

**SmartLoyalty AG:
General Standard Terms and Conditions
for the Sale of Smartcards, Smartcard Systems, Data Processing Systems
and Services**

I. Validity of Conditions

The only valid conditions are those of the General Standard Terms and Conditions of SMARTLOYALTY AG, Dantestraße 4-6, D-65189 Wiesbaden, with which the Buyer, through placing of order, has declared himself in agreement. Deviations from the General Standard Terms and Conditions of SMARTLOYALTY AG are only valid if they have been recognized in writing by SMARTLOYALTY AG.

II. Extent of Deliveries or Services

1. Mutual written statements are conclusive for the extent of the deliveries or services. Once a contract has been closed without the presence of such mutual statements, either a written confirmation of order from SMARTLOYALTY AG or, should this not ensue, a written order from the Buyer will be considered conclusive.
2. SMARTLOYALTY AG retains unlimited ownership rights and copyrights for the use of cost postings, drawings and other documents; they may only be made available to third parties after receiving approval from SMARTLOYALTY AG. Drawings and other documents belonging to bids that are not assigned to the bidder are to be returned immediately on demand. Statements 1 and 2 are correspondingly valid for documents from the Buyer. These, however, may be made available to third parties to whom SMARTLOYALTY AG has authorized to make deliveries or provide services.
3. The contractor is entitled to an excess- or short delivery of 10%.
4. Additional agreements are only effective if they have been confirmed in writing.

III. Offer, Price

1. Offers from SMARTLOYALTY AG are non-binding and subject to change without notice.
2. Prices are valid ex works exclusive of packaging.

IV. Cancellations

1. For the case that an order is canceled by the Buyer within the confirmed delivery period, SMARTLOYALTY AG will levy a cancellation fee in the amount of 20% of the purchase price. Proved already attacked costs will be charged completely.
2. Cancellations cannot be accepted for orders of Smartcards that contain individualized customer features (printing, personalization, ...).

V. Retention of Ownership

1. All deliveries from SMARTLOYALTY AG remain the property of SMARTLOYALTY AG until the complete fulfillment of all financial commitments from existing business relationships.
2. Before transfer of property, SMARTLOYALTY AG authorizes the Buyer to dispose of the purchase item within the framework of an orderly business operation. Should the purchase item be sold before the transfer of property, processed or reworked or sold as a processed or reworked product, then the Buyer assigns at this point all accounts receivable against the purchaser in the amount of the value of the purchase item to SMARTLOYALTY AG. SMARTLOYALTY AG accepts this assignment.

3. If third parties are granted access to SMARTLOYALTY AG property, the Buyer is obligated to draw attention to the fact that the property in question belongs to SMARTLOYALTY AG and inform SMARTLOYALTY AG of such access without delay. All costs connected with repelling these accesses expended by SMARTLOYALTY AG are to be reimbursed by the Buyer.
4. The Buyer is obligated to handle the purchase item with care and under consideration of the appropriate diligence for the purchase object for the duration of property retention and the guaranty period.

VI. Terms of Payment

1. Payment is to be effected free payment office SMARTLOYALTY AG within the agreed time allowed for payment or, if no other agreements were met, immediately pure net without deductions. Decisive for meeting the time limit for payment or any other agreements concerning payment deadlines is the day the unconditional credit note is on the SMARTLOYALTY AG account.
2. The Buyer can only offset dues which have been accepted in writing or have been legally determined.
3. If the customer is delayed with his payments, the SmartLoyalty AG can require interest at the rate of 4.5 per cent about the respective authoritative interest rate of the EU-central bank. The legal right of the SmartLoyalty AG to the resignation or for the assertion of compensation because of non-fulfillment remains untouched.

VII. Deadlines for Deliveries or Services

1. Mutual written statements are conclusive for the deadlines for deliveries or services. Article II, 1, Statement 2 is valid accordingly. The keeping of the deadline assumes that the Buyer receives all deliveries of documents, necessary permits, releases, the prompt clarification and approval of plans, the compliance with conditions of payment agreed upon and compliance with other obligations. If these prerequisites are not satisfied in good time then the deadline will be extended accordingly.
2. The deadline is considered met for deliveries where the operational shipment is brought to shipping or picked up within the delivery or service deadline agreed on. If delivery is delayed for reasons to be represented by the Buyer then the deadline is considered met at the receipt of confirmation that the delivery is ready for shipping within the time period agreed on.
3. If it can be proven that the deadline for deliveries or services cannot be met due to mobilization, war, strikes, lockouts or the occurrence of unpredictable obstructions then the time period is to be extended accordingly.
If the Buyer is able to credibly document that he has suffered damages stemming from the delay due to unmet deadlines for reasons other than those met in Point 3, Clause 1, the Buyer can demand compensation for delayed delivery from ½ % up to the amount of a total of 5% of the value of those portions of the deliveries or services that were not able to be taken into purposeful operation due to the untimely completion of individual items belonging to the delivery.
The Buyer can also demand compensation for delayed delivery if the conditions listed in point 3, Clause 1 only occur after the supplier has culpably exceeded the time period originally agreed on.
Compensations claims by the Buyer that exceed the limited amount of 5% listed in Clause 2 are excluded in all cases of delayed delivery even after the expiration of an extended time period set by the SMARTLOYALTY AG. This is not valid in so far as cases of intent or gross negligence force liability. The right of the Buyer to withdraw from the Contract after the unsuccessful expiration of an extended time period set by SMARTLOYALTY AG remains unaffected.

