

# General Terms and Conditions of Sale

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## 1. Scope of Application

1.1. The vendor (hereafter also referred to as “seller”) sells goods on marketplaces of Machineseeker Group GmbH, Kronprinzenstraße 9, 45128 Essen, Federal Republic of Germany (hereafter referred to as “Machineseeker” or “platform”). The following “General Terms and Conditions of Sale” apply to contracts for the sale of goods (hereafter also referred to as “object of sale” or “object of purchase”) between buyers and the seller that are conducted via the Machineseeker “Buy-it-now” function. Machineseeker merely provides a platform for the conclusion of purchase contracts between suppliers and buyers but does not itself become a signatory party to these purchase contracts.

Suppliers can register as commercial dealers to offer goods on the platform.

- 1.2. The currently valid General Terms and Conditions of Sale can be viewed on and printed via the Machineseeker website <https://www.machineseeker.com/salesterms>.
- 1.3. The seller does not accept any deviating terms and conditions of the buyer. The buyer’s terms and conditions of purchase are not applicable, even when not explicitly rejected.
- 1.4. If goods are purchased via the platform, these General Terms and Conditions of Sale prevail over any other contractual conditions of the seller.
- 1.5. The contractual language is German. The German version of these General Terms and Conditions of Sale (“Allgemeine Verkaufsbedingungen”) shall prevail. The English version is for information purposes only.

## 2. Conclusion of contract

- 2.1 Type and scope of the respective object of sale are based on its textual description and the photos and videos published with the advertisement. Accessories and tools are—unless they themselves constitute the object of sale—only part of the object of purchase in exceptional cases and if explicitly stated.
- 2.2 Advertisements on the platform do not represent a binding offer to conclude a purchase contract. Rather, they are non-binding invitations to potential buyers to submit purchase offers to the seller.
- 2.3 If a buyer submits a binding offer to conclude a purchase contract (by clicking the button “Buy-it-now”) and completes paying the purchase price, Machineseeker will inform the buyer about having received his payment and the offer to conclude a purchase contract by e-mailing an order confirmation. This order confirmation, however, does not represent a legally binding contract acceptance on the part of the seller.
- 2.4 A purchase contract of the object of sale is only concluded if the seller accepts the buyer’s purchase offer by shipping the goods or, for the delivery type pickup, offers a pickup date in writing. If the seller does not ship the goods or offer a pickup date in writing within 28 days after payment, the sales contract is not concluded, and the buyer receives a full refund of the purchase price.
- 2.5 In principle, the revocation of orders is not possible since the platform exclusively addresses commercial buyers.

### **3. Price and payment process**

- 3.1 On the platform, price components are shown individually (if applicable, statutory tax, shipping costs, further price components).
- 3.2 Payment is to be made in advance via the payment service provider Mangopay. The payment obligation is only fulfilled when the full EUR amount (also when paying in a different currency) is received by Mangopay.
- 3.3 Neither buyer nor seller have the right to set payments off via the platform.

### **4. Delivery types**

- 4.1 The seller determines which types of delivery to offer. The buyer may have the option to choose between shipping and pickup.
- 4.2 Rescheduling on part of suppliers, force majeure, destruction, damage, or confusion regarding the specific object of purchase free the supplier from his obligation to deliver the object of purchase or offer its pickup. Indemnity for damages due to non-delivery or exceeding the stated/agreed delivery time are excluded.
- 4.3 Shipping
  - 4.3.1 Unless otherwise agreed, delivery takes place from the location of the object of sale that is indicated in the advertisement (or—if no indication has been made in the advertisement—from the registered office of the seller) to the address indicated by the buyer. The seller is obligated to arrange transport insurance over the full value of the object of purchase and to select a shipping method with tracking. The buyer pays for the stated shipping costs including the costs for transport insurance.
  - 4.3.2 Should there be additional shipping costs due to incorrect address data, these must also be borne by the buyer. The buyer may not issue a signature release authorization. The buyer is not permitted to refuse acceptance.
  - 4.3.3 The buyer undertakes to inspect the goods immediately upon receipt for externally visible transport damage, to note any damages on the respective shipping documents, and to demand an acknowledgement by the deliverer. In case of transport damage, the buyer must retain the packaging. In addition, the buyer undertakes to report any transport damage to Machineseeker promptly.
  - 4.3.4 The seller is liable for transport damage.
  - 4.3.5 In the event of transport damage, the seller has the option to resend the goods or to strive for another solution with the buyer. If the solution is not offered to the satisfaction of the buyer, the buyer may withdraw from the purchase contract and will receive a full refund of the purchase price.
  - 4.3.6 Any delivery times stated on the platform or in the order confirmation shall be calculated from the time the invoice amount is credited to the payment service provider Machineseeker cooperates with. The stated delivery times are, however, not binding and may differ from the actual delivery time.
  - 4.3.7 The seller is entitled to make partial deliveries insofar as this is reasonable for the buyer.

