

## **General terms and conditions (AGB)**

### **1. General**

1.1 These general terms and conditions shall be decisive for all quotations and order acceptances as well as for all deliveries and other services provided by the suki.international GmbH (hereinafter referred to as "Vendor"). They shall also apply for future business relationships between the Vendor and the Buyer in their respectively latest version. These conditions shall apply only if the Buyer is an entrepreneur in accordance with § 14 of the German Civil Code, a legal entity under public law or a separate estate under public law.

1.2 These conditions shall apply exclusively. Conditions other than those on hand, in particular conflicting or deviating general terms and conditions of the Buyer are contradicted and will not be applied even if they are not rejected expressly in written form.

1.3 Verbal agreements and confirmations as well as changes and amendments must be in writing to be effective. Any deviation from this requirement is possible only if the Vendor's managing director has expressly approved this. The requirement of written form is fulfilled upon having a confirmation letter as well as a written acceptance by the Vendor on hand.

### **2. Prices**

2.1 The Vendor's final prices shall be net, in the case of bulk packaging and raw products excluding the sales packaging, in the case of commercial goods including the sales packaging developed by the Vendor, plus statutory value added tax applicable at the time.

2.2 In case of sales shipment, the Buyer shall bear the transport costs ex warehouse and the costs of a transport insurance possibly requested by the Buyer. We offer delivery of the commodities free of freight charges for special delivery locations from the following order values:

Delivery location	Net order value of the respective individual order
Federal Republic of Germany	more than 250 €
Within the EU (except for islands)	from 500 € up
In all other cases within Europe	from 1,500 € up

2.3 Any customs, fees taxes and other public charges shall be borne by the Buyer. If following the conclusion of the contract freight costs, insurance costs or public levies and charges (e.g. customs, import- and export fees) are newly introduced or increased, the Vendor -even in case of a freight-paid or customs-cleared delivery – shall be entitled to add such additional expenditures to the agreed price.

### **3. Conditions of payment**

3.1 Unless otherwise agreed in writing, payments shall become payable immediately upon receipt of the invoice or the delivery of commodities.

3.2 Even without a payment reminder by the Vendor, the Buyer is deemed to be in default 14 days after the payment has become due for payment. Due date and default interest at the statutory rate shall become payable.

3.3 The Vendor reserves the right to claim damages for the assertion of further default damages.

3.4 Payments may be made in discharge of the sum owed to the Vendor only or to persons provided with a written collection authority of the Vendor. The date of receipt of the amount with the Vendor resp. with the person with a written collection authority or the date of crediting the Vendor's account resp. the account of the person with collection authority shall be deemed the day of payment

3.5 If the Buyer does not pay a due payment and if the Vendor has not set a period of grace required according to the provisions of § 323 German Civil Code to the Buyer, the Vendor shall be entitled to immediately demand payment of his claims – regardless of any other payment terms – and to demand prompt payment of all outstanding claims and to withdraw from existing contracts, even from those which are not affected by the default.

3.6 Discountable bills and cheques will be accepted by the Vendor on account of performance upon express agreement only. Credit notes against bills of exchange and cheques are credited subject to receipt with stating the value date decisive for the Vendor's bank, on which the Vendor may finally dispose of the object. In the event that bills of exchange are accepted, collection and discount costs shall be at the Buyer's expense. They need to be remunerated promptly along with the invoice amount. The Vendor shall not give any warranty for the timely submittal and protest of a bill of exchange.

3.7 All payments will principally be credited towards the earliest liability, independent of contrary provisions of the Buyer.

3.8 Partial services and partial deliveries may be settled separately.

#### **4. Offers, Delivery terms and Supply reservation**

4.1 The Vendor's quotations are binding, but subject to confirmation with regard to prices, delivery possibility and delivery periods. These are only binding with the Vendor's written confirmation of order. .

4.2 The delivery of the commodities shall be subject to the correct and timely self-delivery. The Vendor will inform the Buyer promptly about the non-availability of the service object and promptly remunerate the Buyer a possibly provided return service. A case of non-availability of the service object shall in particular be the untimely self-delivery by the supplier of the Vendor, if the Vendor has concluded a congruent covering transaction, the fault can neither be attributed to the Vendor nor his suppliers or if the Vendor is not obliged to provide the commodities in the individual case.

