

General Terms and Conditions for the smatch marketplace – updated 19 February 2024

1 General Regulations

- a. Smatch GmbH, Ottenser Hauptstraße 31B, 22765 Hamburg, HRB 177538 (hereinafter: “smatch” or “platform operator”), represented by Dr Max-Gunnar Groberg and Dr Hans-Martin Vetter, offers business people within the meaning of the German Commercial Code and legal entities under public law (hereinafter referred to as “users”) the opportunity to use the smatch Business-to-Business trading system on the online marketplace operated by smatch (hereinafter: “marketplace”) within the context of a service contract and according to the specifications of these Terms of Use.
- b. Finally, these Terms of Use contain the conditions for the services offered by smatch as part of this Service Agreement that are applicable between smatch and the user. Any regulations that deviate from these Terms of Use apply only if they have been confirmed in writing by smatch. With approval in according to Article 3, the user acknowledges these Terms of Use as applicable.
- c. Changes to these Terms of Use shall be communicated to the primary user by smatch in writing or by e-mail. If the user does not object to such changes within six weeks of receiving the communication, the changes shall be deemed to have been accepted. In the event of a change to the Terms of Use, the user will be specifically advised of the right to object and the legal consequences of remaining silent.

2 Platform Operator Services

- a. The marketplace is a platform for purchasers and suppliers for trade in goods and services. The marketplace has an automated message system for the purposes of simplifying communication and comprehensive functionalities to administer and supervise all ongoing business transactions.
- b. The sale of products is only between purchasers and suppliers who decide alone at their own discretion whether to conclude contracts over the platform. smatch is neither the owner of the products that are sold via the platform, at no point is smatch in possession of the products that are offered for sale, smatch does not keep the products in a warehouse and smatch in no ways stores the products as an administrator and/or trustee. smatch can therefore not be held liable for actions or omissions committed on the platform by the purchaser and/or supplier. smatch accepts no liability with respect to the products offered, especially not for the authenticity, quality, trademarks, use of logos, distribution licences or product information.
- c. The platform operator’s services include:
 - i. provision of the usage opportunities of the marketplace after approval of the user according to Article 3;
 - ii. enabling negotiations and the conclusion of contracts on the marketplace by means of invitations to tender and auctions initiated by the purchaser according to Article 4;
 - iii. creating anonymous information and communication opportunities among the users and/or contracting parties;
 - iv. advice and support services for the users according to a separate agreement with smatch.

3 Approving and Granting Access to the Marketplace

- a. Approval by smatch is a requirement for use of the marketplace. The marketplace is available only to businesspeople within the meaning of the German Commercial

Code and legal entities under public law. There is no entitlement to approval to use the marketplace.

- b. In the approval application, the user must state his company data, invoice data and name a contact and state whether he wants to use the marketplace for sales and/or purchases. The approval application is accepted by means of an email confirmation of approval. A Service Agreement for an indefinite period according to these Terms of Use comes into being between smatch and the user concerned as a result of the approval. The platform and the services are made available to the purchasers free of charge. The suppliers (distributors) pay for smatch's brokerage services by paying a commission on the purchases made by purchasers on the platform.
- c. The commission incurred is to be paid by the supplier immediately after invoicing without any deductions, but plus value added tax at the tax rate in force at the time. The user agrees to the invoicing data being saved for the purposes of proof and/or within the context of the statutory archiving obligations.
- d. The user is responsible for ensuring that the statements made by him to smatch and other users are true and complete, in particular within the context of his application for approval according to para. 2. He undertakes to inform smatch without undue delay of all future changes to the details provided. The same applies to all details provided by the user when setting up the employee log-in.
- e. smatch is entitled to withdraw approval from a user or block access to the marketplace if there is sufficient suspicion that he has infringed these Terms of Use. The user can avert these measures if he dispels the suspicion by submitting appropriate evidence at its own expense.