#### 4.4 Pickup

- 4.4.1 The buyer has the right to inspect the goods upon pickup.
- 4.4.2 The buyer has the right to withdraw from the purchase contract upon collection if the goods do not correspond to the description.
- 4.4.3 The loading process and, if necessary, disassembly at the pickup location are part of the pickup preparation by the seller. Thus, the seller is liable.
- 4.4.4 Upon completion of loading, the condition of the object of sale is accepted by the buyer.

### **5. Transfer of ownership and risk**

- 5.1 The transfer of ownership and risk takes place either after the goods have been fully loaded (pickup) or upon receipt of the goods (shipping).
- 5.2 The seller is obliged to adequately insure machines and accessories against all risks until collection or dispatch, to keep them in the condition stated in the Buy-it-now advertisement/listing on the platform, and to carry out any potentially necessary repairs. As long as the object of purchase remains property of the seller, it may not be resold, transferred, or encumbered with rights of third parties.
- 5.3 In case of pickup, the risk of accidental loss and accidental deterioration of the goods passes to the buyer after loading has been completed. In case of shipment, the risk of accidental loss and accidental deterioration of the goods passes to the buyer upon receipt of the goods.

### **6. Warranty**

- 6.1 Claims against Machineseeker: Machineseeker itself does not become a party of purchase contracts that are concluded via the Buy-it now function. The buyer can only claim for defects arising from such purchase contracts against the seller with whom he has concluded a purchase contract for an object of purchase.
- 6.2 The seller is a trader or businessperson (in line with §14 German Civil Code) who conducts the sale engaging in commercial or self-employed activity.
- 6.3 The buyer's claims for defects due to a defectiveness of the object of purchase shall be governed by statutory provisions if it has been newly manufactured.
- 6.4 Used or not newly manufactured goods are sold under exclusion of any warranty. The exclusion does not apply to claims for damages arising from grossly negligent or intentional breach of duty, or arising from injury to life, body, or health.

### **7. Liability**

- 7.1 Machineseeker itself does not become a party of purchase contracts that are concluded via the Buy-it now function. The buyer can only claim for liabilities arising from such purchase contracts against the seller with whom he has concluded a purchase contract for an object of purchase.
- 7.2 Claims for damages by the buyer that exceed warranty rights are fundamentally excluded. Excluded thereof are claims for damages by the buyer from the injury of life, body, or health, or from breaching essential contractual obligations (cardinal duties), as well as the liability for other damages that result from intentional or grossly negligent breach of duty by the seller.

Essential contractual obligations are those whose fulfilment is necessary to achieve the objective of the purchase contract.

- 7.3 In the event of a breach of essential contractual obligations, the seller is only liable for the foreseeable damage typical for the contract if such damage was caused by simple negligence, unless the buyer claims for damages from injury to life, body, or health.
- 7.4 The restrictions of paragraphs 7.2 and 7.3 shall also apply in favor of the legal representatives and vicarious agents of the seller if claims are asserted directly against them.
- 7.5 As a result of factors which cannot be influenced or sufficiently influenced by the seller (so-called force majeure, for example weather-related influences), longer delivery periods may be required in individual cases. In such cases, the seller informs the buyer as soon as he gains knowledge of potential delivery delays. A liability for lost profit, unforeseeable damages, or consequential damages is excluded.

## **8. Final provisions**

- 8.1 Should one or more provisions of these General Terms and Conditions of Sale be or become invalid or impracticable, the validity of the other provisions shall not be affected. A valid provision that comes as close as possible to the economic sense and purpose of the invalid provision will replace the invalid provision. The same applies to gaps in these General Terms and Conditions of Sale.
- 8.2 These contractual provisions shall be governed exclusively by the law of the sellers' country of domicile, excluding the UN Convention on Contracts for the International Sale of Goods.
- 8.3 Amendments and supplements to these General Terms and Conditions of Sale are not permitted. In case Machineseeker agrees to something, any changes and amendments must be made in writing. This also applies to any change, addition, or cancellation of this written form requirement itself.
- 8.4 For all disputes and any claims against Machineseeker, German law applies exclusively, excluding the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction is Essen, North Rhine-Westphalia, Federal Republic of Germany.