#### **5. Duty to examine**

Any of the Buyer's claims for defects shall require that he has complied with his statutory inspection- and complaint obligations (§ 377 of the German Commercial Code). The Buyer undertakes to inspect the delivered goods and to complain about possible deficiencies within 8 days after the receipt of the goods at the latest. What is decisive for the timely

notification is the point of time when the Vendor receives the complaint. A written complaint after the above mentioned 8 days which is obtained in written form shall be deemed to be delayed. Hidden defects which could not be detected despite of an inspection are to be complained about promptly after having been detected. Upon expiry of these complaint deadlines, the delivered goods shall be deemed as approved in view of a defect and the Buyer may no longer derive any rights from the asserted deficiencies.

## **6. Rectification**

6.1 No warranty is given for damage resulting from any of the following reasons: improper or inappropriate use, faulty installation on the part of the ordering party or third parties, natural wear and tear, improper or negligent handling, inappropriate operating resources, deficient construction works, unsuitable foundation, substitute materials, chemical, electrochemical or electrical influences, improper change and repair works provided without prior approval by the Vendor on the ordering part or by third parties.

6.2 If there is a defect in the merchandise and the Buyer has fulfilled his obligation from clause 5 of these conditions, the Buyer shall be entitled to choose between eliminating the deficiency or delivering a defect-free merchandise (rectification).

If the kind of rectification chosen by the Buyer is disproportionate the Vendor shall be entitled – regardless of his rights following from § 275 Sect. 2 and 3 of the German Civil Code – to refuse this kind of rectification. In this case, the Buyer's claim is limited to the other kind of rectification; the Vendor's right to refuse this kind, too, subject to the preceding sentence, shall remain unaffected. If the Buyer does not inform about which of the two kinds of rights he will choose, the Vendor may set a reasonable deadline for this. If the Buyer does not exert his choice within this deadline, the right of choice will pass to the Vendor upon the expiry of the deadline.

6.3 Furthermore, the rectification may be refused as long as the Buyer has not complied with his payment duty vis-à-vis the Vendor to an extent equal to the fault-free part of the rendered services. This shall not apply if the defective service is without any value for the Buyer.

6.4 The Buyer shall give the Vendor the time and opportunity required for the owed rectification, in particular he shall have to turn over the rejected goods for inspection purposes.

6.5 If the rectification fails the Buyer may choose between either reducing the purchase price accordingly or withdrawing from the contract according to the statutory regulations subject to determining an extension of time. However, no right to cancellation exists with an insignificant defect. A failure is given only after the 2<sup>nd</sup> unsuccessful attempt of rectification unless nothing else is provided in particular as a result of the kind of matter or deficiency or other circumstances.

6.6 The statutory cases for the dispensability of setting deadlines shall remain unaffected.

6.7 The expenditures needed for rectification, in particular the costs of transport, travel, labor and material shall be borne by the Vendor should a fault actually exist. However, if a claim by the Buyer to eliminate a deficiency turns out to be unjustified, the Vendor may claim the Buyer to pay the costs.

## **7. Limitation of claims for defects of material and title**

7.1 The claims for defects of material and title shall lapse 12 months following the delivery of the purchased object, except for the cases specified under clause 9.7.

7.2 The claims to reduce the price and the right of resignation shall be excluded so far as the claim for rectification has lapsed.

7.3 However, in the case of clause 7.2, the Buyer may reject payment of the purchase price in so far as he is entitled to do so due to the withdrawal or reduction.

7.4 § 479 of the German Civil Code shall remain unaffected.

## **8. Liability within the frame of recourse according to § 478 of the German Civil Code**

8.1 In so far as the Buyer resells a merchandise bought from the Vendor to a consumer, or any claims are made against him pursuant to §§ 478, 479 of the German Civil Code, he shall be entitled to the rights from § 478 of the German Civil Code only if he informs the Vendor about the deficiency within 8 days after having obtained knowledge thereof.