4. If the shipping or delivery is delayed at the wish of the Buyer then the Buyer can be charged with storage fees in the amount of ½% of the amount of the bill for every month started beginning one month after notice that the delivery is ready for shipment.
5. If the Buyer delays accepting the delivery, SMARTLOYALTY AG is authorized to demand damage compensation for expenditures that stem from the underlying order, however only up to the maximum amount of the agreed purchase price of the underlying contract.
6. The term of notice for service contracts amounts 6 months to the expiry of the agreed contract duration. If the contract is not discontinued within this term in writing, he is extended in each case by one year. The notice for important reason remains untouched.

VIII. Passage of Risk

1. Risk is passed to the Buyer even if carriage paid delivery has been agreed on:
 - a) During delivery, if the operational shipment has been brought to shipping or picked up. Packaging will ensue with the best possible care. Shipping will ensue with the best discretion by SMARTLOYALTY AG. On request by the Buyer and at cost to the Buyer, the shipment will be insured by SMARTLOYALTY AG against breakage, transport damage and fire damage.
 - b) If the shipment or delivery is delayed at the request of the Buyer or for reasons to be represented by him, then the risk for the time of delay is transferred to the Buyer; SMARTLOYALTY AG is obligated, however, to procure insurance demanded by the Buyer at his request and at his cost.
2. In cases of doubt, regulations from Incoterms 1990 are valid for cross-border business transactions.

IX. Acceptance

1. Articles delivered are to be accepted by the Buyer even if they contain insignificant cause for complaint.
2. Partial deliveries are allowed.

X. Warranty and guarantee “Hardware”

For the terminals acquired by SmartLoyalty AG and other hardware the legal guarantee (Bring-In-Service), from the day of the passing risk calculated, is agreed with the customer. At the end of the guarantee the SmartLoyalty AG can repair devices at the owner's expense, provided that the customer gives a written order. The Smart-Loyalty AG decides whether the device as a whole or only the defective parts are exchanged or equivalent substitute / credit is granted. As far as this is not excluded in the following, the guarantee encloses all defects in material and production. The following is expressly excluded from the guarantee extent:

1. Damages to the terminal case
2. The devices which were changed or their standard number were falsified or were removed.
3. Damages or malfunctionings on the following are to be led back:
 - a. Force majeure, more faultily and / or not designated use
 - b. Damages in transit (sender sticks)
 - c. Improperly repair or repair attempts by people not authorised by the Smart-Loyalty AG and / or enterprises
 - d. All damages which are not damages to be looked immediately as a product defect, in particular damages which have originated from improper use on the part of the user
 - e. Normal, operational abrasion (e.g., batteries)
 - f. Adaptation to national differences, technical demands relevant for security if the product has not been used in the country for which it has technically conceived and has been produced.

XI. Warranty and guarantee software

For the application and device software package acquired by SmartLoyalty AG it is agreed that the legal guarantee (Bring-In-Service), will start from the day of passing risk. The following is expressly excluded from the guarantee extent:

1. Mistakes in the software which are to be led back on additional interventions of the user
2. Mistakes in the system software of the user or in other third products
3. Mistake by non-observance of the system standards
4. Force majeure, misuse and / or not designated use

In case of subsequent improvement Updates / Upgrades provided from SmartLoyalty must be installed from the customer within 2 months after handing over. With non-observance of this term the guarantee claim is cancelled.

XII. Letter of complaint and repairing

1. We carry out repair of hardware and software only according to a written order. Verbal agreements do not exist. We ask for free delivery otherwise we will refuse the delivery. The liability of damages in transit lies in the responsibility of the sender. In case of an unjustified return the product will be returned and a service charge will be payable.
2. At explicit wish of the customer we provide a quotation for the repair. If an order is not given within one month after date of issue of the quotation, the device will be send back unrepaired on the customers expenses. Should the customer refrain from the repair after providing him the quotation a lump-sum payment will be charged.

