

**General Terms and Conditions (GTCs) of
ITrade Handels GmbH & Co. KG (hereinafter ITrade)**

A. GENERAL TERMS AND CONDITIONS OF ORDERING

§ 1: Ordering and delivery

1. To all orders, the following provisions of **ITrade** shall apply exclusively. Any differing or additional general terms and conditions of the Contractor shall apply only if they are in accordance with the subsequent provisions or if **ITrade** expressly agrees in writing.
2. Orders are to be placed in writing, by fax or by electronic mail. In case the confirmation of order deviates from the order itself, **ITrade** shall only be bound by the order, if **ITrade** agrees upon the deviation in writing. The acceptance of goods or services alone shall not be deemed an acceptance of the deviation.
3. A binding delivery date will be stated on the order as a fixed date or as the latest deadline. **ITrade** must be immediately notified of any foreseeable delays. The charges for consequential damages (e. g. contractual penalties) of defaults in delivery will be passed on to, and borne by the Contractor.

§ 2: Shipping and transfer of risk

1. The Contractor shall bear the costs for shipping and customary packing of the goods. A shipping note must be enclosed to each shipment.
2. In the case of delivery, the risk shall pass to **ITrade** on receipt of goods (surrender). Hereunto a confirmation in writing (signature) of an authorised individual of **ITrade** or of a freight warehouse commissioned by **ITrade** is required.
3. In case of deliveries to third parties (e. g. customers of **ITrade**) the shipping notes must explicitly indicate that delivery is performed in the name and for the account of **ITrade**.

§ 3: Invoice and payment

1. Invoices shall be addressed to **ITrade**, Wörth 19, D-94034 Passau, Germany. Each invoice must contain the purchase order indicators, articles, quantities and prices. The included taxes will be shown separately as an amount and as a percentage.
2. Payment is to be effected under the conditions agreed upon with the Contractor. Unless agreed upon otherwise, payment is to be effected 14 days 3% or 30 days net.
3. Payments shall not be deemed approval of delivery or service as according to contract.

§ 4: Warranty and notice of defects

1. If defects occur within the warranty period, the Contractor shall either remedy the deficiencies or procure replacement of defect-free products at his own expense. This also applies to deliveries where inspections were limited to customary spot tests. The Contractor shall bear the costs and risk of returning defective articles. Extensive statutory rights (such as compensation for unnecessarily spent handling and processing costs) shall remain unaffected.
2. In case the Contractor does not perform the remedy of defects or replacement of defect-free products within a reasonable period of time stipulated by **ITrade**, **ITrade** shall be entitled to withdraw from the Contract completely or partially or demand a reduction of price or to perform the remedy or replacement themselves or have it performed by a third party at the expense of the Contractor. The same applies if the Contractor declares to be incapable of performing the warranty claims within a reasonable period.

§ 5: Conformity of goods

1. The Contractor warrants that all deliveries and services do not infringe the rights of third parties (in particular patent, property and copy rights) and shall hold **ITrade** harmless from third-party claims.
2. The Contractor shall undertake to deliver goods with CE Certification. He guarantees that the conformity of the goods does not infringe upon any statutory provisions governed by German or European law and is not harmful to public morality.
3. **ITrade** retains the right to return articles if there are warnings in publicity or in the media that purchase or application is or might be dangerous. The returned goods shall be charged to the supplier at the latest invoice price.
4. In the event an article which **ITrade** ordered is rated „ausreichend“ (German, „fair/pass“) or worse by „Stiftung Warentest“, by „Öko-Test“ or a similar organisation, **ITrade** reserves the right to withdraw the article from distribution and return it to the supplier against reimbursement of the purchase price, unless the valuation is based on criteria which exceeds contractual or legal requirements. All costs incurred by **ITrade** for withdrawal and returning of goods shall be borne by the supplier.

B. GENERAL TERMS AND CONDITIONS OF DELIVERY

§ 1: Area of application

1. All deliveries and services will be governed exclusively by the General Terms and Conditions of **ITrade**. Upon accepting an offer of **ITrade**, the Customer shall acknowledge these conditions and even then as far as they might contravene all or part of his own business conditions. Deviations or supplements of the Customer to the Terms and Conditions in each individual legal transaction require explicit written confirmation by **ITrade**. All offers of **ITrade** are based on the terms of delivery set forth hereinbelow.
2. **ITrade** shall reserve the right to unilaterally amend the terms of delivery also for existing orders as long as the amendment does not cause any economic damage to the Customer. The Customer will be informed about the amendment. Under this Article the Customer has the right to file an objection within six weeks after receiving the information. Upon objection, **ITrade** reserves the right to withdraw from the Contract.