4 Concluding Contracts on the Marketplace

- a. Suppliers have the option of opening invitations to tender and auctions and inviting selected categories purchasers to make binding offers according to individual criteria. Invitations to tender and auctions can be opened only by suppliers and contain no legally binding offer within the meaning of Article 145 of the German Commercial Code, but are just a request to submit offers ("invitatio ad offerendum"). Suppliers are in no way permitted to take part as a purchaser in an auction or invitation to tender opened by them. Similarly, third parties acting on behalf of suppliers may not take part in an auction or invitation to tender opened by the supplier in question.
- b. Suppliers have the option of selecting categories of purchasers according to individual criteria and inviting them to make binding offers for their auctions and invitations to tender. A purchaser's offers are binding and irrevocable declarations to conclude the contract put out to tender by the supplier. Unless otherwise agreed between the purchaser and supplier, the purchaser is bound to his offer for a further 30 days from the end of the duration of the invitation to tender or auction set, and possibly extended, by the purchaser. Article 156 of the German Commercial Code is explicitly excluded. Purchasers are not entitled to be invited to participate in invitations to tender or auctions.
- c. A supplier is free to choose whether he wants to accept the offers received, and if so, which one. Provided that a supplier and purchaser do not make any deviating agreement, a contract comes into being when a supplier accepts a purchaser's offer by sending a single or framework contract order.

- d. Actions using the log-in for a user must be assigned to that user. Users are responsible for all of the declarations of intent they make themselves on the platform. They are liable to a foreseeable extent for declarations made by third parties in the user's member account according to the principles of a contract containing protection for third parties.
- e. Only the relevant time on the platform of the marketplace in question applies to all transactions on the marketplace. Bids can be made only within the term of invitations to tender and auctions stipulated by the purchaser.
- f. smatch reserves the right to amend or extend the content and structure of the platform and the associated user interfaces if this does not, or does not greatly, impair fulfilling the purpose of the contract concluded with the user. smatch will inform the users of the marketplace of the changes accordingly.

5 Duties of the User

- a. Invitations to tender and auctions may not be opened or an offer may not be made if
 - i. the information is so incomplete that the subject matter and price cannot be determined;
 - ii. opening or implementing the invitation to tender, auction or the sale would infringe the statutory provisions, official instructions or public morals in the legal system relevant to the intended contract. In particular, no items may be offered whose offer or sale infringe the rights of third parties; the same applies to items that are pornographic or liable to corrupt the young, weapons, drugs, propaganda material from unconstitutional organisations and parties, living animals, etc. smatch is entitled to remove such an invitation to tender, auction or offer from the marketplace without undue delay.
- b. Goods or services that may be offered only with legally required proof, may be offered and requested on the marketplace only if the proof has been included in the description of the goods or services and the goods or services are issued only with the legally required proof.
- c. With approval according to Article 3, the user vouches to smatch and all other users that the user will comply with the statutory data protection requirements with respect to the data transmitted to him and exempts smatch from all claims, including those of a public law nature. In particular, the user must inform the people acting for him on the platform (in particular employees) of the data processing processes required by smatch according to smatch's data protection declaration on the following link [<https://www.smatch.com/datenschutzerklaerung/>] and, where applicable, obtain any consent required from these people before their personal data are posted to the platform within the framework of setting up employee logins or in any other way.

6 Provisions and Conditions for the Sale of Products between Suppliers and Purchasers

- a. Those provisions and conditions that the supplier specifies and are offered to the purchaser for inspection before he confirms his order apply to the sale of the products. As stated, the provisions laid down in these Terms of Use and on the platform apply to the delivery and acceptance of the products and to payment; in

the event of a contradiction between the supplier's sales condition and these points, the Terms of Use and the information published on the platform have precedence.

