



General Terms and Conditions of Business for Online Shop Orders and Purchase Agreements

Dated 2020, July 14th

The online shop offering and the following terms apply exclusively to business connections with full traders pursuant to the German Commercial Code (i.e. registered companies), legal entities of the public law or separate estates under public law. These mutually agreed terms become an integral part of the contract; they take priority over deviating retail or similar terms of the customer. Deviations, amendments as well as special warranties must be in written form in order to be effective. An offering or licensing to private end-users is not intended and not valid.

1 Validity

Our following General Terms and Conditions of Business apply to all business connections, in particular to all future commercial transactions, even if they are not referred to separately, and govern them exclusively. Solely the terms of **certgate GmbH (further called "certgate")** apply; other terms are not valid, even if they are not expressly opposed.

2 Offer

The information and pricelist contained in offers are always subject to confirmation and not binding, unless stated otherwise in the offer.

The information contained in the offer documents is the sole basis of services to be rendered. The customer carefully reviews the offer documents before placing an order, including but not limited to any information on capacity, reaction times, technical and user-specific requirements, interoperability and technical user requirements. Technical and other norms must only be observed, if they are imperatively standardized or expressly listed in the offer documents. In this case, the version in effect when the order is placed applies.

Orders are only considered accepted upon written confirmation by certgate within 3 weeks.

3 Other services

certgate shall render the agreed services by taking into account the project goals and using the knowledge and professional skills customary in the trade. Unless a different arrangement has been made explicitly in the offer, the introduction and training of the customer's employees require a special assignment and payment.

Upon consultation with the customer, certgate is authorized to call in third parties as auxiliary persons. As long as employees of associated or allied companies of certgate are used to carry out the services, there is no need to consult with the customer. Otherwise, the cession of rights from this agreement as a whole or of claims to particular services herefrom to third parties require a written consent of the other party, which may only be denied for important reasons.

Overtime, long distance phone calls and other expenses resulting from the specific deadline of the customer of certgate during the course of the implementation of the work are to be paid by the customer in accordance with the applicable fees. Certgate informs the customer in advance when such costs arise.

If not otherwise agreed on in writing, all services are provided during regular office hours, Monday – Friday, 8 a.m. – 5 p.m. (German time, with respect to daylight savings time).

4 Service Limitation of Online Services

certgate online (web) services are interpreted as continuous web service and are operated and maintained correspondingly. Nevertheless, scheduled or unscheduled performance restrictions are possible.

a) Dependency on external services

certgate would like to expressly point out that the availability of online services, particularly communication services, is also dependent upon the individual equipment and communication connections, services and external servers e.g. issuers of electronic certificates, mail server, internet connection or the like. Breakdowns that arise due to this equipment and these connection or connection routes can't be ascribed to certgate.

b) Planned maintenance work / maintenance windows

certgate has the right to perform maintenance work, upgrades or conversions unheralded that could lead only to light interference with the usage capability of the web service. Regular maintenance work, which causes significant impairment to the usability of the Webservices, will only be carried out by Certgate during regular maintenance windows. The time and period of maintenance windows are on each Sunday from 10:00 to 18:00, as long as no other specifications are made in the respective individual contract.

5 Technical support services for Products, Licenses, Services from Online Shop

Technical support services (Defect Support) shall include:

- Elimination of errors (defect service) in the Certgate software products and webservices provided by Certgate by Program updates (patches), online support provided through the Service & Support area on certgate's website and support by eMail.

Technical support services (defect support) do not include:

- Delivery of program upgrades that provide additional functions or extend the functionality
- Delivery of program upgrades, patches or other error fixes for the software from third-party suppliers (third-party software), which was possibly provided within the scope of Certgate's offer.
- On-site support, consulting or other services, which are possibly required within the scope of the error diagnostics and elimination.

6 Interfaces

The programming interfaces of the products of certgate are subject to continuous technical development. certgate reserves the right to make technical modifications to the interfaces when required based on changes of the law and/or technical advancement.

7 Verification and notification duties

Upon delivery, the customer shall immediately inspect the delivered products including documentation pursuant to § 377 of the German Commercial Code, particularly with regard to the functionality of basic program features. Defects that are detected or detectable hereby must be reported to certgate within eight (8) business days by means of a registered letter. The notification of defects must include a detailed description of the defects.

The customer must report any defects that are not obvious to certgate within two weeks of identification. If the verification and notification duties are violated, the products are considered approved with regard to the respective defect.

8 Remuneration and conditions of payment

The remuneration indicated in the online shop offer plus the applicable value added taxes at the time the services are rendered apply. Prices include standard packaging.

The payment must be made subject to other – confirmed – agreements as follows:

- a) For hardware and software one-time license fees: 100 % of price on order.
- b) For software subscription services: 100% of price of the initial subscription period.

