

# General Standard Terms and Conditions

## Christian Bindemann Group of Companies GmbH & Co. KG, Halstenbek

### 1 Definitions, Preamble

1.1 In the context of these General Terms and Conditions, "Consumers" are individuals establishing a business relationship that cannot be attributed to a commercial, or independent professional activity, trade or business. In the context of these General Terms and Conditions, "Commercial Users" are individuals, entities or associations having legal capacity that establish a business relationship to be attributed to a commercial, or independent professional activity, trade or business. In the context of these General Terms and Conditions, both Consumers and Commercial Users are defined as Clients.

1.2 The following General Terms and Conditions shall apply to all offers, orders, deliveries and services of Christian Bindemann Group of Companies GmbH & Co. KG on an exclusive basis. Such Terms and Conditions shall also apply to deliveries submitted by Christian Bindemann Group of Companies GmbH & Co. KG to an ordering Client without reservation, even if Christian Bindemann Group of Companies GmbH & Co. KG has taken notice of the Client's contradictory or inconsistent terms or conditions. Agreements inconsistent with these General Terms and Conditions shall not apply unless they have been agreed in writing and Christian Bindemann Group of Companies GmbH & Co. KG has expressly accepted such agreements.

### 2 Contracts

2.1 Any offers made by Christian Bindemann Group of Companies GmbH & Co. KG are subject to confirmation and without engagement unless the parties have agreed otherwise in writing. The prices stated in our quotations are always related to the quantities offered. Changing quantities will always need a new quotation as all prices offered before will become invalid otherwise.

2.2 Technical data, specifications and alterations, pictures, drawings, figures, measurements and all other performance and consumption data remain reserved and are not binding unless the parties agree otherwise in writing.

2.3 Personalised offers shall remain valid for a period of 30 days.

2.4 By submitting an order, the Client binds itself to acquire the product or service specified. Christian Bindemann Group of Companies GmbH & Co. KG is entitled to accept the order within one week of the date of receipt of same. Christian Bindemann Group of Companies GmbH & Co. KG can accept such order either in writing (by e-mail, fax or letter) or by delivering and/or performing the products or services ordered. If the Client submits an order electronically, Christian Bindemann Group of Companies GmbH & Co. KG shall confirm receipt of such order without delay. Confirmations of receipt are not construed as a binding acceptance of an order. However, Christian Bindemann Group of Companies GmbH & Co. KG is entitled to include a letter of acceptance or an invoice with such confirmation.

2.5 Christian Bindemann Group of Companies GmbH & Co. KG shall not be prejudiced by any obvious errors or mistakes, orthographic errors, mistyped words and miscalculations included in a confirmation of order.

2.6 If an order is cancelled prior to completion of a work, Christian Bindemann Group of Companies GmbH & Co. KG shall charge all costs and expenses already incurred.

2.7 Christian Bindemann Group of Companies GmbH & Co. KG can reject the order for good cause such as orders contrary to fair competition or public policy. Furthermore, Christian Bindemann Group of Companies GmbH & Co. KG is entitled to reject an order if the Client has failed to perform its payment obligations agreed in such order or in any other order in due course and has not cured such delay within the reasonable period specified in a written notice of such non-payment. Above reasons shall also entitle Christian Bindemann Group of Companies GmbH & Co. KG to cancel or terminate agreement without notice, provided that Christian Bindemann Group of Companies GmbH & Co. KG has gained knowledge thereof after having accepted the order. Such cancellation or termination shall be submitted to the ordering Client without undue delay.

### 3 Performance of Services

3.1 The scope and content of the services and products agreed are exclusively established by the offers/statements of work submitted by Christian Bindemann Group of Companies GmbH & Co. KG and these General Terms and Conditions.

3.2 Christian Bindemann Group of Companies GmbH & Co. KG is entitled to deliver and/or perform goods and services deviating from the offer proposals, provided that such goods and services fulfill or include the contract requirements defined.

3.3 Shipping dates are not binding unless they have been expressly confirmed in writing by Christian Bindemann Group of Companies GmbH & Co. KG. If the delivery or performance of products and/or services is delayed due to Acts of God, labour disputes, shortage of raw materials, contingencies affecting the operation of Christian Bindemann Group of Companies GmbH & Co. KG or other events or circumstances beyond Christian Bindemann Group of Companies GmbH & Co. KG's control, the according delivery dates or periods agreed shall extend by a reasonable period of time.

3.4 If for any of the above reasons Christian Bindemann Group of Companies GmbH & Co. KG is not able to carry out a shipment on a commercially reasonable basis, Christian Bindemann Group of Companies GmbH & Co. KG shall be entitled to fully or partially cancel or terminate the corresponding contract.