XIII. Liability for defects

1. The customer has to keep the contract obligations being incumbent upon him, in particular the agreed payment terms. If letter of complaint is asserted, the payments of the customer may be held back in an extent which stands in an adequate relation to the appeared defects. If the contract nevertheless belongs to the company of his commerce, the customer can hold back payments only if a letter of complaint is asserted where no doubt exists about.
2. For the fault removal the customer of the Smart-Loyalty AG has to give the time necessary at reasonable discretion and opportunity. If he refuses this, the SmartLoyalty AG is released from the liability for defects.
3. If the SmartLoyalty AG allows a reasonable period of grace set by the customer expire fruitlessly, and if this is a result of his actual fault, the customer shall have the right to claim reduction of cancellation of the contract (change) or lowering of the reimbursement (decrease). The right on change or decrease is entitled to the customer also if the SmartLoyalty AG refuses the finishing touches or spare delivery unjustified or delays unreasonably.
4. SmartLoyalty is not liable for loss of data. System data must be saved / transferred regularly by the customer.
5. Other claims of the customer against the SmartLoyalty AG and their fulfilment assistant are excluded, in particular a claim to substitute of the damages which have not originated in the object of delivery themselves. This is not valid e.g. with personal damages or damages to privately used things according to the product liability law or in cases of gross negligence, intension or the absence of assured characteristics.
6. Due to the actual technical standard the missing efficiency of modules, inlets and cards up to 1% of the whole delivery count as free of lack.

XIV. Subsequent Impossibility of Performance, Adaptation of Contract

1. Should the delivery or performance for which SMARTLOYALTY AG or the Buyer is responsible for become impossible, then the general principles of law with the following authority are valid:
If impossibility of performance is the fault of SMARTLOYALTY AG, the Buyer is authorized to demand damage compensation. The claim of damage compensation by the Buyer, however,

is limited to 10% of the value of the portion of the delivery or service that cannot be purposefully taken into operation because of this impossibility. Claims for damage compensation that exceed the named limit of 10% are excluded. This is not valid in cases where intent or gross negligence compels liability. The right of the Buyer to withdraw from the contract remains unaffected.

2. Insofar as unpredictable events in accordance with Article VII, Point 3, Clause 1 considerably influence the economical significance or the content of the delivery or significantly modify service or affect the operations of SMARTLOYALTY AG, then the contract will be adapted appropriately in good faith. If this is economically unfeasible, SMARTLOYALTY AG has the right to withdraw from the contract. If this right of withdrawal is to be made use of, SMARTLOYALTY AG must inform the Buyer thereof after learning the consequences of events, and also if an agreement for an extended delivery period had at that time been agreed on with the Buyer.

XV. Other Damage Compensation Claims

Damage compensation claims by the Buyer stemming from positive breaches of obligations, from the violation of duties during contract negotiations and from unauthorized trade are excluded. This is not valid in cases where personal damage or damage to privately used items according to the product liability law or in cases of intent or gross negligence compel liability. The limit of liability is correspondingly valid for the Buyer.

XVI. Miscellaneous

1. SmartLoyalty is entitled to change the conditions of the general terms of business. Changes are valid as approved if the customer does not contradict after communication of the changes within one month in writing compared with the SmartLoyalty AG.
2. SmartLoyalty won't be liable for the adaptations of foreign systems after enlargement of the system installed by Smart-Loyalty.

XVII. Property / Copyright

1. Software, structures of the cards and the cryptographic technique are a development and intellectual property of the SmartLoyalty AG and are covered by the German Copyright law.
2. The physical characteristics and data structures are protected against rewriting with a security code. For this reason the cards can only be used with SmartLoyalty terminals.
3. The system delivered by SmartLoyalty must be operated only with cards provided by SmartLoyalty.
4. Only by an illegal avoiding of the security code a use of the cards with other terminals will be possible. A manipulation of the cards by non authorised persons is an element of crime according to the German penal code §§ 202a, 202b. Also SmartLoyalty reserves the right for itself to ask for damages if there are manipulations made on the cards.

XVIII. Place of Jurisdiction, Applicable Law

1. If the Buyer is a full merchant, exclusive jurisdiction is to be elected by SMARTLOYALTY AG for all disputes resulting directly or indirectly from the contractual relationship as either the head office or the subsidiary of SMARTLOYALTY AG.
2. The law of the Federal Republic of Germany under exclusion of the UN Purchasing Law (Agreement of the United Nations concerning contracts involving international good sales dated April 11, 1980) is valid for all contractual relationships.

XIX. Legal Validity of the Contract

1. Should individual provisions of these general standard terms and conditions become ineffective entirely or in part, for whatever reasons, then the ineffective provisions will be replaced conjointly with effective provisions that come as close as possible to the economic purpose of the ineffective provisions.

2. In cases of doubt, the ineffective provisions will be replaced by applicable legal regulations from the Law of the Federal Republic of Germany and the appropriate regulations from Incoterms 1990.

August, 01th 2000