If the customer disputes an item contained in the invoice, he pays all undisputed amounts to Certgate. The customer informs Certgate within 8 (eight) days upon receipt of the invoice on the disputed item. Upon clarification of the disputed item within 30 (thirty) days, the customer pays the entire outstanding amount from this invoice to Certgate plus the late fees.

If the invoice remains unpaid within 60 (sixty) days after the due date, Certgate may cancel the agreement at hand after a period of grace of 10 (ten) days, if the customer has failed to pay all amounts due including late fees by the end of the period.

9 Duration of the agreement and cancellation

Orders where certgate must render services periodically (continuous obligations) may be cancelled by each contracting party earliest by the end of the determined duration of the agreement with a notice period of one month until the end of the agreement. If no cancellation is made by the agreed date, the order is renewed for an indefinite period, unless any contracting party cancels in writing, or, if available, online within the online shop customer account settings, with a notice period of one month until month's end.

Other orders may be cancelled by any contracting party in writing subject to a term of one month. The cancellation of the contractual relation does not affect the effectiveness of previously placed orders. For any continuing orders, the regulations of the contractual relation still apply after the cancellation.

The rights to cancel pursuant to §§ 649 and 627 of the German Civil Code are excluded.

10 Property and retention of title

Until the full payment of all claims for remuneration by certgate from the contractual relations as well as any other existing payment requests from existing business relations with the customer, certgate reserves the right to the property of the services and products rendered by them.

11 Warranty for product defects

certgate warrants that at passing of risk the products supplied are free from defects, which considerably lower or nullify the value or the usability for the normal or contractually agreed purpose, and that they possess the explicitly warranted characteristics. If the product concerned is software, Certgate warrants that the program carrier is free from defects in materials and workmanship at the passing of risk. certgate points out, that according to the state of technology it is not possible to create computer software in a way that it works fault-free in all usages and combinations.

The warranty period is 12 months.

If a fault occurs, the customer shall immediately check if the most actual Product- or Software version is used. If the fault persists, the customer shall notify certgate thereof in writing, or online if applicable, indicating any relevant information for the diagnosis and correction of the problem. The customer shall oblige his employees to provide certgate with detailed information for the purpose of fault recognition.

The customer shall allow certgate the necessary time and opportunity to correct the fault according to their fair judgment. In the event that he refuses to do so, Certgate is released from the warranty for defects.



For software products, the customer shall, after availability of new software versions, update always to the most recent software version and, if technically possible, shall stop using prior software versions.

For the whole delivery or components the warranty is limited to correction or replacement at the discretion of . As long as certgate fulfills their obligations to correct faults, the customer is not entitled to any price discounts (reduction), cancellation of the contract (rescission) and claim for compensation, unless the correction finally fails. A failure to correct or replace may only be assumed, if certgate has been given sufficient time for correction or replacement, if it is impossible, if it is denied by certgate or delayed unreasonably, if justified doubts with regard to the prospects of success exist or if it is unacceptable for any other reason. As long as certgate is not delayed in the correction or has not finally failed, the customer has no right to have faults corrected by a third party.

certgate is not responsible for any faults resulting from the insufficient cooperation of the customer or from faults in hardware, network or software from third parties based on their insufficient availability, functionality or performance. Likewise, certgate is not responsible for the following:

- a) the customer or third parties have modified the services rendered by certgate in any way;
- b) serial numbers or indications of the manufacturing date have been removed from the delivery item;
- c) daily commodities such as fuses are concerned;
- d) the consignment is integrated in products of third parties or third-party products are integrated in the consignments and have been connected with them, without being covered by the intended use indicated in the specification;
- e) faults in the delivery items caused by improper installation or due to improper transportation by the customer or by third parties commissioned by the customer;
- f) the delivery items are used for purposes other than indicated in the specifications or have been applied other than for its intended use
- g) faults that may not be attributed to certgate for other reasons.

A further warranty is excluded, in particular any claim for compensation of damages not occurring on the delivery item itself. This applies specifically to consequential damages e.g. on data records and due to the inability to use them during the repair work.

Technical changes serving the advancement and the general improvement of the product or not impairing the use are excluded.

If the verification of defect reported by the customer shows that the warranty does not apply, Certgate may bill the client for the cost of the verification at the applicable customer service rates.

12 Warranty for defects of third party products

For products (regardless if hard- and/or software) manufactured by third parties and supplied by certgate to the customer, certgate shall have no obligation of warranty. All customer warranty claims shall be directed directly to the respective manufacturer.

13 Copyrights and rights of use

For any copyright and right of use related matters, certgate's License Agreement applies.