§ 2: Offer and conclusion of sales contract

1. Offers are subject to change. Samples and other information provided by **ITrade** relating to the condition of the goods are non-binding general representations, unless expressly guaranteed in writing.
2. Orders require the written confirmation of **ITrade** to be effective.

§ 3: Pricing, despatch and delivery

1. The prices are quoted net, ex freight warehouse of **ITrade** in Germany, without the packaging and transport insurance, plus the statutory value added tax. The Customer shall bear the transport costs. Any deviations therefrom shall be made in writing to be effective. In the event of deliveries abroad, additional customs duties may arise which are likewise to be borne by the Customer.
2. **ITrade** reserves the right to decide on the mode of shipment. The transport risk shall be borne by the consignee (Customer). This shall also apply for carriage free deliveries of **ITrade**. Only upon written demand of the Customer, the goods shall be insured for the transport. The Customer shall bear the costs in this respect.
3. **ITrade** shall be entitled to partial deliveries.

§ 5: Default in delivery

1. The indicated delivery dates shall not be binding, unless expressly agreed and confirmed otherwise between the parties in writing.
2. The period of delivery will begin, once an agreement for all order conditions has been found. Claims only exist in case a period of grace of at least two weeks was set by registered letter and if **ITrade** does not meet this deadline as well. Delay in delivery shall only be claimable after a reminder has been sent, action has been taken or a court order has been served.
3. After the Customer has unsuccessfully set **ITrade** a reasonable period of grace to deliver the goods, the Customer shall be entitled to withdraw from the Contract. The withdrawal from the Contract must be in written form. Possible advance payments will be transferred back to the Customer without deductions.
4. Operational disruptions of all forms shall exempt from complying with agreed delivery periods.

§ 6: Payment and assignment of claim

1. Shipment shall be made with cash on delivery or payment in advance without deduction of cash discount. Deviating agreements are to be made in writing.
2. Following the end of the payment term, the Customer shall undertake to pay interest on claims of **ITrade** amounting to 5% above the base interest rate without a separate reminder. The interest rate amounts to 8% above the base interest rate for contracts involving the consumer. The assertion of further damages caused by delay shall not be excluded hereby.
3. We are entitled to assign claims under our business relationship.

§ 7: Retention of title

1. **ITrade** shall retain the property to the product until payment of all claims of the Seller against the Customer, that arose from the business relationship, including the future claims, has been settled. This shall apply even if the purchase price for goods designated by the Seller has already been paid. Should the Customer be in default of payment, **ITrade** shall be entitled to withdraw from the Contract and reclaim the goods. For the assertion of retention of title, however, a prior withdrawal from Contract shall not be necessary.
2. The Customer shall undertake to handle the goods with the utmost care and to store all packaging material and accessories until payment is made in full. The Buyer shall only be entitled to resell the goods subject to retention of title, if he herewith already assigns to **ITrade** all claims and substitutes which arise from resale against customers and third parties. This shall also apply if goods subject to retention of title are processed or resold in connection with other items of the Buyer. Claims arising therefrom shall already now be assigned to **ITrade** in the amount corresponding to the value of the goods subject to retention of title including all supplementary rights and ranking before the rest. In the event that goods subject to retention of title are processed or assembled with items in the sole ownership of the Buyer or with items not subject to an extended retention of title, **ITrade** shall be entitled to the sole ownership of the newly created goods. If goods subject to retention of title are processed with items that do not belong to the Seller, **ITrade** shall be entitled to co-ownership of the newly created goods in accordance with the existing shares of the value of the goods in question.
3. **ITrade** shall not be entitled to collect the claims, unless the Buyer does not fulfill his payment and other obligations. In this case, the Customer shall undertake to inform **ITrade** about the debtors, to provide all information required for collection, to hand over the pertinent documents and to inform the debtors of the assignment.
4. On request of the Customer **ITrade** shall undertake to release the securities at the discretion of **ITrade**, as long as the before mentioned securities exceed the value of the receivables to be insured by more than 20%.
5. With the acquisition of software products, the Customer receives a data carrier including a copy of the corresponding software. Thus the Customer is granted the non-exclusive and personal right, to install and use this software on a single computer. Software programs and associated accompanying materials (e. g. manuals) are protected by copyright. The ownership of the Customer is thereby limited. Any reproduction of the software is limited to a back-up copy.