3.5 If for any of the reasons specified above the delivery is delayed by more than three months, the Client, after having granted a reasonable extension, is entitled to cancel the part of the contract not fulfilled within such extension period.

3.6 Christian Bindemann Group of Companies GmbH & Co. KG is entitled to carry out partial deliveries on a reasonable scale. If such delay exceeds three months, the Client has the rights set out above.

3.7 The Client is not entitled to damages for delay unless it can establish such damage and the amount thereof. Claims in excess of the established damages are excluded unless such delay is attributable to gross negligence or willful misconduct of Christian Bindemann Group of Companies GmbH & Co. KG.

3.8 The services performed in the context of the consulting activities are based on the skills, knowledge and experience of Christian Bindemann Group of Companies GmbH & Co. KG's staff not deemed to be complete. However, Christian Bindemann Group of Companies GmbH & Co. KG on a continuous basis engages to familiarise its staff with the state of technology. On the other hand, the Client agrees to provide all information to Christian Bindemann Group of Companies GmbH & Co. KG necessary to properly perform the contract as agreed. If the Client fails to fulfil this obligation in full, the date of delivery shall be reasonably extended, or, depending on the actual obligation of the Client, Christian Bindemann Group of Companies GmbH & Co. KG is free to step back from its contractual obligations.

### 4 Payment, Payment schedules

4.1 Payment terms stated in our quotations and invoices are accepted by the customers with their order confirmation in writing and therefore compulsory.

4.2 The prices set out in the confirmation of order or invoice include the net invoice amount plus the value added tax valid on the date of invoice, shown separately where applicable.

4.3 For products purchased with shipping, the purchase amount is exclusive of packaging and shipment expenses to be specified by Christian Bindemann Group of Companies GmbH & Co. KG prior to delivery.

4.4 If the parties fail to agree fixed prices or to refer to the applicable list prices when concluding the contract, the list price valid on the date of delivery shall apply. Thereafter, if prior to the date of delivery prices increase due to production reasons, Christian Bindemann Group of Companies GmbH & Co. KG shall be entitled to adapt prices accordingly.

4.5 Payments shall not be deemed paid until Christian Bindemann Group of Companies GmbH & Co. KG has actually received the amount due, i.e. when such amount is freely withdrawable. In case of payment by check, payments are not deemed paid until the check has been credited to one of Christian Bindemann Group of Companies GmbH & Co. KG's bank accounts.

4.6 In case of a delay of payment, the Commercial User shall pay interests amounting to a rate of 2% for every month commencing on the amounts overdue. Each Reminder will be additionally charged with 10,00 EUR plus postage. Christian Bindemann Group of Companies GmbH & Co. KG reserves the right to establish and demand damages due to delay exceeding such amount from the Commercial User.

4.7 The Client is not entitled to set-offs unless its counterclaims have become final or have been recognised by Christian Bindemann Group of Companies GmbH & Co. KG.

4.8 The Client is only entitled to retain a lien when its counter-claim is based on the same contract.

### 5 Risk and Title

5.1 Risk in the product shall pass to the Customer as soon as the product has either been submitted to the freight carrier or has left the warehouse of Christian Bindemann Group of Companies GmbH & Co. KG for shipment. This shall also apply in case of partial deliveries or if Christian Bindemann Group of Companies GmbH & Co. KG has taken on additional services such as the transportation costs or the installation of products on the Client's site. If requested by the Client, Christian Bindemann Group of Companies GmbH & Co. KG shall obtain and maintain a transport insurance policy against the risks to be specified by the Client.

5.2 If the Client is in default of acceptance or if he fails to comply with other contractual obligations, Christian Bindemann Group of Companies GmbH & Co. KG shall be entitled to demand damages including additional costs and expenses as incurred. While the Client is in default of acceptance, Christian Bindemann Group of Companies GmbH & Co. KG's liability is limited to gross negligence and willful misconduct; therefore, the Client bears the risk of loss or degradation of the products. After having granted a reasonable period of grace, Christian Bindemann Group of Companies GmbH & Co. KG is entitled to dispose freely of the products and to impose damages resulting from the default of acceptance on the Client, if the Client has failed to accept such products within such period.

5.3 Without regard to claims due to defects (if any), the Client is obliged to accept the products even if they show defects not deemed substantial.

