

#### **§1 General Scope**

1. These General Terms and Conditions apply to all contracts concluded with businesses and consumers from the European Union and Switzerland. The Contracting Parties are hereinafter referred to as "Seller" and "Buyer", even if dealing with a service contract.
2. The General Terms and Conditions are binding, insofar as no other individual-legal arrangements were concluded in a written contract between the present Contracting Parties.

#### **§2 Conclusion of Contract**

1. A contract between the Contracting Parties is concluded when the Seller has confirmed the contents of the contract in writing or the subject matter of the contract has been delivered or performed by the Seller.
2. Offers that the Buyer submits to the Seller are binding for a period of one month. Within this period, the Seller may accept the offer through a written confirmation. With this, a contract is concluded.
3. The Seller or the supplier hold and retain the copyright to the illustrations, images and other documents that are passed on to the Buyer by the Seller or by the Seller's supplier. The disclosure of such documents to third parties requires the express written consent of the Seller.
4. The Buyer may transfer the rights and obligations arising from a contract concluded with the Seller to third parties only with the express written consent of the Seller.

#### **§3 Price**

1. The prices of the subject matter of the contract are binding and specified in the text of the contract or in the offer that forms the basis of the contract. Discounts and other rebates are granted only if expressly agreed upon and specified in the contract. Costs of delivery and other additional services are additionally charged.
2. If there is a period of more than four (4) months between the conclusion of the contract and the expected date of delivery and if, during this time, the rate of the statutory value added tax (VAT) changes or if the costs of freight and labor change, then the price applicable is the Seller's price that was in effect on the date of delivery and that can be verified and demonstrated to the Buyer upon request. If there is an increase by more than five (5) percent of the originally agreed price, the Contracting Parties may withdraw from the contract.
3. All prices are exclusive of the applicable VAT, unless otherwise expressly agreed upon.

#### **§4 Withdrawal**

1. The Seller may withdraw from the contract if
  - a) the Buyer has made false statements about its liquidity/credit worthiness;
  - b) the proper purchase of the object of purchase or parts thereof is not possible due to circumstances beyond the Seller's control; or
  - c) other obstacles to performance beyond the Seller's control bar delivery.
2. The Seller shall immediately inform the Buyer if delivery is impossible for reasons beyond the Seller's control.
3. In case of withdrawal from the contract, services provided by each Contracting Party for each Contracting Party shall be returned. If the Buyer is responsible for the withdrawal, the Buyer shall compensate the Seller for damages resulting from the withdrawal.

#### **§5 Payment & Delay/Default of Payment**

1. The purchase price, including all auxiliary services, is due when the object of purchase is delivered and the invoice is handed over or delivered.
2. The Seller may seek advance payments or payments in installments before delivery. This requires an explicit written agreement.
3. If payment in installments has been agreed upon, the entire outstanding sum becomes due – without regard to possible maturity dates of bills of exchange – if the Buyer falls into arrears with the payment of an installment by more than one week.
4. Money orders, checks and bills of exchange are accepted only by special agreement and on account of performance. Collection and discounting charges are borne by the Buyer.
5. The Buyer may offset claims against the Seller only if the counterclaim of the Buyer is legally binding, undisputed or acknowledged by the Seller. The Buyer's rights of retention may be claimed only under the same aforementioned prerequisite.
6. If the Buyer falls into arrears, the Seller may, without prejudice to further claims, withdraw from the contract after setting a period of two weeks and may claim damages due to non-performance.
7. If the Seller demands damages, these shall amount to 25 percent of the agreed purchase price. The amount of damages can be adjusted upward or downwards if the Seller can prove greater damages or the Buyer lesser damages.

