

I. Scope of application

The following conditions apply to orders and offers.
Deviating provisions require the written form.

II. Consideration

1. Prices stated in the contractor's offer shall apply on the proviso that no changes are made to the order details underlying the offer. The contractor's prices are net prices, i.e. they do not include VAT. The contractor's prices are ex-works.
2. Subsequent changes at the instigation of the ordering party and all and any consequential costs, such as e.g. reconfiguration, software installation, adjustments made to drivers, network integration, etc. shall be charged to the ordering party to the extent that the contractor expressly informed the ordering party of such costs prior to performance and the ordering party agreed to such costs. User configuration modifications that are requested by the ordering party due to minor modifications of the standard configuration supplied are also deemed to be subsequent changes.
3. Installation plans, training documentation, briefings and other similar preliminary work that are ordered individually by the ordering party are subject to a charge even if the order is not placed. The provisions in the section "Title, copyright" apply accordingly.

III. Payment

1. Payment (net price plus value added tax) is due 30 days after the invoicing date without any deductions unless otherwise agreed upon in the specific contract. Unless otherwise agreed upon, the invoice shall be issued on the day of delivery, partial delivery or readiness for delivery. Bills of exchange are not accepted.
2. The ordering party may only offset a claim that is undisputed and has become res judicata.

IV. Default in payment

In the event of delay in payment, default interest in the amount of 8 percentage points above the base interest rate at the time shall be due. The right to assert further claims for damages resulting from the default remains unaffected.

V. Delivery

1. The contractor shall deliver the goods on the ordering party's behalf and with the required diligence, but is only liable for deliberate acts and gross negligence.
2. Delivery dates shall only be binding if they have been expressly confirmed in writing by the contractor.
3. A reasonable grace period shall be set if the contractor fails to meet the delivery deadline. If the contractor still fails to meet the deadline upon expiry of the grace period, the ordering party is entitled to rescind the contract.
4. Breakdowns - affecting either the contractor or his suppliers - that are caused by strike, lockout, war, riot and any other force majeure incident do not entitle the ordering party to rescind the contractual relationship. If the breakdown lasts for longer than two months, the ordering party is entitled to rescind the contract after a reasonable grace period has expired.
5. The goods delivered remain the property of the contractor until the ordering party has fully paid all claims due to the contractor as at the invoice date. The ordering party is only entitled to resell the goods in the normal course of business. The ordering party hereby assigns its claims from the resale to the contractor for the event that the purchase price has not been paid in full, whereby such assignment shall amount to the purchase price in arrears. The contractor herewith accepts the assignment.

VI. Complaints

1. The ordering party shall in each case inspect that the goods delivered conform with the contract. Upon acceptance, the risk of any errors passes to the ordering party, unless there are hidden defects.

2. Complaints in terms of the notification period for defects as stated in the German Commercial Code (HGB) must be reported within a period of one week after receipt of the goods. A claim against the contractor for hidden defects that are not detected during the immediate inspection may only be asserted if the notice of defects is received by the contractor within a period of twelve (12) months after the goods were delivered.

3. If a claim is justified, the contractor is obliged to remedy the defect within a reasonable period and may choose to either repair or replace the goods. The ordering party and the contractor shall agree upon a reasonable period to perform the remedy of defect.

4. If Apparo or a legal representative or vicarious agent of Apparo culpably violates any of its material contractual duties, the liability shall be limited to the amount of damage that is foreseeable and typical for this kind of contract and to the amount of the investment sum under this contract/of the respective (overall) order volume in cases of ordinary negligence; liability is excluded in all other cases. Exclusion of liability and/or limitation of liability applies neither to injuries to life, limb or health nor to damage caused by deliberate or grossly negligent breach of duty. Neither do they apply in cases of liability under the German Product Liability Act nor for guarantee or warranty claims or claims arising from fraudulent concealment of a defect.

Liability for indirect damage e.g. additional expenses, downtimes or loss of income as a result of defective delivery or performance is excluded, unless the damage was caused by deliberate acts or gross negligence or the contractor issued a guarantee.

Liability for loss of data is limited to the typical recovery effort expected, that would have occurred had the ordering party made regular, risk-appropriate data backups . If liability is based on a damage caused by ordinary negligence, Apparo's liability is limited to the investment sum under this contract/the (overall) order volume.

VII. Liability

1. The ordering party is only liable if its actions infringe on rights, especially third party copyrights. The contractor is liable if performing the contractual duties infringes on third party rights. The respective responsible contractual party shall indemnify the other party against all third party claims regarding such an infringement of a right and the costs involved in the ensuing legal defence.

The ordering party is only liable if the contractor informs the ordering party in writing before performance of the contract commences that executing the order is not possible without infringing the rights of third parties and the ordering party has accepted this in writing. Furthermore, the ordering party must be informed about the type of infringement of a right. Both contractual parties may rescind the contract if the ordering party does not accept the infringement of a right and the order can thus not be fulfilled.

2. The contractor is entitled to publicly name the ordering party as a customer once the ordering party has given its consent in writing. The ordering party may revoke this consent at any time without stating reasons.

VIII. Validity

The invalidity of one or more provisions shall not affect any part of the remaining contract.

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Apparo Süddeutschland GmbH