- b. Additional provisions and conditions may apply between the supplier and the purchaser, such as the relevant provisions and conditions for the sale of products, trade cooperation services and other obligations designed to foster the trading relationship.
- c. Upon receipt of an order that the purchaser has made over the platform, the supplier may accept, amend or reject the order. The supplier undertakes to do this within the time frame and according to the conditions stated on the platform.
- d. If it has been agreed that the supplier organises the provision and shipping of the goods, the purchaser confirms that only the supplier bears responsibility for preparing the order, its transport and its delivery at the place of delivery agreed with the supplier. Every order is given a parcel identification number notified by the supplier and, where applicable, by the dealer.
- e. When the order is delivered, the purchaser will sign the supplier's delivery note and hand it to his shipper or confirm delivery via the platform. After he has physically received the products, the purchaser undertakes to confirm the lack of defects in the order received before expiry of the complaint period.
- f. As soon as the purchaser makes an offer via the platform, the registered name, the first name and surname, (where applicable) the registration number, the registered address, the name and address of the delivery destination and the purchaser's contact data are disclosed to the supplier so that he can process the order. The purchaser undertakes to comply with all laws that apply to the collection and preparation of the personal data that he discloses to the supplier during the sales process, as well as to inform all affected parties, who are natural persons, about the disclosure of personal data to the purchaser according to the applicable statutory requirements.
- g. All offers submitted by the purchaser are independent of each other. The unavailability of a product or several products order from one or more supplier/s via the platform is no reason for the cancellation of all ordered products because the purchaser remains bound to the order with respect to the other product/s that is/are available.
- h. If the purchase does not receive the ordered product/s, he must notify the supplier of this. smatch reserves the right to intervene to facilitate resolution of the complaint.
- i. If smatch is notified by a user or note itself that products are offered for sale that infringe these Terms of Use, smatch reserves the right:
 - i. to remove these products from the platform;
 - ii. to block or temporarily suspend the supplier's account;
 - iii. to revoke these Terms of Use with immediate effect, which has the consequence that the member's account is closed and deleted; and/or
 - iv. to transmit all necessary information concerning a ban on sales and/or a purchase of these products on the platform, possibly including the member's personal data, to the competent authorities and/or upon request to cooperate with the competent authorities.
- j. The purchaser undertakes to comply with all applicable laws and regulations with respect to the acquisition and purchase for selling on of goods, irrespective of their nature.

- k. In particular, if smatch becomes aware of actions or behaviours by a user outside the platform (i) that aim to poach all or some purchasers from the platform or are an attempt to do so or that aim to cause all or some purchasers not to make any purchases through the platform or to cancel them, (ii) that are possibly unfair, harmful, uneconomic, defamatory, offensive, derogatory or detrimental to smatch, the platform, a user and/or third parties or (iii) that in another way infringe the laws and regulations applicable to smatch, smatch reserves the right to terminate these Terms of Use by means of written notification with immediate effect.

7 Unauthorised Types of Use of the Platform and Service

- a. The user undertakes to refrain from the following use of the platform and/or the services:
 - i. poaching all or some of the users from the platform or making an attempt in this regard or causing all or some users to make no purchases through the platform or to cancel purchases on the platform;
 - ii. unfairly circumventing, avoiding and/or impairing a paid service on the platform (or attempting to circumvent, avoid and/or impair them);
 - iii. publishing or distributing shocking, inappropriate, obscene, threatening, abusive, violent, indecent, racist, harmful, defamatory, libellous, insulting, disparaging, misleading, discriminatory, harassing, shaming, pornographic or child pornographic content, content glorifying crimes against humanity, content that is highly likely to incite racist, religious or ethnic hatred or violence or terrorism, content that is highly likely to undermine people's human dignity or privacy, illegal or other unlawful content;
 - iv. publishing or distributing content infringing the copyright of the third party
 - v. publishing or distributing content that are highly likely to be classed as misappropriation, fraud, embezzlement or another criminal act;
 - vi. aiming to transfer sums of money without exchange in return of delivery of a product that is in line with the provisions of these Terms of Use and is of the same value as the sums requested, or making an attempt to this end;
 - vii. sending computer viruses, worms, Trojan horses, logic bombs or other harmful programs, files or other forms of malware with the aim of damaging, disrupting, interrupting and/or limiting the functions of the IT or telecommunications systems;
 - viii. carrying out commercial or advertising activities of any kind (especially sending unsolicited advertising notifications, competitions, lotteries or newsletters) or requesting payments or online donations;
 - ix. damaging one of the computer systems or illegally intercepting data or personal information or violating the security of the systems and networks;
 - x. accessing the account, user name and/or the password of another user, using it or attempting to make such a use;
 - xi. using the service fully or in part without authorisation;
 - xii. masquerading as another person, a user or an employee or representative of smatch, purporting his statements or comments are supported or approved by smatch, and/or using the service to send or circulate content that could be harmful to smatch or could criticise smatch in any way;