8.2 The Buyer is not entitled to the rights from § 478 of the German Civil Code if the deficiency occurred with the consumer had been recognizable for the Buyer within the frame of his obligation to examine the product.

8.3 The claim will be excluded also if the deficiency is insignificant pursuant to § 323 Sect. 5 of the German Civil Code.

8.4 The reimbursement of expenses is limited to those costs which would have been caused to the Buyer when sufficiently providing for an elimination of the deficiencies and may only be asserted to the extent to which the Buyer has not made any agreements going beyond the statutory claims for defects.

8.5 Finally, the reimbursement of expenses is limited to the foreseeable damages typical to the contract.

8.6 The reimbursement of expenses will be granted in the form of a credit note.

## **9. Legal disclaimer and compensation for damages**

9.1 For all claims of compensation for damages and expenses against the Vendor resulting from a breach of duty for which he is responsible—for whatever legal reason—in the case of slight negligence, the Vendor shall be liable only for a breach of essential obligations which represent a risk of the contract purpose. Apart from that, the Vendor's liability for slight negligence is excluded. Essential obligations pursuant to clause 1 are those obligations which protect the Buyer's legal rights important for the contract, which the contract must guarantee to him according to its content and purpose. Furthermore, those contractual obligations are deemed essential, the compliance of which make the orderly execution of the contract possible at all and on the fulfillment of which the Buyer regularly relies and may rely.

9.2 In the event of liability according to clause 9.1. and a liability without culpability, the Vendor shall be liable for the typical and foreseeable damage only. The assertion of useless expenditures by the Buyer shall not be admissible.

9.3 For damage resulting for delays, the Vendor shall be liable in case of slight negligence to an amount of 5 % of the net order value only.

9.4 The Buyer shall decide about the use of the delivered goods or other services at his own

responsibility. In so far as the Vendor has not confirmed in writing specific qualities and aptitudes of the products for a contractually determined purpose of use, an assessment regarding the application shall be non-binding in any case. Also, the Vendor shall be liable for a realized or omitted assessment only pursuant to clause 9.1 which does not refer to the aptitudes and usability of the delivered product.

9.5 The legal disclaimer according to clause 9.1 thru 9.4 shall apply to the same extent in favor of organs, legal representatives, managing staff and staff without managing functions and other agents of the Vendor.

9.6 All claims for damages and reimbursement of expenses against the Vendor shall lapse within 12 months following the delivery of the commodities, in the case of the contractor's acknowledgement or in the case of grossly negligent ignorance of the circumstances justifying the claim or the person liable to pay damages. This shall not apply in the case of intent and the cases mentioned in clause 9.7.

9.7 The stipulations of the clauses 9.1 thru 9.6 as well as 7.1 shall not apply in the case of strict liability, if there is a violation of life, the body or the health, in the case of an assumption of a warranty of quality or in the case of fraudulent concealment of a defect.

#### **10. Retention of title**

10.1 The deliveries will be provided subject to the retention of title. The delivered goods shall remain the Vendor's property until the full payment of all claims from the business relationship including all accessory claims. The Buyer must neither pledge the reserved goods nor assign them by way of security. The Buyer undertakes to inform the Vendor promptly in writing about third party-intervention.

10.2 If the Buyer is in default of payment, the Vendor shall be entitled to withdraw from the contract according to the statutory regulations and to request the commodities back from the Buyer due to the retention of title and the withdrawal. If the Buyer does not pay the due purchase price, the Vendor may assert these rights only if he has unsuccessfully given the Buyer a suitable deadline for payment beforehand or if such a deadline is dispensable according to the statutory regulations.

10.3 Neither the withdrawal nor the attachment of the reserved property represents a withdrawal from the contract unless this is explicitly expressed. The prerequisites for withdrawal shall remain unaffected. The costs caused by the withdrawal and attachment of the reserved property shall be borne by the Buyer.

