

General Terms and Conditions of C.E. Pattberg GmbH & Co. KG

§ 1 Scope, customer information

(1) All services, deliveries and offers by C.E. Pattberg GmbH & Co. KG (hereinafter referred to as "Seller") to companies in terms of Section 14, German Civil Code, are exclusively subject to these General Terms and Conditions ("GTC"). These GTC form part of all contracts concluded by C.E. Pattberg GmbH & Co. KG with its partners in regard to the goods and services offered by it. They shall also apply to all future offers to Customer even if not separately agreed upon.

(2) A contracting partner's or third party's terms and conditions shall not apply even if C.E. Pattberg GmbH & Co. KG does not specifically object to them. Even if C.E. Pattberg GmbH & Co. KG refers to a document that includes a contracting party's terms and conditions, this does not imply a consent to these terms and conditions.

(3) Contract language is German.

§ 2 Conclusion of contract

(1) Internet offers are non-binding and constitute a non-binding invitation to you to buy goods. Prices sent remain non-binding.

(2) In our web shop, you may put one or several items into the cart. You will add your data in the course of the order process. By clicking the order button you make a binding offer for conclusion of a contract of sale.

(3) A binding order can be made written (digitally and automatically created). We do not guarantee the correctness of handwritten orders (in any form) and telephone orders.

(4) We are entitled to accept your offer made in our web shop and/or by e-mail or by fax within a period of 14 days by sending an acknowledgement of order by e-mail or by sending the goods. After expiration of the time-limit specified in sentence 1 your offer is deemed not to have been accepted, i.e. you are no longer bound by your offer.

(5) When placing an order on the phone a contract will take effect if we accept your offer without delay. If an offer is not accepted without delay, you will no longer be bound by it.

§ 3 Customer information: storage of contract text

Your order including contracts closed (e.g. type of product, price, etc.) is stored by us. You may read our GTC on our website at any time. If you want to save the product description on our shop site for private purposes, you can make a screenshot when ordering or print the whole page.

§ 4 Customer information: correction note

You may correct your data at any time prior to placing an order by using the DEL button. During the order process we will inform you about additional ways of correcting data. You may cancel the order process by closing the browser window.

§ 5 Prices and payment

(1) Prices apply to the extent of the services and deliveries specified in the acknowledgment of order provided by C.E. Pattberg GmbH & Co. KG. Additional or special services are charged separately. All prices are ex works, in EURO and excluding the statutory value-added tax.

(2) If the prices agreed upon are based on the list prices of C.E. Pattberg GmbH & Co. KG and if it is intended to effect delivery more than four months after conclusion of the contract, the provider's list prices valid upon delivery (less fixed or percentage discounts agreed) will apply.

(3) Payment shall be effected by advance payment.

(4) Purchasing on account is subject to positive credit information. Amounts invoiced shall be paid without deductions within a period of thirty days after the date of the invoice. Unless otherwise provided for in isolated cases payment by cheque is excluded. If Customer fails to make any payment at maturity, interest at the rate of 5% will be imposed on all outstanding amounts; the right to claim higher interest and additional damage in case of default remains unaffected.

(5) Offsetting of counterclaims or retaining payments on grounds of such claims shall only be permissible, if such counterclaims are undisputed or legally established.

(6) Seller shall be entitled to effect delivery or provide services only against advance payment or by way of a security provided, if after conclusion of the contract circumstances become known to Seller significantly reducing Customer's creditworthiness and as a result of which payment of Seller's outstanding amounts arising from the contractual relationship (including other orders based on the same framework contract) would be at risk.

§ 6 Delivery and delivery period

(1) Deliveries are effected ex works and/or the table of shipping costs as agreed.

(2) Periods of time for deliveries and services advised by C.E. Pattberg GmbH & Co. KG shall be approximate, unless a fixed period of time or a fixed date is promised or agreed in the acknowledgment of order. The calendar week in which shipment is effected shall be confirmed in the acknowledgment of order. Delivery is deemed to have been effected on schedule, if goods are shipped until expiration thereof or, in case of delivery ex works, if Customer is notified of the readiness for dispatch in writing. If an order is modified by Customer, delivery period shall restart upon confirmation of such modification.

(3) Notwithstanding its rights arising from Customer's default C.E. Pattberg GmbH & Co. KG may demand that Customer extend delivery periods and service periods by a period in which Customer fails to meet its obligations vis a vis Seller.