- xiii. carrying out the following actions when accessing and using the service: requesting or at least collecting personal data, passwords, account information or other types of information with respect to the other users, procuring them, saving them or making an attempt to this end;
 - xiv. concealing or covering up the source of notifications;
 - xv. using data mining tools, bots or similar tools to collect and extract data associated with the platform;
 - xvi. restricting, suspending or preventing use of or access to the platform and/or service by a person or disrupting access to the platform and/or the service, including, but not restricted to, any actions that disrupt real time communication between members in any way;
 - xvii. disrupting operation of the platform and/or service, the servers or network connections to the platform and/or the service;
 - xviii. carrying out an action that is highly likely to lead to smatch being made liable or fully or partially losing the advantages from the services of its partners and service providers, in particular its internet service providers, payment service providers, finance partners and/or partners for warehouse services;
 - xix. carrying out all actions that are highly likely to damage the reputation and/or good name of smatch or the platform and/or that represent acts of unfair competition or enrichment against smatch, another member and/or third parties;
 - xx. infringing the specifications, processes, guidelines or regulations with respect to the networks linked to the platform and/or the service.
- b. The user undertakes to refrain from actions or activities that are highly likely to infringe the rights of third parties, applicable laws and regulations and/or other contractual conditions that are binding for the member in any other way.

8 Processing Contracts Concluded on the Marketplace

- a. The processing of contracts concluded on the marketplace is a matter solely for the users concerned. smatch will not assume a guarantee for the fulfilment of contracts concluded between users on the marketplace nor liability for physical or legal defects in the goods and services traded. It will be incumbent on smatch to ensure fulfilment of contracts that have been agreed between the users.
- b. smatch cannot assume any guarantee for the true identify and power of disposition of the users. In the event of doubt, both contracting partners are required to inform themselves appropriately of the true identity and powers of disposition of the other contracting partner.

9 Liability of the Platform Operator

- a. smatch is liable without limitation for intent and gross negligence, in the case of mild negligence only if significant contractual duties are infringed. As significant contractual duties. Liability in the event of violation of such a significant contractual duty is limited to damage typical of the contract that smatch had to anticipate when concluding the contract on the basis of the circumstances known at this time.

- b. smatch assumes no liability for disruptions in the mains network that are not the fault of smatch.
- c. According to the provisions above, smatch shall be liable for the loss of data only if such a loss would not have been avoidable with appropriate data backup measures.
- d. The liability does not extend to impairments to contractual use of the services provided by smatch on the marketplace that have been caused by improper or incorrect use by the user.
- e. The above limits to liability also apply accordingly in favour of the smatch's agents.
- f. If the marketplace enables an option to connect through to websites, services, etc. from third parties by setting links or hyperlinks, smatch is liable neither for the accessibility, existence or security of these databases or services, nor for their content. In particular, smatch is not liable for their legality nor the correctness, completeness or topicality of their content. etc.

10 External Content

- a. It is prohibited for users to post content (e.g. through links or frames) on the marketplace that infringe statutory provisions, official instructions or public morals. Moreover, it is prohibited for them to post content that infringe the rights of third parties, especially copyright or trademark rights.
- b. Under no circumstances can smatch make external content its own. The user guarantees to smatch and the other users of the platform that the goods and services he offers in invitations to tender and auctions do not infringe any copyrights, trademarks, patents, other property rights or company secrets.
- c. smatch reserves the right to block external content if it is punishable under the applicable laws or clearly serves the purpose of preparation of criminal acts.
- d. The user will exempt smatch from all claims asserted by third parties against smatch due to infringement of their rights or due to legal infringements due to offers and content posted by the user, provided that the user is responsible for them. In this respect, the user will also pay smatch's costs for legal defence, including all court and lawyer costs.

