

## **Terms of Use of GTEM**

GTEM e. K. as provider avails the internet trading platform GTEM to all registered users. All users can conclude delivery contracts among themselves via deliveries in the specified departments. Upon registration or accession to the user area, the user accepts the following conditions.

### **§ 1 Contract conclusion and purpose**

- (1) The provider avails a trading platform to registered users. The users can make inquiries, bid and place orders. That way, each user can find the most favourable supplier for the delivery of a product.
- (2) A licence agreement is required. This is concluded by the user when he registered with GTEM. Anyone who gains access to the user area without registration is obliged to leave the user area promptly.

### **§ 2 Mutual Services**

- (1) The provider avails the user an access code for the duration of the authorisation. The user is authorised to make inquiries. Furthermore, he can reply inquiries of other users with offers. For offers regarding his inquiries he can place an order and thereby conclude a contract with another user. Moreover, the provider avails a transaction account into which the payment for the ordered product is to be transmitted. Upon receipt of funds, the provider will release the order and request the supplying user (seller) to deliver according to the date of delivery agreed upon in the quote. The amount will then be released and paid out 21 days after the fixed date, if the supplied user (buyer) does not issue an objection within one week after the fixed date.
- (2) The internet trading platform is solely available for trade with industrial goods that can be categorised under the special departments offered by the provider. Consumers are excluded.
- (3) Each user is obliged to give complete and true information about himself or his enterprise during registration. He must particularly affirm that he will only make use of GTEM in his capacity as entrepreneur.
- (4) Registration and access code are free of charge. In the case of realisation of a delivery contract, the seller pays the provider a fee (commission) amounting to 7.5% of the net worth of the order and a handling fee of € 40.00, both plus VAT. The invoice amount (fee + handling fee) will be deducted from the total paid by the buyer. The rest of the amount will be transferred to the supplying user (seller) according to the term of credit.

### **§ 3 Handling the access code**

- (1) The access code is made of an access name and a password. The user ascertains that unauthorised persons will not gain access to the access code.
- (2) The user can avail specific persons the access code if these are authorised to act in his place on the trading platform. In this case, the respective persons are regarded as authorised to observe all of the above described rights of the user. All declarations that they may execute are regarded as executed by the user himself.
- (3) Should the user dispose of the access code inappropriately and an unauthorised person uses the code as a result, his action in regards to GTEM shall be imputed to the user. Should an unauthorised person gain access to the access code, it shall be assumed that he obtained it due to the user's carelessness.
- (4) If misuse of the code is impending (e.g. an authorised employee leaves the firm due to differences of opinion, or an initially authorised person is on the verge of misusing the code) the user is obliged to change his code immediately.

### **§ 4 Conclusion of contracts**

- (1) The provider avails the internet trading platform as virtual market place. The delivery contracts are concluded solely among the users. The provider does not participate. He is not responsible for the adherence to the agreements and does not give any specifications regarding their content, as long as nothing different has been set in the following paragraphs. The conditions of the contracts depend strictly on the content of the offer.
- (2) In the user area, only binding offers may be made. This means that a contract materialises upon acceptance of an offer through ordering that obligates the seller to deliver and the buyer to pay. If no order is placed on an offer within the scheduled ordering deadline, the no longer valid offer will be deleted 21 days starting from the expiry of the ordering deadline.
- (3) In the alternative market area of the internet trading platform GTEM, only those quotes that have not been preceded by another user's inquiries can be submitted. These quotes are binding upon release. This means that upon acceptance of an offer through ordering, a contract that obligates the seller to deliver and the buyer to pay materialises. If no order is placed on an offer within the scheduled ordering deadline, the no longer valid offer will be deleted 21 days starting from the expiry of the ordering deadline.
- (4) The offer must have a fixed delivery date (fixed date). This is set by the supplier as the time of forwarding of the purchase price in the transaction account.