#### **§6 Delivery and Default in Delivery**

1. Delivery dates and deadlines that the Seller provides are not binding. If subsequent changes to a contract are agreed upon, all dates and deadlines stated in the original contract are invalid.
2. One month after a non-binding delivery date or a non-binding delivery date that was provided expires the Buyer may, in writing, request the Seller to perform under the contract within an extended period of two weeks. After expiry of the deadline set, the Seller is in default of delivery. The Buyer may then withdraw from the contract. The Buyer may claim damages for delay of delivery only if it can be proved that the Seller acted with intent or gross negligence.
3. Acts of God, riots, strikes, lockouts or other operational interruptions that are beyond the Seller's control, particularly in regards to suppliers of the Seller, shall extend the agreed dates and deadlines by the duration of the service delays caused by these circumstances.
4. The rights to construction or design modifications, color changes as well as changes in the delivery are reserved by the Seller during the delivery period, insofar as it does not deal with a material change to the object of purchase and the Buyer can reasonably be expected to accept the changes.
5. If the Seller is unable to supply the purchased object or a replacement part in the quality desired by the Buyer, the Seller may provide products that are equivalent in quality and price. The Buyer shall accept this if the changes are reasonable.
6. Partial deliveries are permissible if it is reasonable to expect the Buyer to accept them.

#### **§7 Acceptance**

1. If the Buyer is an entrepreneur, the Buyer shall examine and accept the object of purchase at the agreed place of acceptance within one week of receipt of delivery notification. Furthermore, the Buyer shall immediately report any defects to the object of purchase. Acceptance of the object of purchase is considered approval of the object of purchase, unless defects can be identified only after the fact. If the Buyer identifies such a defect after the fact, the Buyer shall immediately report the defect.
2. If the Buyer does not accept the object of purchase within two weeks, calculated from the day of receipt of the delivery notification, the Seller may, after expiry of an additional respite of one week, to be set by the Seller in writing, withdraw from the contract and demand damages due to non-performance, if the Buyer is an entrepreneur. An additional respite period need not be set if the Buyer has announced in advance that the Buyer will refuse acceptance or if acceptance is seriously and definitively refused upon delivery.
3. If the Seller demands damages due to non-performance, the damages will be calculated at 25 percent of the purchase price. The amount of damages is to be adjusted upward or downwards if the Seller can prove greater damages or if the Buyer can prove lesser damages or no damages at all.

#### **§8 Retention of Title**

1. The object of purchase remains the property of the Seller until all claims that the Seller has against the Buyer arising from this business relationship are settled.
2. During the period of retention of title, the Buyer may possess and use the object purchased in the ordinary course of business.
3. If the Buyer does not fulfill the Buyer's payment obligations in whole or in part, the Seller may regain possession of the purchased object and offset any payment received against the purchase price. The return of the purchased object is considered withdrawal from the contract provided that the Seller can claim damages due to non-performance in accordance with these General Terms and Conditions.
4. The Buyer shall bear the costs of collection and recovery of the repossessed purchased object. The recovery costs amount to 10 percent of the proceeds. They are higher or lower if the Seller or Buyer can prove the costs to be higher or lower.
5. During the period of retention of title, the disposal, pledging, transfer of ownership by way of security, leasing or other surrender of the purchased object, and the impairing of the Seller's security of the purchased object as well as its modification are not permitted.
6. In case of appropriation by a third party, especially in case of seizure/attachment of the purchased object, the Buyer shall immediately inform the Seller in writing and inform the third party of the Seller's retention of title. The Buyer shall bear all costs incurred in connection with the seizure/attachment of the purchased object or the recovery of the purchased object.
7. The Buyer shall keep the purchased object in good condition during the period of retention of title, ensure that all scheduled maintenance and necessary repairs are promptly carried out, and, if necessary, take out adequate insurance for the maintenance of the purchased object.

