If delivery dates or periods are not explicitly agreed, a delivery period of 6 weeks shall be deemed agreed. We will send you a separate notification if this delivery period will be exceeded. The delivery period commences with the conclusion of the contract as per Section 2(1) T&Cs, however not prior to any advance payments due from the Customer.

(3) Our deliveries shall only be made to the kerbside (to the first door, ground level only) if no contrary agreement has been made in this respect with the Customer. If, in derogation from the contractual agreement, our vicarious agents commissioned with performing the delivery are instructed by the Customer to assist it with moving the object of purchase to a location different from the agreed location, we shall not accept any liability in this connection.

(4) If we are late in performing the delivery, after granting a reasonable time period for the performance along with giving notice of its intention to irrevocably refuse to accept delivery if this time period expires and no delivery is made, the Customer shall be entitled to cancel the contract or the non-fulfilled part of the contract - if the contracting partner retains an interest in receiving a part delivery - or to demand damages in accordance with the statutory provisions. The contracting partner's reminders and setting of deadlines must be communicated in writing or electronic form in order to be valid.

(5) If there is a delay in the collection of the object of purchase after we have given notice that it is ready for collection or there is a refusal to accept delivery and the Customer is responsible for this circumstance, the Customer shall be duty bound to pay us a storage fee of €3.00 plus the applicable rate of value-added tax per day that the object of purchase is stored on our business premises. The Customer is entitled to prove that a lesser amount of costs was incurred, while we are equally entitled to prove that the costs incurred were greater and to claim this amount.

(6) The provisions set out in the preceding paragraph apply correspondingly in the case that we render subsequent performance in response to a defect.

Section 8 Transfer of risk

The risk of the accidental loss or accidental deterioration of the object of purchase shall pass to the contracting partner at the time of the hand-over of the object of purchase:

a.) at the time at which we notify the Customer that the object of purchase is ready for collection in the case that the object of purchase is delivered on our business premises (obligation to collect) according to the contractual agreement,

b.) at the time the object of purchase is handed over to the carrier or individual designated by the Customer to carry out the shipment, in the case that the object of purchase is not handed over on our business premises but is instead delivered to the Customer (obligation to consign) according to the contractual agreement.

c.) at the time that the object of purchase is handed over to the Customer at the agreed location – generally the Customer's business location – in the case that the transport of the object of purchase is commissioned by us or performed by our transport fleet (obligation to deliver) according to the contractual agreement.

Section 9 Customer's claims in event of defects / liability / warranty

(1) The Customer's entitlements on the grounds of material defects shall expire one year following the transfer of risk in the case of new objects of purchase.

(2) The Customer's entitlements on the grounds of material defects shall expire 60 days following the transfer of risk in the case of used objects of purchase. The liability for material defects in the case of used objects of purchase does not include lamps, glass components and other wearing parts.

(3) If the Customer is a "merchant" within the definition of the German Commercial Code (Handelsgesetzbuch, "HGB") and is acquiring the object of purchase in conducting his or her business operations, then Section 377 HGB applies.

(4) Even if the Customer is not a merchant, in the case described in paragraph (2) he or she is obliged to inspect the delivered goods for obvious defects that would be apparent to the average Customer. Obvious defects particularly also include the absence of manuals and the presence of significant, easily visible

damage to the object of purchase. Obvious defects of this kind must be reported in writing or electronic form within two weeks of the transfer of risk. We accept no liability for material defects if the Customer fails to report an obvious defect within the definition of this paragraph in good time in writing or electronic form. If the duty to inspect and report faults is infringed, the goods shall be deemed accepted taking the defect in question into account.

(5) The reduction of the limitation period in accordance with paragraphs (1) and (2) does not apply to the compensation of damage caused by a grossly negligent or intentional infringement of obligations by us, our legal representatives or vicarious agents, or in the case of death or personal injury.

(6) The reduction of the limitation period in accordance with paragraphs (1) and (2) likewise does not apply to the compensation of damage resulting from an infringement of fundamental contractual obligations, meaning those obligations that the purchase contract seeks to impose on us given its content or purpose, or the performance of which is essential to make the implementation of the contract possible and on the compliance of which the Customer regularly relies and is entitled to rely upon. In this case our liability shall be limited to the typical damage foreseeable at the time of the conclusion of the contract. This does not include the personal liability of our legal representatives and vicarious agents for the damage they cause due to an infringement of fundamental contractual obligations; in this case the legal representatives and vicarious agents are only personally liable within the scope defined in paragraphs (1) to (4).

(7) The reduction of the limitation period in accordance with paragraphs (1) and (2) likewise does not apply if we have deceitfully concealed the existence of a defect or if we have issued a warranty. The same applies for the Customer's claims under the German Product Liability Act.

(8) In the event that we perform a subsequent improvement of the object of purchase within the scope of the Customer's warranty entitlements, this subsequent improvement may only ever be deemed to have failed within the definition of the Section 440 BGB after the unsuccessful second attempt.

(9) Except in the case of existing claims for defects or under a warranty extended by us, we accept no liability for the availability for spare parts for the object of purchase, or for the availability of servicing.

(10) Claims under any existing warranties are excluded in the case of damage caused by external influences, accidental damage or improper use, or for modifications, conversions or extensions made to the object of purchase, or for the use of non-approved parts, or for damage, neglect, improper transport, improper packaging or loss when returning the object of purchase to us.

(11) The Customer is not entitled to assign its claims for defects or warranty entitlements.

Section 10 Equipment returns

Devices sold as new by us will be taken back by us at the end of their service life in accordance with the German Electrical and Electronic Equipment Act, and we shall dispose of them properly. However, the Customer is liable to pay or reimburse us the costs incurred for the return and disposal. The Customer must inform us in writing of the end of the service life.

Section 11 Place of jurisdiction / choice of law / concluding provisions

(1) If the Customer is a "merchant" (within the definition of the German Commercial Code), the place of jurisdiction is our registered business address; however, in this case we are entitled to pursue legal actions against the Customer before the court with jurisdiction for his or her registered business address.

(2) The law of the Federal Republic of Germany applies to the exclusion of the United Nations Convention on Contracts for the International Sale of Goods.

(3) If any of the provisions of these T&Cs are unenforceable or invalid, this shall not affect the enforceability of the remainder.