### **§ 5 Objection**

- (1) Starting from the fixed date the buyer has 7 days to issue an objection to the provider. This time limit ends when the seventh day starting from the date after the fixed date expires. Should the buyer not issue an objection, the provider has the right to pay the purchase price to the seller. The provider is obliged to effectuate the payment within 21 days starting from the day after the fixed date, if no objection was raised.

- (2) Should there be any objection the provider retains the purchase price in the transaction account until one party releases the amount in favour of the other. The release declaration can also be made by an executory title enforceable in Germany. Until the release the provider will not charge interest on the blocked amount. However, the buyer and seller can concordantly demand that the provider pay the amount of money less his commission and handling fee into a certain bank account. Should the provider follow the appropriate concordant instruction of the buyer and the seller, he then becomes free from his responsibilities from the transaction service. He can free himself from these responsibilities after 6 months have elapsed through deposition at the appropriate depository. Costs arising from this will be borne by the users involved. Should the provider have to pay the costs, he can deduct them from the amount. The same applies to the commission and the handling fee. He can claim these regardless of the outcome of the objection.
- (3) Should the buyer issue an objection after 7 days have elapsed but prior to the purchasing price has been paid to the seller, the provider is entitled, but not obliged to retain the amount in the transaction account.
- (4) An objection is only binding when it is done using the technical procedure available on GTEM. Another form of declaration is only valid if it is made known to the provider early enough so that he can stop the payment of the purchase price. He can only opine the lack of knowledge of objections given in such a way as long as these are based on intent or gross negligence.
- (5) The buyer may only issue objection if the ordered product was not delivered, was not complete or was defective or if other substantial reasons exist which justify the retention of the purchase price. If the mistake does not justify the retention of the whole amount, the buyer has to release a part of the amount. The provider is not liable for the fact that the objection was rightly issued. This lies solely in the responsibility of the buyer. The provider is bound to the issuance of an objection.
- (6) The improper issuance of an objection is unacceptable. The provider is not responsible for that. In the interest of successful operation of the internet platform, the provider reserves himself to support or conduct the tracing of misuse. This applies especially to prosecution.

## **§ 6 Other obligation**

- (1) Prior to conclusion of contract, users are not allowed to exchange contact details and information, which they could use to contact each other outside the trading platform, especially no residential or post address, telephone or fax number, e-mail addresses etc.
- (2) Should contact details be exchanged contrary to paragraph (1) prior to conclusion of contract and this does not materialise via GTEM, the offender is liable for the losses suffered by the provider. The provider can demand liquidated damages amounting to half of the fee (commission) that he would have obtained if a contract had materialised under the conditions of the offer submitted by the user or the inquiries made by the inquiring user.

## § 7 Disclaimer

- (1) The provider can discontinue the operation of the internet trading platform anytime temporarily or in perpetuity if he gives the users in the user area a deadline of 2 hours and notifies the users entering the user area upon entry.
- (2) The provider is not liable for the operation of the internet platform unless he disrupts this intentionally without special reason. He is also not liable for the access to the user area at all times. He is neither responsible for the materialising of contact between an inquirer and a supplying user nor for the fact that the buyer obtains the offer with the most favourable price.
- (3) The liability of the provider is limited to losses due to the incorrect processing after a contract materialises. The provider is not liable for losses caused intentionally or grossly negligent, by him or his assistants as long as it does not involve breach of basic contractual duties or the loss exists in form of any harm to the body, life or health.

## § 8 Termination

Provider and user can terminate the user relationship at any time without adherence to a time limit. Should the provider express the termination, he can block the access code. Contracts that have been concluded but not yet processed will still be processed. For this purpose and for the time required for it, he shall maintain his access code. However, he must not conclude any more contracts.

## § 9 Final Clause

- (1) The German law applies for the relationship between the provider and the user solely.
- (2) Legal venue for all disputes from this contract between user and provider is Cologne.
- (3) Should one of the preceding conditions not be effective, then the rest shall maintain their effectiveness.