14 Data protection

The most current certgate online shop GDPR privacy declaration (Data Privacy) shall apply, which is online available within the certgate online shop

15 Liability

certgate is only liable for the customer's damages insofar as certgate or their auxiliary persons act with gross negligence and intentionally. Additionally, certgate is liable for warranted characteristics and when violating fundamental contractual duties, the fulfillment of which the customer may particularly trust, as well as for the injury of life, body and health even in cases of slight negligence. In slight violations of fundamental contractual duties as well as in gross negligence by auxiliary agents that are not executive staff, certgate is only liable for the amount of the typically foreseeable damage.

A liability for consequential damages such as loss of profits, lost savings and other collateral damages is excluded, unless the purpose of the agreement is jeopardized hereby.

The aforementioned liability restrictions also apply to the employees of certgate.

In the event that the customer interferes with the supplied items without written consent of certgate, certgate is not liable for the resulting damage. certgate reserves the right to claims for damages. "Interference" pursuant to sentence 1 also includes software modifications or its decompilation.

certgate does not assume any liability for installation and operation errors or faulty data protection by the customer. certgate is not liable for the recovery of data and programs provided that their loss was not caused intentionally or by gross negligence. A liability in this case will only apply if the customer has ensured by appropriate measures that the originally stored data or programs may be recovered with reasonable effort.

The customer shall immediately notify certgate of any errors so that Certgate may correct them and take any necessary and reasonable measures to avoid further errors and loss of data. The customer may not refuse payment or part of the payment due to a slight and particularly short performance failure

certgate is not liable for performance failures arising from circumstances that may not be influenced by Certgate. Liability is excluded for damages resulting from making a user name and/or password available to third parties without authorization.

The liability restrictions named here do not apply if certgate is liable for compensation of damages due to the product liability law or other binding legal regulations.

16 Higher authority

If due to the influence of a higher authority such as war or unrests, natural disasters or fire, an epidemic or quarantine, a strike or lockout, measures of the government or similar circumstances the contractual duties may not be fulfilled at all, are delayed or may not be fulfilled according to the contract, the corresponding contractual party is relieved from keeping this agreement to the extent of the influence.

The contracting parties will immediately inform each other on such cases of higher authority.

17 Trademark rights

certgate warrants that the services rendered by them when applied pursuant to the contractual use in the area of the Federal Republic of Germany are free from any trademark rights of third parties (e.g. patents, copyrights, published patent registrations, registered trademarks, registered designs) that considerably restrict or exclude their use.

If a third party makes claims due to a violation of trademark rights by the products supplied by certgate against a customer and if the use is restricted or prohibited, certgate shall have the right to modify the respective contractual services at their discretion in a way that they no longer represent a trademark violation, while still fulfilling the contractual conditions or obtaining the right to be used in an unrestricted manner and without additional costs for the customer pursuant to the agreement.

The above-mentioned liability requires, however, that the customer notifies certgate immediately in writing of any trademark violation claims by third parties, disallows the claimed violation and carries out any disputes including any extrajudicial arrangements only by mutual consent with certgate. certgate is authorized and obliged to carry out any litigations arising from third party claims against customers at their own cost. In the event of litigations with third parties the customer is obliged to act in mutual consent with Certgate and to provide them with adequate support. If the customer ceases to use the products for reasons of loss minimization or for other important reasons, he is obliged to point out to the third party that by ceasing to use the product he is not recognizing the trademark violation.

If the customer himself must represent a trademark violation, claims against certgate are excluded pursuant to the foregoing paragraph. The same applies when the trademark violation is caused by an application that could not be foreseen by the manufacturer or results because the product has been modified by the client or is used in conjunction with products that are not supplied by Certgate. Unless there is an obligation of certgate to the client with regard to a trademark violation, the customer shall relieve Certgate from any third party claims due to such claimed trademark violations.

18 Export regulations

The customer is informed that the reexport of supplied products may be excluded and/or requires authorization pursuant to the corresponding relevant export regulations of the United States of America, the European Union and/or the Federal Republic of Germany. In the event of a reexport of the products of the agreement, the customer is responsible that all nationally or internationally relevant and effective export regulations are observed and the required authorizations are obtained.

In the event of a violation of these obligations the customer shall free certgate from all claims and pay for all damages claimed by the supplier or licensor of certgate, third parties or state and/or international authorities or organizations against certgate.

19 Severability clause

In the event that any of the above regulations of the general delivery and business terms shall be or become ineffective, the effectiveness of other regulations remains intact. If necessary, the ineffective regulation may be replaced by an effective clause that corresponds to the commercial sense of the ineffective clause to the greatest possible extent.

20 Applicable law

This agreement shall be governed by the laws of the Federal Republic of Germany, namely the German Civil Code/German Commercial Code the regulations of the Viennese UN-Convention dated April 11, 1980, on agreements on the international purchase of goods (UN-purchase law) are excluded.

21 Jurisdiction

Provided that the customer is a merchant pursuant to the Code of Commercial Law, a legal entity of the public law or separate estate, the jurisdiction for all litigations arising from this contractual relation shall be Düsseldorf/Germany.