11 Other Duties of the User

- a. The user is required
 - i. to set up and maintain the necessary data security precautions during the entire term of the contract. This largely refers to careful and conscientious treatment of logins and passwords;
 - ii. to inform smatch of any technical changes in its area without undue delay if they are likely to impair the service provision or safety of smatch's marketplace;
 - iii. to help to identify third-party attacks on the marketplace where this help from the user is necessary;
 - iv. to carry out transactions on the marketplace only within the context of business for commercial purposes.
- b. The user undertakes to refrain from all actions that jeopardise or disrupt the functioning of the marketplace, also not to access data that he is not authorised to access. Furthermore, he must ensure that his information transmitted via the marketplace and his posted data are not infected with viruses, worms or Trojan horses. The user undertakes to compensate smatch for all damage incurred as a

result of non-compliance with these duties for which he is responsible and, furthermore, to exempt smatch from all third-party claims, including lawyer and court costs, asserted by third parties against smatch due to non-compliance of the user with these duties.

12 Data Processing and Compliance with Confidentiality by smatch; Protection of Secrecy

- a. smatch's servers are secured according to the state of the art, in particular by firewalls; however the user is aware that there is a risk for all participants that transmitted data can be read out on the transmission path. This applies not only to the exchange of information via email, which leaves the system, but also to the integrated message system and all other transmissions of data. The confidentiality of the data transmitted in the framework of using the marketplace can therefore not be guaranteed.
- b. The user consents to smatch saving information and non-personal data on the course of invitations to tender and actions and the conduct of purchasers or suppliers in carrying out these transactions in anonymised form and using it in this anonymised form only for marketing purposes, e.g., for compiling statistics and presentations.
- c. smatch is authorised to process and save non-personal data received from the user during the term of this agreement and in connection with the business relationship. In particular, the user consents to smatch:
 - i. saving and processing information on company data and invoice data made by the user as part of the approval application and relevant updates notified by the user;
 - ii. saving the data uploaded to the marketplace by the user himself in connection with the company presentation in the trading area under administration that he wanted and providing it for retrieval in the public and closed area of the marketplace for other registered and unregistered users;
 - iii. saving non-personal data about the content of the transactions and passing it on to other users and - provided that the user concerned wishes this by selecting a public transaction - providing it for retrieval in the public area of the marketplace for other registered and unregistered users.
- d. Otherwise, smatch will treat all of the data concerning the users that has been identified as confidential by them in confidence and use it only according to the provisos of these Terms of Use. smatch reserves the right to deviate from this if smatch must disclose the users' data because of statutory or government orders.
- e. With respect to personal data, we refer to smatch's data protection declaration at [\[Link\]](#).
- f. smatch may obtain, use or disclose the users' business secrets within the meaning of Article 2 No. 1 of the German Business Secrets Act (GeschGehG) in the area of application of Article 1 GeschGehG only in accordance with the provisions of Article 3, Article 4, Article 5 GeschGehG.

13 Payment Terms and Default

- a. The invoice amount shall be payable in full within 30 days from the invoice date without any deductions.
- b. If the payment deadline is exceeded, the customer shall be deemed in default without the need for a separate reminder. In the event of default, we are entitled to charge default interest at a rate of 9 percentage points above the applicable base

interest rate per annum, in accordance with Section 288 (2) of the German Civil Code (BGB). In addition, a fixed default compensation fee of EUR 40 shall apply pursuant to Section 288 (5) BGB.

- c. If a reasonable grace period granted for payment lapses unsuccessfully, we reserve the right to assign the claim to a debt collection agency or to initiate legal proceedings. Any additional costs incurred as a result shall be borne by the customer.

14 Payment Services

- a. If the payment service functions are integrated by smatch in such a way that it is a payment triggering service within the meaning of Article 1 para. 1 sentence 2 No. 7, para. 33 of the German Payment Services Supervision Act (ZAG) or an account information service within the meaning of Article 1 para. 1 sentence 2 No. 8, para. 34 ZAG, the provisions of the ZAG remain unaffected.
- b. Using smatch.com it is possible to pay for your purchase at a later time rather than immediately. We offer this with the help of an external finance partner, "PastPay Europe" Pentech Solutions Sp.z.o.o. (Pentech), using a payment method called PastPay. In this case, if you choose PastPay as a payment method and Pentech undertakes to finance the transaction in question, Pentech buys the invoice issued to you from the service provider. In other words, Pentech buys the service provider's outstanding claim against you and pays the invoice value to the service provider instead of you. In such cases, the invoice issued by the service provider already contains the clear legal features of the agreement and all the required information. It is IMPORTANT that after assigning the invoice, your payment obligation to Pentech remains, which may be paid only to Pentech's account number stated on the invoice. You must pay your payment obligation by the due date of the invoice at the latest, otherwise a flat rate fee of Euro 40 will be charged. By using PastPay, you are giving your consent to your contact data (name, email address, telephone number) being passed on to Pentech. This is primarily required so that we can send you the information and notifications required for the payment transactions. Pentech's data protection guidelines can be found here. If Pentech does not undertake to finance the transaction in question, this payment method is not available - in this case you can naturally still make the purchase, but please choose a different payment method.

