

# General

# Terms and Conditions

## §1 Application

(1) These General Term and Conditions ("GTC") apply exclusively towards persons who act in the exercise of their commercial or individual professional activity (entrepreneur within the meaning of § 14 of the Bürgerliches Gesetzbuch (the "BGB", German Civil Code), as well as to legal persons under public law and special funds under public law in the sense of § 310 para. 1 BGB. The GTC do not apply towards consumers ("Verbraucher" acc. to § 13 BGB).

(2) All deliveries, services and offers from icotek GmbH & Co. KG are made exclusively under the GTC. These form part of all agreements that icotek GmbH & Co. KG concludes with its contractual partners (hereinafter also referred to as "Customers") related to deliveries or services by icotek. The GTC also apply to all future deliveries, services or offers to the Customer, even if they are not separately agreed.

(3) Terms and conditions of the Customer or third parties do not apply, even if icotek GmbH & Co. KG does not expressly contradict their validity in individual cases. Even if icotek GmbH & Co. KG refers to a letter that contains or refers to the terms and conditions of the Customer or a third party, this does not constitute agreement with the validity of these terms and conditions.

## §2 Offer and Conclusion of Contract

(1) All offers from icotek GmbH & Co. KG are subject to change and non-binding unless they have been expressly marked as binding priorly.

(2) The Customer's orders are qualified as an offer to conclude a purchase agreement („invitatio ad offerendum"). A contract is only concluded when icotek GmbH & Co. KG accepts an order by the Customer within two weeks from receipt of the order by way of written order confirmation.

(3) For the legal relationship between icotek GmbH & Co. KG and the Customer, the written order confirmation from icotek GmbH & Co. KG, including the GTC, is decisive. These fully reflect all agreements between the contracting parties regarding the subject matter of the contract. Oral commitments made by icotek GmbH & Co. KG before conclusion of the contract are legally non-binding and oral agreements between the contracting parties are substituted by the written contract and the GTC. Deviating agreements and side or additional agreements are only binding upon written confirmation by icotek GmbH & Co. KG.

## §3 Offer Documents and Business Secrets

(1) Information provided by icotek GmbH & Co. KG on the subject of the delivery or service (e.g. weights, dimensions, usage values, load capacity, tolerances and technical data) as well as the representations of the same (e.g. drawings and illustrations) are only approximately authoritative and to the extent that usability for the contractually intended purpose does not require exact conformity. They are deemed as descriptions or labels

of the delivery or service, not as guaranteed characteristics. Customary deviations and deviations that occur due to legal regulations or represent technical improvements, as well as the replacement of components with equivalent parts, are permitted as long as they do not impair the usability for the contractually intended purpose.

(2) Insofar as icotek GmbH & Co. KG refers to the application and potential use of the delivery item as an example, it is made clear that this is not an assurance of a specific application and potential use of the delivery item. The application and specific of the defect-free delivery item depends on the circumstances of the specific installation environment, which are generally not known to icotek GmbH & Co. KG upon delivery. A specific use is only warranted if this has been expressly agreed in writing in individual cases.

(3) icotek GmbH & Co. KG reserves the ownership and/or copyright and/or ancillary copyrights and/or all exploitation rights to all offers and cost estimates submitted by it as well as drawings, illustrations, calculations and brochures made available to the Customer, catalogues, models, tools and other documents and resources. The Customer shall not make these items, as such or their contents, accessible to third parties, disclose them, use them or reproduce them themselves or through third parties without the express prior consent of icotek GmbH & Co. KG. At the request of icotek GmbH & Co. KG, the Customer must return these items in full and destroy any copies that may have been made if they are no longer required by it in the normal course of business or if negotiations do not lead to the conclusion of a contract.

(4) The Customer is obliged to treat all documents and information provided to it by icotek GmbH & Co. KG confidentially.

(5) icotek GmbH & Co. KG is entitled to make information and/or documents provided by the Customer available to third parties and/or subcontractors, provided that these third parties and/or subcontractors are used by icotek GmbH & Co. KG to provide the service owed to the Customer and/or to initiate business and that disclosure is necessary for this purpose.

(6) Any kinds of rights to patents, utility models, or whatsoever on the products of icotek GmbH & Co. KG are exclusively reserved by icotek GmbH & Co. KG, even if these rights have not yet been registered. A replica is only permitted with the prior, express written permission of icotek GmbH & Co. KG.

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### §4 Prices, Payments, Default, Set-off

(1) The prices apply to the scope of services and deliveries listed in the order confirmations. Additional or special services will be charged separately. The prices are in EURO ex works plus packaging, shipping costs, statutory VAT, customs duties for export deliveries as well as fees and other public charges.