#### **§9 Guarantee**

1. The Seller guarantees the faultlessness (in accordance with the current state of technology) of the purchased object. Defects that are found in the purchased object are to be immediately reported to the Seller. The Seller has the right to supplementary performance in order to remedy defects at the Seller's own discretion either by repair or replacement.
2. Upon delivery of the purchased object by a third party (railway, carrier, freight forwarder), the Buyer shall immediately report any damages due to transportation to both the transport company and the Seller.
3. The guarantee period is one year from the day of delivery of the purchased object, if the Buyer is an entrepreneur. Used items are shipped in the state in which they are found at delivery, without guarantees of any kind, provided that the Buyer is not a consumer. If the Buyer is a consumer, the guarantee period shall be two years, but for used items, only one year.
4. The Seller is not liable for damages caused by simple negligence. The limitation of liability does not apply in cases of death, injury or impaired health. Compensation for consequential damages is excluded to the extent possible. A guarantee for defects is excluded if the Buyer makes subsequent changes to the purchased object without the prior consent/approval of the Seller. Similarly, a guarantee is excluded if the defect arises from improper handling/treatment, disproportionately high use, or if repair and maintenance are neglected by the Buyer.
5. Insofar as the Buyer makes samples available to the Vendor for the manufacture of the items being purchased, he shall be responsible for ensuring that any reproduction based on the samples shall not violate any third party intellectual rights (patents, utility patents, other design copyright rights) save where the Vendor violates such intellectual rights with intent or through gross negligence. Where a third party enforces a claim relating to the violation of such intellectual rights, the Buyer is obliged to hold the Vendor harmless against any such claims. Where a claim relating to the violation of intellectual property rights is made against the Vendor, the Buyer is obliged to reimburse the Vendor for all expenses incurred in this connection.

#### **§10 Liability**

1. The Seller's liability for all claims for damages is limited to intent and gross negligence. This limitation does not apply in cases of death, injury or impaired health. In this case, the Seller is liable for the conduct of the Seller's agents.
2. The Seller's liability does not, as mentioned above, extend to the Buyer's items/objects that are located on the premises of the Seller in the course of the execution of the contract.

#### **§11 Data Protection**

The Seller notes that contractual information will be stored in a data processing system in accordance with § 33 of the German Federal Data Protection Act. It is guaranteed that unauthorized persons will not gain access to the information stored.

#### **§12 Right of Withdrawal**

Consumers have the right to withdraw from the contract within 14 days without giving a reason. The time limit is 14 days from the date on which the Buyer or a third party designated by the Buyer, who is not the carrier, takes possession of the goods.

To exercise your right of withdrawal, you must inform us by means of a clear statement (e.g. a letter sent by mail, fax or e-mail) concerning your decision to withdraw from this contract. The timely dispatch of the notice of withdrawal shall be sufficient to comply with the period of withdrawal. The notice of withdrawal must be sent to:

EUROTEL HOSPITALITY SOLUTIONS GmbH  
Carl-Zeiss-Str. 7, D-51674 Wiehl  
Fax: 02261/701 44 10 E-Mail: info@visit-eurotel.de

#### **Effect of withdrawal:**

If you withdraw from this contract, we are required to refund all payments that we have received from you, including delivery costs (except for additional costs that arise if you have selected a type of delivery other than the cheapest standard delivery offered by us) without undue delay and within fourteen days at the latest from the date on which the notice of your withdrawal from this contract is received by us. For this reimbursement we use the same method of payment that you used in the original transaction, unless otherwise expressly agreed upon; in no case will you be charged fees for such reimbursement. The right to withdraw does not apply to contracts for the supply of goods that are made to customer specifications or clearly tailored to personal needs.

#### **§13 Choice of Law and Jurisdiction**

The legal relationship between the Parties shall be governed exclusively by the law of the Federal Republic of Germany.

Jurisdiction and place of performance for all obligations arising from the contract that was concluded with an entrepreneur is Cologne.

#### **§14 Severability Clause**

Should any provision of these General Terms and Conditions be invalid or unenforceable, the validity of the remaining provisions of the contract and these General Terms and Conditions shall remain unaffected. German law shall take the place of invalid or unenforceable provision(s).