15 Assignment and Offsetting

- a. A partial or complete transfer of the user's rights from the contract with smatch to third parties is excluded.
- b. The user is entitled to offset against smatch only with undisputed or legally binding counterclaims.

16 Contract Term

- a. The contract on which these Terms of Use are based is concluded for an indefinite time. It starts with approval by smatch according to Article 3.
- b. The contract can be terminated by either party with notice of three months to the end of a month.
- c. Each party has the right to terminate the contract for good cause without a requirement to observe a notice period. For smatch, good cause is in particular

- i. infringement by a user of the provisions of these Terms of Use, which is not remedied even after a deadline has been set;
 - ii. a criminal act by a user or an attempt at such, e.g. fraud;
 - iii. payment delay by the user in accordance with the payment to be made by the user according to Article 3 para. 2 and 3 by more than six weeks.
 - iv. Continuing disruptions to operations as a consequence of force majeure that are outside the control of smatch, such as natural disasters, fire, breakdown of mains networks.
- d. Any termination must be made in writing. Termination by fax or email comply with the written form.

17 Final Provisions

- a. The law of the Federal Republic of Germany will apply with the exclusion of the UN Convention on Contracts for the International Sale of Goods. The place of jurisdiction for all legal disputes is Hamburg. smatch is also entitled to file a suit at the user's general place of jurisdiction.
- b. If single provisions of these Terms of Use are or become ineffective and/or contradict the statutory regulations, the effectiveness of the remaining Terms of Use will not be affected. The contracting parties will replace the ineffective provision by a provision that is legally as close as possible to the economic purpose of the ineffective provision. The above regulation applies accordingly to loopholes.

General terms and conditions of sale (GTC) for deals in which smatch GmbH is the merchant of record – Updated 16 May 2024

1 General

- 1.1 These General Terms and Conditions of Sale (GTCs) apply to all our business relations with our customers (“purchasers”) in which smatch is the merchant of record and not only providing platform services. The GTCs shall only apply if the purchaser is an entrepreneur (Article 14 German Civil Code - BGB), a legal entity under public law or a special fund under public law. With his order, the purchaser is confirming that he is an entrepreneur within the meaning above.
- 1.2 Our goods are sold and supplied only according to these GTCs. They have precedence over contradictory or deviating conditions of the purchaser unless we have explicitly given our written consent in advance. In no way does the mere delivery of goods represent an acknowledgement of such conditions, even if we supply in knowledge of deviating or contradictory conditions of the purchaser. Individual agreements made with the purchaser in individual cases (including collateral arrangements, supplements and amendments) always take precedence over these GTCs. A written agreement or our written confirmation is decisive for the content of such agreements, subject to evidence to the contrary.
- 1.3. Agreement conclusions, agreement supplements of all kinds and subsequent amendments to agreements need written confirmation to be effective. This also applies to amending this clause requiring the written form. A confirmation by email should also be sufficient as written confirmation.
- 1.4. These GTCs are the basis for all future sales to the purchaser.

2 Contract Conclusion

- 2.1 Our offers are subject to change and non-binding. This is also the case if we have sent the purchaser catalogues, other product descriptions or documents - including in electronic form - to which we retain the ownership rights and copyright.
- 2.2 The order of the goods by the purchaser is considered a binding contract offer. Unless otherwise stated in the order, we shall be entitled to accept this contractual offer within five (5) days of its receipt by us. Acceptance by us must be written by one of our CEOs.

3 Prices and Payment

- 3.1 The prices apply to the delivery scope listed in the order confirmations. Additional or special services will be invoiced separately. The prices are in EUR ex works, plus packaging, the statutory applicable rate of value added tax, in the case of export deliveries customs and fees and other public levies.
- 3.2 If the agreed prices are based on our list prices and delivery is to be more than four months after the agreement is concluded, the list prices valid at the time of agreement apply.