(2) Invoices must be paid within thirty (30) days without any deductions, unless otherwise agreed in writing. Payment must be made free of charge for icotek GmbH & Co. KG to the icotek GmbH & Co. KG account known to the Customer. Other payment methods are only permitted after express, written agreement.

(3) Decisive for the date of payment is the date of receipt by icotek GmbH & Co. KG. If the Customer does not pay by the due date, interest will be charged on the outstanding amounts from the due date at 9 percentage points above the interest base-rate; The assertion of higher interest and further damages in the event of default remains unaffected.

(4) The offsetting against counterclaims of the Customer or withholding payments due to such claims is only permitted if the counterclaims are undisputed, recognized by icotek GmbH & Co. KG or have been legally determined.

(5) icotek GmbH & Co. KG is entitled to carry out outstanding deliveries or services only against advance payment or security deposit if, after conclusion of the contract, it becomes aware of circumstances, which are likely to significantly reduce the Customer's creditworthiness and would jeopardise payment of the outstanding claims of icotek GmbH & Co. KG by the Customer from the respective contractual relationship (including from other individual orders to which the same framework agreement applies).

### §5 Delivery, Delivery Time, Partial Delivery

(1) All deliveries are "ex works".

(2) Deadlines and dates for deliveries and services announced by icotek GmbH & Co. KG are non-binding indications of the expected delivery date, unless a fixed deadline or date has been expressly committed in writing. If shipment has been agreed, delivery times and delivery dates refer to the time of handover to the freight forwarder, freight carrier or other third party commissioned with the transport.

(3) Compliance with the agreed delivery deadline requires timely receipt of all necessary information, documents, approvals and releases of the plans to be provided by the Customer, as well as compliance with the agreed payment conditions. If these requirements are not met in a timely manner, the deadline will be extended appropriately.

(4) icotek GmbH & Co. KG has the right - without prejudice to its rights arising from the Customer's default - to require from the Customer the extension of delivery and service deadlines or a postponement of delivery and service dates by the period, in which the Customer has not fulfilled its contractual obligations within the ongoing business relationship.

(5) icotek GmbH & Co. KG is not liable for impossibility of delivery or for delays in delivery if these are due to force majeure or other events

that were not foreseeable at the time the contract was concluded (e.g. operational disruptions of any kind, difficulties in procuring materials or energy, transport delays, strikes, lawful lockouts, lack of workers, energy or raw materials, difficulties in obtaining the necessary official permits, official measures or the lack of, incorrect or late delivery by suppliers), for which icotek GmbH & Co. KG is not responsible.

(6) If such events (Section 5 Para. 5) significantly impede the delivery or performance of icotek GmbH & Co. KG or make them impossible and the impediment is not only of temporary nature, icotek GmbH & Co. KG has the right to withdraw from the contract. In the event of temporary impediments, the delivery or performance deadlines are extended or the delivery or performance dates are postponed by the duration of the impediment, in addition to a reasonable start-up period. If the customer cannot reasonably be expected to accept the delivery or performance as a result of the delay, it can withdraw from the contract by immediate notification to icotek GmbH & Co. KG in writing. The Customer must prove that acceptance cannot be expected of him.

(7) If icotek GmbH & Co. KG defaults on a delivery or performance or if a delivery or performance becomes impossible for whatever reason, icotek GmbH & Co. KG's liability for damages shall be in accordance with the provisions of this Section 9.

(8) icotek GmbH & Co. KG is entitled to make partial deliveries if the partial delivery can be used by the Customer within the scope of the contractually intended purpose, the delivery of the remaining ordered goods is ensured and the Customer does not incur any significant additional efforts or additional costs as a result (unless icotek GmbH & Co. KG agrees to cover these costs). For manufactured or standard packaged goods, icotek GmbH & Co. KG is authorized to make excess or short deliveries to the extent customary in the industry, up to a maximum of 5%.

### §6 Place of Performance, Shipment, Packaging, Transfer of Risk

(1) The exclusive place of performance is the registered office of icotek GmbH & Co. KG, unless otherwise specified.

(2) The choice of the shipping method and packaging are subject to the due discretion of icotek GmbH & Co. KG. At the request and expense of the Customer, the shipment will be insured against breakage, transport and fire damage. The Customer's obligation to bear the respective insurance costs applies even in case that freight-free delivery is agreed.

(3) The risk is transferred to the Customer at the latest when the delivery item is handed over to the freight carrier, freight forwarder or other third party designated to carry out the shipment, whereby the start of the loading process is decisive. This also applies if partial deliveries are made or icotek GmbH & Co. KG has provided other services (e.g. shipping, shipping "free domicile" or installation). If shipping or handover is delayed due to a circumstance caused by the Customer, the risk passes to the

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Customer from the date at which the delivery item is ready for dispatch and icotek GmbH & Co. KG has notified the Customer of this.