### 6 Liability and Warranty

6.1 The Client forfeits any claims due to defects, unless it checks the quality of the products delivered on receipt and without delay and provides written notification of all defects (if any) to Christian Bindemann Group of Companies GmbH & Co. KG without delay, but not later than five days after receipt of such products. The Client shall notify hidden defects to Christian Bindemann Group of Companies GmbH & Co. KG in writing immediately upon discovery of such hidden defects. All defects shall be described and submitted to Christian Bindemann Group of Companies GmbH & Co. KG in writing.

6.2 In case of defects out of the context of work contracts, Christian Bindemann Group of Companies GmbH & Co. KG shall first be entitled to rectify such defects. Thereupon, Christian Bindemann Group of Companies GmbH & Co. KG shall at its own discretion either repair such defects or deliver non-defective goods. In case of purchase contracts, Christian Bindemann Group of Companies GmbH & Co. KG is only entitled to decide on the means of rectification as set out, if the Client is a Commercial User. When curing the defects, Christian Bindemann Group of Companies GmbH & Co. KG shall bear the costs for spare parts including shipment and the usual, average de- and re-installation costs incurring. If the Client does not observe Christian Bindemann Group of Companies GmbH & Co. KG's right to rectify defects but cures the defects on its own, Christian Bindemann Group of Companies GmbH & Co. KG shall not bear the costs incurred therefore.

6.3 If the rectification fails, if the replacement products delivered are also defective or if the rectification is unacceptable to the Client for reasons attributable to Christian Bindemann Group of Companies GmbH & Co. KG, the Client is entitled to either return such products and demand reimbursement of the full purchase price or to keep the products and reduce such purchase price. The Client forfeits its right to cancel the contract, if it is not able to return the goods or services received, unless such inability is not possible due to the nature of such product or service or it is attributable to Christian Bindemann Group of Companies GmbH & Co. KG or such defect has not been discovered prior to processing or transforming such product.

6.4 In case of defects in Third Party products, the Client can demand an assignment of Christian Bindemann Group of Companies GmbH & Co. KG's claims against the vendor of such products. The client cannot assert claims due to defects against Christian Bindemann Group of Companies GmbH & Co. KG unless it unsuccessfully attempted to settle the claims against the vendor of the Third Party products assigned to the client out-of-court.

6.5 In no event Christian Bindemann Group of Companies GmbH & Co. KG shall be responsible for any damages sustained because of delay, impossibility to perform, breach of advisory or collateral duties or tort, unless Christian Bindemann Group of Companies GmbH & Co. KG has been grossly negligent or engaged in willful misconduct. Liability pursuant to the German Product Liability Act (Produkthaftungsgesetz) shall remain unaffected.

6.6 Christian Bindemann Group of Companies GmbH & Co. KG shall not be liable for damages that have occurred outside the main purpose of each contract or contractual goods and services. Christian Bindemann Group of Companies GmbH & Co. KG is not liable for consequential damages including lost profits or other property damages.

6.7 Above exclusion of liability shall also apply for employees, members of staff, agents, auxiliary persons, contractors and assistants of Christian Bindemann Group of Companies GmbH & Co. KG. In case of ordinary negligence, Christian Bindemann Group of Companies GmbH & Co. KG's liability shall be limited to the foreseeable, typical, direct average damage. This shall also apply in cases of ordinary negligence by agents, auxiliary persons or assistants of Christian Bindemann Group of Companies GmbH & Co. KG. Christian Bindemann Group of Companies GmbH & Co. KG shall not be liable to Commercial Users in cases of ordinary negligence and breach of substantial obligations.

6.8 The prescription periods for claims due to defects and damages is one year for Commercial Users, except in cases of fraud attributable to Christian Bindemann Group of Companies GmbH & Co. KG. This exclusion of liability shall also apply to claims due to tort based on defects in products. The period of prescription begins on the date of delivery of the products. Defects, claims or damages shall not be deemed as accepted by Christian Bindemann Group of Companies GmbH & Co. KG, unless Christian Bindemann Group of Companies GmbH & Co. KG has documented or confirmed such defects or damages in writing.

### 7 Reservation of Ownership

7.1 In contracts concluded with Consumers, Christian Bindemann Group of Companies GmbH & Co. KG reserves the title of ownership of the products, until the purchase price has been fully paid. In contracts concluded with Commercial Users, Christian Bindemann Group of Companies GmbH & Co. KG reserves the title of ownership of the products, until all liabilities within the framework of a current business relationship have been settled. The Client is obliged to handle the products with reasonable care. The Client shall carry out all necessary maintenance and repair works on the products at its sole expense. Especially it is obliged to fully insure the products' replacement value against fire, water and theft at its sole expense.