- 3.3 Invoice sums are to be paid immediately without any deduction, unless otherwise agreed in writing. Receipt by us is decisive for the date of payment. Payment by cheque is ruled out unless separately agreed in an individual case. If the purchaser does not pay by the due date, the outstanding amounts are to be subject to interest from the due date at the statutory interest rate; asserting further claims in the event of late payment remains unaffected.
- 3.4 Crediting with counterclaims from the customer or retaining payments due to such claims is permitted only if the counterclaims are undisputed or have been ascertained with legal validity or they result from the same order in which the delivery concerned was made.
- 3.5 We are entitled to carry out or provide outstanding deliveries only in return for advance payment or a security deposit if we become aware, after conclusion of the agreement, of circumstances that are liable to greatly reduce the creditworthiness of the customer and as a result of which payment of our outstanding demands from the contractual relationship in question by the client (including from other individual agreements to which the same framework agreement applies) is jeopardised.
- 3.6 If the payment service functions are integrated by smatch in such a way that it is a payment triggering service within the meaning of Article 1 para. 1 sentence 2 No. 7, para. 33 of the German Payment Services Supervision Act (ZAG) or an account information service within the meaning of Article 1 para. 1 sentence 2 No. 8, para. 34 ZAG, the provisions of the ZAG remain unaffected.
- 3.7 Using smatch.com it is possible to pay for your purchase at a later time rather than immediately. We offer this with the help of an external finance partner, "PastPay Europe" Pentech Solutions Sp.z.o.o. (Pentech), using a payment method called PastPay. In this case, if you choose PastPay as a payment method and Pentech undertakes to finance the transaction in question, Pentech buys the invoice issued to you from the service provider. In other words, Pentech buys the service provider's outstanding claim against you and pays the invoice value to the service provider instead of you. In such cases, the invoice issued by the service provider already contains the clear legal features of the agreement and all the required information. It is IMPORTANT that after assigning the invoice, your payment obligation to Pentech remains, which may be paid only to Pentech's account number stated on the invoice. You must pay your payment obligation by the due date of the invoice at the latest, otherwise a flat rate fee of Euro 40 will be charged. By using PastPay, you are giving your consent to your contact data (name, email address, telephone number) being passed on to Pentech. This is primarily required so that we can send you the information and notifications required for the payment transactions. Pentech's data protection guidelines can be found here. If Pentech does not undertake to finance the transaction in question, this payment method is not available - in this case you can naturally still make the purchase, but please choose a different payment method

4 Composition of the Goods

We point out that, in spite of using the necessary care, there may be minor deviations in the composition of the goods ordered in comparison to our information. These must be accepted by the purchaser if they are within the standard tolerance range for the product concerned or could not be avoided in spite of use of the necessary care.

5 Reservation of Self-Delivery

If the ordered goods cannot be delivered because we have not been supplied by our suppliers for reasons that are not our fault in spite of their contractual obligation, we are entitled to withdraw from the agreement. In this case, we will inform the purchaser without undue delay that the ordered goods are no longer available and reimburse any payments already made. If the purchaser wants to withdraw from the purchase, we explicitly reserve the right to assert further claims.

6 Fulfilment, Delivery, Transfer of Risk and Insurance

- 6.1. Delivery is ex warehouse Federal Republic of Germany (EXW, INCOTERMS 2020), which is also the place of performance for the delivery and any subsequent performance. At the request and expense of the purchaser, the goods may be shipped to another destination (sale by delivery to a place other than the place of performance). Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves.
- 6.2. We are entitled to make partial deliveries only if i) the partial delivery can be used by the purchaser within the framework of the contractual intended purpose, ii) delivery of the remaining ordered goods is ensured and iii) no considerable additional work or extra costs are incurred by us as a result (unless we state that we are willing to bear these costs).
- 6.3. If unloading, shipping, departure or arrival times or dates are named or listed on a calendar, these are only fixed dates if dates are labelled with a corresponding addendum. Otherwise, we have no further influence on supply from our suppliers. The exact delivery dates may therefore deviate.
- 6.4. We insure ordered goods against any risk only on the basis of a separate written agreement with the purchaser. Otherwise, insurance is the responsibility of the purchaser at his own expense.
- 6.5. The risk of accidental loss and accidental deterioration of the goods passes to the purchaser at the latest upon handover. However, in the case of a sales shipment, the risk of accidental loss or accidental deterioration of the goods and the risk of delay passes to the carrier, freight forwarder or other person responsible for the shipment upon handover of the goods.
- 6.6. In the case of export business, it is a matter for the purchaser to check whether the legal situation in the destination country to which the goods are to be delivered prohibits such an import (e.g., protected commercial rights, embargoes or import limits). The purchaser undertakes to inform the seller of such obstacles without undue delay.