§ 8: Warranty and notice of defects

1. The warranty period for all products supplied shall be 24 months from the delivery date. Excepted from this are consumables (e. g. printer cartridges, batteries).
2. Notices of defects regarding apparent defects may be filed within 7 days after receipt of the goods and are to be notified in writing. Repair or replacement beyond the warranty period shall be processed by **ITrade** with costs only and will be invoiced to the Customer. In the event of warranty, the warranty period shall not be renewed (not even if a new item is delivered). Excluded from any warranty are furthermore damages particularly resulting from improper storage, use or handling as well as impact damages. Damages caused by data loss in consequence of defective data carriers and mass storage devices shall be excluded as well.
3. **ITrade** will assign existing warranty claims against sub-suppliers to the customers. Warranty claims against **ITrade** shall apply only if legal action against the sub-suppliers of **ITrade** has been taken. Warranty claims against **ITrade** shall apply only after unsuccessful legal claims against the sub-suppliers.
4. All return consignments must be previously reported to **ITrade** in writing. The Customer shall receive a RMA-number on reporting the defect. In the event of a defect, a brief description of the defects stating the model and serial number and the respective copy of the invoice are to be enclosed to the defective product. In this respect the RMA-number must be indicated. The return must be delivered carriage paid. In case of a justified defect, a rectification or replacement delivery to the amount of the value of the materials shall be performed. If a rectification or replacement delivery is not possible, the Customer shall be granted remedial credit for the returned outwards. A pre-exchange shall not be possible.
5. By agreeing a warranty reduction onto the purchase price, any warranty claim of the Customer will expire. This warranty reduction will in each case be shown separately on the invoice.

§ 9: Liability and compensation for damages

1. **ITrade** shall not be liable for damages or data loss on data carriers, mass storages as well as electronic data buses or network connections of the Customer or others. According to **ITrade**, customers should backup all the important data and files on CD or floppy disk in order to allow for full recovery in case of technical difficulties.
2. **ITrade** shall not be liable for damages that have not occurred on the delivered goods as such. In particular, the liability of **ITrade** shall be excluded for lost profit or other economic loss. Claims for defects, consequential and collateral damages shall only be asserted for the lack of warranted characteristics. Such warranty of characteristics in each case requires a special written agreement relating to the corresponding order.
3. Claims for damages of the Customer are excluded, unless they are due to wilful intent or gross negligence on the part of **ITrade**.
4. **ITrade** shall not be liable for any faults through its vicarious agents.

§ 10: Rights of third parties

1. The Customer shall solely be liable for damages caused by any copyright, trademark or other infringements of third parties. **ITrade** states explicitly that in case of such infringements third parties may assert substantial compensations for damages against the Customer.
2. In this respect, the Customer shall hold **ITrade** harmless of all third party claims.

§ 11: Data protection

1. **ITrade** stores personal data of the Customer within the framework of automatic data processing.
2. Personal data shall only be used, processed and stored in the context of business activities.

C. Joint provisions

§ 1: Contractual exclusion of set-off

1. Offsetting on the part of the contractual partner of **ITrade** shall be excluded. However, this shall exclude set-off against undisputed or legally binding accounts receivable.

§ 2: Place of jurisdiction and applicable law

1. The substantive law of the Federal Republic of Germany shall apply only, under the exclusion of the conflict of laws. The United Nations Convention on Contracts for the International Sale of Goods (CISG) of 11 April 1980 shall be excluded.
2. The place of performance for all deliveries, including carriage paid deliveries, as well as for all obligations of the Customer, shall be the registered office of **ITrade** or the respective freight warehouse of **ITrade**.
3. Legal domicile for any disputes arising from or in connection with this Contract shall be deemed agreed D-94032 Passau, Germany. However, **ITrade** shall be entitled to bring action to other places of jurisdiction as well.

§ 3: Invalid provisions

1. Should any provision be or become entirely or partially invalid, this shall neither affect the validity of the remaining part of the provision nor the validity of the remaining provisions.
2. In place of the ineffective clause, an effective clause must be adopted which, if such is legally possible, best corresponds to the economic purpose of the invalid clause with regard to the interests of the contractors. This shall also apply, if the Contract contains unforeseeable gaps.
3. Upon announcement of these General Terms and Conditions, all prior provisions shall cease to be valid.