7.2 The Client shall not sell products subject to the reservation of title or ownership of Christian Bindemann Group of Companies GmbH & Co. KG unless it observes the proper legal and contractual rules and stipulations therefor. The Client is not entitled to pledge, hypothecate, or otherwise dispose of products subject to the reservation of title or ownership of Christian Bindemann Group of Companies GmbH & Co. KG in a way that may substantially jeopardize Christian Bindemann Group of Companies GmbH & Co. KG's title or ownership. In case of any encumbrance, seizure or other damage to or destruction of products, the Client shall notify Christian Bindemann Group of Companies GmbH & Co. KG accordingly without delay. The Client shall take all measures suitable to safeguard the title and ownership of products. The Commercial User hereby assigns all receivables amounting to the amounts invoiced arising from the re-sale of products and services to Third Parties. Christian Bindemann Group of Companies GmbH & Co. KG hereby accepts such assignment. Following the assignment, the Commercial User is entitled to collect the amounts receivable. Christian Bindemann Group of Companies GmbH & Co. KG reserves the right to collect the receivables on its part, as soon as the Commercial User does not properly fulfil its payment obligations and is in delay, when it has stopped payments or when a procedure for composition and bankruptcy concerning the Commercial User's property has been applied for.

7.3 In case of a delay in payment, the Client agrees to return the products subject to reservation of title or ownership without any delay. After submitting a second reminder granting a grace of period, Christian Bindemann Group of Companies GmbH & Co. KG is entitled to re-sell the products and collect overdue payments. Claims for damages (if any) remain unaffected.

7.4 On demand of the Commercial User, Christian Bindemann Group of Companies GmbH & Co. KG shall release a certain amount of its sureties if and in so far as their realizable value (under consideration of the usual bank valuation reduction) inadequately exceeds Christian Bindemann Group of Companies GmbH & Co. KG's claims arising from the business relationship with such Commercial User.

7.5 In case of deliveries into other jurisdictions not discriminating between law in person am and law in rem, thus ruling out such reservation of title or ownership, the Commercial User hereby grants a similar security interest. Prior to delivery, the Client shall confirm such security interest to Christian Bindemann Group of Companies GmbH & Co. KG in writing.

### 8 Annulment

8.1 In case the Client unjustifiably cancels the contract or refuses the fulfillment of it, Christian Bindemann Group of Companies GmbH & Co. KG, in the individual case, shall be entitled to demand 100% compensation of the invoice amount, only reduced by the expenses saved until then.

### 9 Privacy Statement

9.1 The inventory data submitted by the Client shall exclusively be used to perform the contracts. All Client information are stored and processed by Christian Bindemann Group of Companies GmbH & Co. KG in accordance with the German Bundesdatenschutzgesetz (BDSG) (Federal Privacy Protection Law) and Teledienstschutzgesetz (TDSG) (Remote Service Privacy Protection Law). The Client shall at all times be entitled to free information thereupon, correction, blockage and deletion of stored data.

9.2 Personal data including the relevant street and e-mail addresses shall not be passed to Third Parties, unless the Client has given his express consent revocable at any time. Service partners of Christian Bindemann Group of Companies GmbH & Co. KG are exempted from this rule in as far as they require submitted data to process orders (e.g. the shipment company commissioned to deliver products and the bank chosen to process payments). However, in these cases, the scope of submitted data is limited to the required minimum. Technical and organisational security measures are used to protect administered data from accidental or willful manipulation, loss, destruction or access by unauthorised individuals.

### 10 Miscellaneous Provisions

10.1 These Terms and Conditions shall be governed by and construed in accordance with the law of the Federal Republic of Germany. In construing, interpreting and enforcing these Terms and Conditions, the UN Convention on International Sale of Goods shall not apply.

10.2 If the Client is a merchant, a public law entity or a public law special fund, the place of business of Christian Bindemann Group of Companies GmbH & Co. KG is the exclusive place of jurisdiction. This also applies, if the Client has no general place of jurisdiction in Germany or if upon raising of action its place of residence or habitual residence is not known.

10.3 The exclusive place of performance for the parties' contractual relationship is the place of business of Christian Bindemann Group of Companies GmbH & Co. KG.

10.4 In the event that any terms, conditions or provisions contained in these General Terms and Conditions are or have been found to be invalid, unlawful or unenforceable or that this Agreement is subject to omissions, this shall not affect the remaining terms, conditions or provisions. Such invalid, unlawful or unenforceable provisions, terms or conditions are replaced by an adequate provision which best meets the original intention of the contracting parties. If such provision is invalid or unenforceable due to a measure of performance or time (period or date), it shall be replaced by a legally valid measure of performance or time as close as possible to the intended period or date.