10.4 The Buyer is entitled to connect the reserved goods with goods of third parties within the frame of normal commercial transactions. In such a case, the Vendor acquires co-ownership in the new goods generated by this connection in proportion to the value of the goods connected with each other or newly made. The same shall apply for the case of intermixture.

10.5 Already now the Buyer will transfer the co-ownership in the goods, provided the Buyer's goods are to be considered as main goods. If the Buyer sells the connected or newly made goods, in which the Vendor holds a title, he already now assigns the purchase price claim vis-à-vis the third party in proportion of the value of co-ownership of the Vendor and

entitles him to collect the claim in his own name, even in case of a purchase of the company. The Vendor accepts the assignment.

10.6 If the item to which title is reserved is processed to become a new item, the Vendor shall be deemed the processing party and the Buyer as commissioned by him.

10.7 The Buyer is entitled to sell the goods to third parties within the frame of normal commercial transactions. Already now he assigns all claims towards third parties from the sale to the Vendor as a security (extended retention of title), even in case of a purchase of the company. The Vendor accepts the assignment. Regardless of the Vendor's authorization to collect the claim himself, the Buyer shall remain authorized and obligated for collecting the claim vis-à-vis third parties. This right shall automatically cease in case the Buyer discontinues his payments.

10.8 If the realizable value of the security exceeds 110 % of the secured claim, the Vendor will release the excessive part of securities as chosen by him upon request by the Buyer.

### **11. Defence of insecurity**

If it becomes recognizable to the Vendor that a claim for counter-performance is at risk due to missing capability on the Buyer's part, he will be entitled to refuse the service for which he is responsible until the counter-performance has been effected or security provided.

### **12. Passing of risk**

12.1 Forwarding shall be upon request and at the cost of the Buyer. The risk of accidental loss or deterioration of the goods as well as the risk of delay shall pass to the Buyer even in case of a freight-paid delivery at the moment of dispatch of the goods to the forwarder, the carrier or the person or institution otherwise determined to provide for the forwarding of the goods.

12.2 Unless otherwise agreed in writing, the goods will be forwarded by a forwarding possibility chosen by the Vendor and at the risk of the Buyer.

12.3 If the transport is provided by the Vendor's staff, they shall be liable only according to the prerequisites of clause 9 of the present terms and conditions.

### **13. Deliveries**

13.1 The Vendor will deliver the ordered goods to the Buyer within the Buyer's respective hours for accepting the goods. In this connection, arrival of the supplier within the goods acceptance hours shall be deemed as delivery within the goods acceptance hours.

13.2 If delivery delays for reasons not due to the Vendor, the Vendor shall not be liable for any damage caused to the Buyer as a result of the delay.

### **14. Default of acceptance**

14.1 If the Buyer does not accept single deliveries or partial deliveries offered to him in an orderly manner or if he fails to act in cooperation, the Vendor may set the Buyer an adequate deadline for acceptance. In this connection the Vendor shall be entitled to even make partial deliveries to a reasonable extend.

14.2 The Buyer shall bear all costs in connection with the refusal of acceptance, in particular storage costs. If the Buyer has not accepted the goods within the deadline the Vendor shall be entitled to withdraw from the contract and demand compensation for damage caused by non-compliance.

14.3 For this case, the Vendor is entitled to flat-rate claim for damages vis-à-vis the Buyer to an amount of 10 % of the not accepted delivery. The Vendor maintains the right to prove that he suffered a higher damage; the flat rate is to be offset against further monetary claims. The Buyer is entitled to prove that the Vendor did not suffer any damage at all or a considerably less damage than indicated in the preceding flat rate.

### **15. Right of retention/Offsetting**

15.1 The Buyer shall be entitled to offsetting only if his counterclaims are legally determined claims expressly acknowledged by the Vendor or claims that are ready for decision; this shall not apply for counterclaims from the same contract relationship. The Vendor reserves the authorization of offsetting even for the case that the reciprocal claims are quoted in different currencies.

The conversion rate shall be the officially set mean buying and selling rate fixed on the Frankfurt Stock Exchange on the day of the declaration of set-off.