### §7 Retention of Title

(1) Items delivered from icotek GmbH & Co. KG. to Customer shall remain property of icotek GmbH & Co. KG. (item subject to retention of title) until full payment of all claims arising from the business relationship with the Customer. The goods as well as the goods that replace them in accordance with the following provisions and are covered by the retention of title are hereinafter referred to as "Reserved Goods".

(2) Secured claims are all claims from the business relationship, including future claims, including those from contracts concluded at the same time or later that have not yet been settled. This also applies if icotek GmbH & Co. KG has included individual or all claims in a current invoice and the balance has been drawn and recognized.

(3) The Customer stores the Reserved Goods for icotek GmbH & Co. KG free of charge.

(4) The Customer is entitled to process and sell the Reserved Goods in the ordinary course of business until the event of exploitation occurs (sec. 9). Pledges and assignments as security are not permitted.

(5) If the Reserved Goods are processed by the Customer, it is agreed that the processing is carried out for icotek GmbH & Co. KG as the manufacturer and icotek GmbH & Co. KG has direct ownership or - if the processing takes place with materials from different owners or the value of the processed item is higher than the value of the Reserved Goods - acquires co-ownership (fractional ownership) of the newly created item in the ratio of the value of the Reserved Goods to the value of the newly created item. In the event that no such acquisition of ownership occurs at icotek GmbH & Co. KG, the Customer herewith transfers his future ownership or, in the ratio described above – co-ownership of the newly created item as security to icotek GmbH & Co. KG. If the Reserved Goods are combined with other items to form a uniform item or are inseparably mixed and one of the other items is to be deemed as the main item, the Customer transfers to icotek GmbH & Co. KG pro rata co-ownership of the unified item insofar as the main item belongs to him the ratio mentioned in sentence 1.

(6) In the event of resale of the Reserved Goods, the Customer assigns the resulting claim against the purchaser as security - in the case of co-ownership of the Reserved Goods by icotek GmbH & Co. KG in proportion to the co-ownership ratio - to icotek GmbH & Co. KG. The same applies to other claims that replace the Reserved Goods or otherwise arise with regard to the Reserved Goods, such as insurance claims or claims from unlawful acts in the event of loss or destruction. icotek GmbH & Co. KG revocably authorizes the Customer to collect the claims assigned to icotek GmbH & Co. KG in its own name. icotek GmbH & Co. KG may only revoke this direct debit authorization in the event of exploitation.

(7) In the event of access to the Reserved Goods by a third party, in particular through seizure, the Customer will immediately indicate that the Reserved Goods are the property of icotek GmbH & Co. KG and immediately inform icotek GmbH & Co. KG of this in order to enable it to enforce its property rights. If the third party is unable to reimburse icotek GmbH & Co. KG for the judicial or extrajudicial costs incurred in this connection,

the Customer will be liable to icotek GmbH & Co. KG.

(8) icotek GmbH & Co. KG will release the Reserved Goods and the items or claims that replace them if their value exceeds the amount of the secured claims by more than 25%. The selection of the items to be released afterwards lies with icotek GmbH & Co. KG.

(9) If icotek GmbH & Co. KG withdraws from the contract by grounds of the customer's behaviour in breach of contract - in particular late payment - (enforcement event), it is entitled to demand the return of the Reserved Goods. The Reserved Goods must be returned by the Customer to icotek GmbH & Co. KG immediately upon request and at its own expense.

### §8 Warranty, Material Defects

(1) The delivered items must be carefully inspected immediately after delivery to the Customer or to a third party designated by it. With regard to apparent defects or other defects that would have been recognizable during an immediate, careful inspection, these are deemed to have been approved by the Customer if icotek GmbH & Co. KG does not receive a written notice of defects within seven working days from delivery. With regard to other defects, the delivery items are deemed to have been approved by the Customer if icotek GmbH & Co. KG does not receive the notification of defects within seven working days from the time at which the defect became apparent; if the defect was already apparent to the Customer at an earlier point in time during normal use, this earlier point in time is decisive for the start of the complaint period. Upon request of icotek GmbH & Co. KG, a rejected delivery item must be returned to icotek GmbH & Co. KG with freight prepaid. In case the complaint about defects is justified, icotek GmbH & Co. KG will reimburse the costs of the cheapest shipping route; this does not apply if the costs increase because the delivery item is located at a location other than the place of intentional use

(2) In the event of material defects in the delivered items, icotek GmbH & Co. KG is initially obliged and entitled to repair or replace the item, at its discretion within a reasonable period of time. In the event of impossibility, unreasonableness, refusal or unreasonable delay of repair or replacement delivery, the Customer can withdraw from the contract or reduce the purchase price appropriately.