(4) C.E. Pattberg GmbH & Co. KG shall not be liable for impossibility of delivery or delays in delivery attributable to Acts of God or other events unforeseeable upon conclusion of the contract such as interruption of operations of any kind, difficulties in procuring materials or energy, delays in transport, strikes, legal lockouts, lack of workforce, energy or raw materials, difficulties in obtaining necessary official licenses, official measures or missing supplies by subcontractors) Seller is not responsible for. To the extent such

delivery or provide services and if such impairment is not of a temporary nature, Seller shall be entitled to rescind the contract. In case of temporary impediments periods of delivery and service shall be extended or postponed by the period of such hindrance plus a reasonable starting period. If Customer cannot reasonably be expected to accept delivery or services due to a delay, Customer may rescind the contract vis a vis Seller by immediately making a corresponding statement in writing.

(5) C.E. Pattberg GmbH & Co. KG shall be entitled to effect part deliveries, if

- a part delivery can be used by Customer for the purposes specified in the contract,
- delivery of the remaining goods is guaranteed, and
- if Customer does not incur significant additional expenses or costs (unless we are prepared to bear such costs).

(6) If C.E. Pattberg GmbH & Co. KG is in default of a delivery or a service or if it is impossible for C.E. Pattberg GmbH & Co. KG to effect delivery or provide services for whatever reason, Seller's liability shall be limited to the damages as specified in § 11 of these General Terms and Conditions.

§ 7 Place of fulfilment, dispatch, packaging, passing of risk, acceptance

(1) Place of fulfilment for all obligations arising from this contractual relationship shall be Hattingen, Germany, unless otherwise provided for.

(2) Type of dispatch and packaging shall be at the due discretion of Seller.

(3) The risk shall pass upon handing over the delivery item at the latest (beginning of loading process is decisive) to the forwarder, carrier or certain third parties designated to effect transport. This provision shall apply even in case of part deliveries or if Seller has provided other services (e.g. dispatch or installation). If dispatch or delivery is delayed due to circumstances Customer is responsible for, the risk shall pass to Customer at the date when the delivery item is ready for shipment and if Seller has notified Customer thereof.

events significantly affect Seller's ability to effect de-

(4) Storage costs after passing of the risk shall be borne by Customer. If goods are stored by Seller, storage costs amount to 0.5% of the amount invoiced for the goods to be stored per elapsed week. The right to claim and prove additional or lower storage costs remains reserved.

(5) Seller shall insure a consignment against theft, breakage, shipping damage, damage by fire and damage by water or other insurable risks only if expressly requested by Customer.

(6) If an acceptance is required, purchased goods are deemed to have been accepted, if

- delivery,
- Seller notified Customer thereof by referring to the assumed acceptance according to § 7 (6) and asked Customer for acceptance,
- twelve working days have elapsed since delivery or if Customer started to use the purchased goods and if six weeks have passed in such case,
- Customer failed to accept the goods within this period for a reason other than a defect notified to Seller making it impossible to use the purchased goods or significantly impairing the use thereof.

§ 8 Reservation of title

Goods C.E. Pattberg GmbH & Co. KG delivers to Customer shall remain the property of C.E. Pattberg GmbH & Co. KG until paid in full.

§ 9 Condition of goods, technical and design variances, colour names and dimensions

(1) Products are not colourfast, water-resistant and resistant to rubbing. If in contact with water or other fluids there may be discolorations and staining. If in permanent contact with the skin or clothing there could be abrasions on the products.

(2) In performing the contract we expressly reserve the right to deviations from the specifications and details in our web shops, prospectuses, catalogues and other written or electronic documents as to fabric condition, colour, weight, dimension, design or similar features to the extent Customer can reasonably be expected to accept same. Reasonable grounds

for changes may be customary variations and technical production processes.

(3) As the colour names used by C.E. Pattberg GmbH & Co. KG and/or manufacturers are not subject to any standardization there may be variations in colour and sizes between different manufacturers and their products. As regards the colours shown C.E. Pattberg GmbH & Co. KG points out that a colour may be different. The colours shown in the web shop can, therefore, not be fully identical with a product's colour. This is no defect.