15.2 The Buyer has a right of retention only if his counterclaim is legally determined, undisputed, acknowledged or if the deficiency in the commodity is obvious; this shall not apply for counterclaims from the same contractual relationship. The Buyer shall have a right of retention only in so far as the retained amount is proportionate to the deficiencies and presumable costs of rectification.

### **16. Packaging**

16.1 Packaging will be taken back exclusively in accordance with the provisions of the Packaging Ordinance. The costs of taking back the packaging shall be borne by the Buyer.

16.2 Packaging bearing the Green Dot will not be taken back by the Vendor.

16.3 The Buyer can return transport packaging at the place of performance. Returned transport packaging must be reusable if destined for reuse as in the case of pallets. Transport packaging not destined for reuse and which have become unusable for reuse must be sorted clean, free from foreign substances and by types. Otherwise the Vendor shall be entitled to charge the Buyer with the additional costs resulting for disposal.

### **17. Assignment**

The Vendor is entitled to assign his claims.

### **18. Trademarks**

The Vendor's trademark is a protected trademark and is subject to trademark-, brand- and patent law protection. In so far as trademarks are partly used without a corresponding labeling, this does not mean that they are free of signs. The good reputation and the esteem of the trademark must not be impaired. The Buyer must omit anything which might have a negative effect on the Vendor's reputation and name as well as his trademarks. If the Buyer acts contrary to the preceding provisions the Vendor shall be entitled to demand damages.

### **19. REACH-clause**

If the Buyer informs the Vendor about the use according to article 372 of the Regulation (EC) No. 1907/2006 (REACH regulation), which requires an updating of the registration or the chemical safety report or which causes another obligation according to the REACH regulation, the Buyer shall reimburse the Vendor all verifiable expenses. The Vendor shall not be liable for delivery delays caused by the publication of this use and the compliance

with the corresponding obligations according to the REACH-Regulation by the Vendor. If for health or environmental protection reasons the Vendor is not able to incorporate the identified use and if the Buyer despite the Vendor's advice intends to use the goods in the way the Vendor had dissuaded from, the Vendor may withdraw from the contract.

## **20. Place of performance/Legal venue**

20.1 The place of performance is Landscheid.

20.2 The legal venue for all legal disputes in connection with the deliveries of the Vendor, provided the Buyer is a merchant in accordance with the German Code of Commercial Law, a legal entity under public law or a separate estate under public law and always if the Buyer does not have a sole legal venue within the domestic territory or has relocated his residence or usual residence outside the domestic territory or the residence is not known. However, the Vendor is also entitled to take action at the general legal venue of the Buyer.

## **21. Applicable law**

The law of the Federal Republic of Germany shall apply exclusively. If the Buyer's official seat is outside of Germany, the CISG ("UN sales law") shall apply with the following special regulations:

- Contract modifications or cancellations require the written form. This shall also apply for provisions about the abandonment of this written form agreement.
- In the case of delivery of non-conforming goods, the Buyer shall be entitled to cancel the contract or make replacement deliveries only if claims for damages against the Vendor are excluded or it is unreasonable for the Buyer to utilize the non-conforming goods and to claim the remaining damages. In these cases, the Vendor is authorized to eliminate the deficiencies in the first instance. If the elimination of deficiencies fails or if it leads to an unreasonable delay, the Buyer may choose to declare the cancellation of the contract or to request replacement delivery. The Buyer shall be entitled to do so also if the elimination of deficiencies causes unreasonable inconveniences or uncertainty with respect to the reimbursement of possible expenses of the Buyer.

## **22. Data protection**

According to §§ 33, 28 Federal data protection law, the Vendor points out that all customer- and supplier-related data will be stored by the Vendor by the help of the electronic data processing.

## **23. Partial invalidity**

If individual provisions of these General Terms and Conditions are or become ineffective, the validity of the remaining provisions of this agreement shall remain unaffected thereby. The ineffective provision shall be replaced by a provision that comes closest to the intended economical purpose.

## **24. Prevailing German version**

These General terms and conditions shall be interpreted according to German interpretation of law. If the legal meaning of a translation deviates from the German legal meaning, the German legal meaning shall have precedence.

Dated: May 2019