(3) The warranty is void if the Customer makes changes at the delivery item or has it changed by third parties without the consent of icotek GmbH & Co. KG which leads to impossibility or unreasonable difficulty of the removal of defects. In any case, the Customer must bear the additional costs of correcting the defect resulting from the change.

(4) Any delivery of used items agreed with the Customer in individual cases is carried out to the exclusion of any warranty for material defects.

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### §9 Liability for damages due to fault

(1) The liability of icotek GmbH & Co. KG for damages, irrespective of their legal grounds, including, but not limited to impossibility, delay, defective or incorrect delivery, breach of contract, breach of obligations during contract negotiations and unlawful acts, to the extent that this involves culpability, is restricted in accordance with this sec. 9.

(2) icotek GmbH & Co. KG is liable for damages within the fault-based liability in the event of intent and gross negligence on the part of its corporate bodies, legal representatives, employees or other vicarious agents. In the event of simple negligence, icotek GmbH & Co. KG is only liable – provided there is no more lenient standard of liability in accordance with legal regulations (e.g. for own reasonable diligence) - only

a) for losses arising from death, physical injury or illness,  
b) for losses resulting from the not insignificant breach of an essential contractual obligation (in particular the obligation whose fulfilment makes the proper execution of the contract possible in the first place and the assumption of a guarantee for a specific quality of the goods); In this case, however, the liability of icotek GmbH & Co. KG is limited to compensation for the foreseeable, typically occurring damage.

(3) To the extent that icotek GmbH & Co. KG is liable for damages, this liability is limited to damages that were foreseeable when the contract was concluded as a possible consequence of a breach of contract or that icotek GmbH & Co. KG should have foreseen if it had exercised normal care. Indirect damages and consequential damages that result from defects in the delivery item are also only eligible for compensation if such damage is typically to be expected when the delivery item is used as intended.

(4) In the event of liability for simple negligence, icotek GmbH & Co. KG's obligation to pay compensation for property damage and resulting further financial losses is limited to an amount of EUR 2 million per case of damage, even if it involves a breach of essential contractual obligations.

(5) The above liability exclusions and limitations apply to the same extent in favour of the bodies, legal representatives, employees and other vicarious agents of icotek GmbH & Co. KG.

(6) This clarifies that the above liability exclusions and limitations do not apply to claims under the Product Liability Act.

(6) This clarifies that the specific application and installation of the delivery item is the sole responsibility of the Customer. icotek GmbH & Co. KG assumes no liability for damages resulting from application and/or installation errors by the Customer or other third parties. It is the Customer's obligation to ensure that the delivery item is specifically suitable for the intended use by taking appropriate measures.

(7) In the event that icotek GmbH & Co. KG provides technical information or acts in an advisory capacity and this information or advice is not part of the contractually agreed scope of services owed by it, this is carried out free of charge and to the exclusion of any liability.

### §10 Limitation

(1) The general limitation period for claims arising from material and legal defects is one year from the transfer of risk. If acceptance has been agreed, the limitation period begins with acceptance. This does not affect the special statutory regulations regarding the limitation period in § 438 sec. 1 no. 1, para. 3, as well as in §§ 444 and 445b BGB.

(2) The above limitation period also applies to contractual and non-contractual claims for damages by the Customer that result from a defect in the delivery items, unless the application of the regular statutory limitation period (§§ 195, 199 BGB) would lead to a shorter limitation period in individual cases. The Customer's claims for compensation in accordance with Section 9 Paragraph 2 a) and b) of the GTC as well as under the Product Liability Act expire exclusively in accordance with the statutory limitation periods.

### §11 Final Provisions

(1) If the Customer is merchant, a legal entity under public law or a special fund under public law or does not have a general place of jurisdiction in Germany, the place of jurisdiction for all possible disputes arising from the business relationship between icotek GmbH & Co. KG and the Customer shall be at the discretion of icotek GmbH & Co. KG, 73569 Eschach or the Customer's registered office. In these cases, however, 73569 Eschach is the exclusive place of jurisdiction for lawsuits versus icotek GmbH & Co. KG. Mandatory legal provisions regarding exclusive places of jurisdiction remain unaffected by this provision.

(2) The relationships between icotek GmbH & Co. KG and the Customer are subject exclusively to the laws of Germany. The United Nations Convention on Contracts for the International Sale of Goods of April 11, 1980 (CISG) does not apply. The application of the UN Convention on Contracts for the International Sale of Goods is excluded.

(3) To the extent that the contract or the GTC contain gaps in the provisions, the legally effective provisions that the Customer and icotek GmbH & Co. KG would have agreed on in accordance with the economic objectives of the contract and the purpose of the GTC if they had known about the gaps, are deemed to have been agreed on.

(4) Where individual provisions of the GTC become invalid, the validity of the remaining provisions shall not be affected thereby.