(4) As regards the dimensions shown / agreed (thickness, width, length) there are tolerances of up to +/- 10%. Such deviations do not constitute a material defect.

(5) We reserve the right to overdeliveries / underdeliveries of +/- 10% of the quantities ordered. Excessive quantities shall be taken by Customer. Part deliveries shall be permissible and regarded as separate deliveries with a view to payment and warranty.

§ 10 Statutory warranty rights, statute of limitations

(1) Your warranty claims for defects of the purchased goods shall be statute-barred in one year after passing of the risk except for the following claims:

- for damages
- for maliciously concealed defects
- arising from a guarantee (if any)
- for recourse pursuant to Section 445a, Section 478, German Civil Code
- for defects in materials and components used for a work and causing such defectiveness.

These excluded claims shall be subject to the statutory limitation period. In case of a guarantee period the longer period shall apply in favour of Customer.

(2) There will be no warranty, if Customer modifies the purchased goods or causes third parties to modify them without Seller's approval thus rendering a remedy of the defects impossible or unreasonable. Extra costs caused by a modification shall be borne by Customer.

§ 11 Limitation of liability

Liability for damages for fault

(1) Liability of C. E. Pattberg GmbH & Co. KG for damages for whatever cause in law (impossibility, delay, defective or wrong delivery, breach of contract, breach of obligations in contractual negotiations and tortuous acts) shall be limited as provided for herein in as much as it is in matters of fault.

(2) C.E. Pattberg GmbH & Co. KG, i.e. its bodies, statutory representatives, employees or other vicarious agents shall not be liable for simple negligence if there is no breach of essential contractual obligations. Essential obligation means the obligation of timely delivery of delivery items, freedom from legal defects and such material defects affecting the functioning or serviceability more than only insignificantly as well as duties to consult, to protect and to exercise proper care intended to ensure Customer's proper use of the delivery item or to protect the life and limb of Customer's staff or to protect its property against substantial damage.

(3) To the extent C.E. Pattberg GmbH & Co. KG is liable for damages on the merits according to § 11, par. 2, liability shall be limited to a damage anticipated by C.E. Pattberg GmbH & Co. KG upon conclusion of the contract as being a possible consequence of a breach of contract or a damage that should have been anticipated when using due diligence. Indirect damage or consequential damage resulting from defects of the delivery item shall only be compensated to the extent such damage can typically be expected when properly using the delivery item.

(4) In case of a liability for simple negligence the obligation of C.E. Pattberg GmbH & Co. KG to pay compensation for a material damage and a resultant damage to property shall be limited to the sum of EUR 25,000 for each damage case even if it is a breach of essential contractual obligations.

(5) Above exclusions and limitations of liability shall apply mutatis mutandis in favour of the bodies, statutory representatives, employees and other vicarious

agents of C.E. Pattberg GmbH & Co. KG.

(6) If C.E. Pattberg GmbH & Co. KG provides technical information or consulting services and if such information or consulting is not part of the scope of services owed or contractually agreed upon, such provision shall be gratuitous and without assuming any liability whatsoever.

(7) The limitations specified in § 11 shall not apply to the liability of C.E. Pattberg GmbH & Co. KG for intentional conduct, guaranteed characteristics, injury to body and health or under the Product Liability Act.

§ 12 Final provisions

(1) If Customer is a merchant, an entity under public law or a special fund under public law or if there is no Customer venue in the Federal Republic of Germany, venue for all disputes arising from the contractual relationship between C.E. Pattberg GmbH & Co. KG and Customer shall be the registered office of C.E. Pattberg GmbH & Co. KG or Customer's registered office with such decision being at the sole discretion of C.E. Pattberg GmbH & Co. KG. In case of actions filed against C.E. Pattberg GmbH & Co. KG exclusive venue shall be the registered office of C.E. Pattberg GmbH & Co. KG. Compelling statutory provisions on exclusive venues shall remain unaffected by this provision.

(2) Business relations between C.E. Pattberg GmbH & Co. KG and Customer shall exclusively be governed by the laws of the Federal Republic of Germany. The UN Convention on Contracts for the International Sale of Goods (CISG) dated 11 April 1980 shall be inapplicable.

(3) If the contract or these General Terms and Conditions include gaps, such gaps shall be filled by effective regulations the parties would have agreed considering the economic objectives and purposes of these General Terms and Conditions if they had known the gap.