7 Force Majeure

In cases of unforeseeable events such as war, strikes, pandemics, lockouts, energy and raw material shortages, serious transport problems, government orders (including those that make carrying out the transaction concerned uneconomic within an appropriate time) and other cases of force majeure affecting us or our suppliers, the seller's delivery obligation will be suspended for as long as the above-mentioned events or their consequences last. Any

delivery deadline is extended by the duration of the above-mentioned events and consequences. It cannot be foreseen when they will end, the seller is entitled to completely or partially withdraw from the agreement without having to pay compensation. Any securities paid will not be offset against this.

8 Retention of Title

- 8.1. The ordered goods remain out property until complete fulfilment of all of the demands from the business relationship.
- 8.2. The purchaser is entitled to sell on the goods supplied in the ordinary course of business. This entitlement will lapse automatically if the purchaser does not meet his payment obligations, he becomes insolvent or an application to open insolvency proceedings is opened or insolvency or liquidation proceedings are ongoing against the purchaser.
- 8.3. The purchaser assigns to us all claims in the amount of the invoice amount that accrue to him as a result of selling on the supplied goods to a third party. We accept the assignment. After the assignment, the purchaser is entitled to collect the claim. We undertake to refrain from collecting the claim if the purchaser correctly meets his payment obligations or he does not become insolvent or no application to open insolvency proceedings is opened or insolvency or liquidation proceedings are not ongoing against the purchaser.
- 8.4. Working and processing of the goods supplied by us and in our ownership is done in our name and on our behalf. If processing is done with objects that do not belong to us, we acquire joint ownership of the new item in proportion to the value of the goods supplied by us to the other processed objects. The same applies if the supplied goods are mixed with objects that do not belong to us.
- 8.5. If the realisable value of the securities exceeds our claims by more than 10%, we release securities of our choice at the request of the purchaser.

9 Inspecting the Goods

- 9.1. The supplied goods must be inspected carefully immediately upon pick-up, respectively after delivery to the purchaser or the third party appointed by him through the purchaser. With respect to obvious defects or other defects that would have been detectable in an immediate, careful inspection, they are deemed to have been accepted by the purchaser if we have not received a written notification of defect within 3 working days of delivery. With respect to other (latent) defects, the delivered items are deemed to have been approved by the purchaser if we have not received the notification of defect within 3 working days of the time from which the defect became apparent; however, if the defect was already obvious at an earlier time during normal user, this earlier time is decisive for the start of the complaint deadline.
- 9.2. Receipt of the notification by us is decisive for adherence to the deadline.

10 Warranty

- 10.1 In the event of a defect, smatch is free to choose whether to rectify the defect by repair or to deliver a defect-free item (subsequent performance) or to partially refund the purchase price of the respective goods. The expenses necessary for the purpose of subsequent performance, in particular transport, travel, labor and material costs, shall be borne by smatch, provided that these are not increased by the fact that the goods have been taken to a place other than the place of performance.
- 10.2 If the subsequent performance fails, the purchase shall be entitled to demand either a reduction in the purchase price (reduction) or withdraw from the contract (withdrawal). The statutory provisions shall apply to claims for damages in addition to or instead of performance, to the exclusion of any further claims.
- 10.3 In all other respects, the statutory warranty regulations shall apply.

11 Liability

- 11.1. Insofar as nothing to the contrary arises from these GTCs including the following provisions, we are liable in the event of a breach of contractual and non-contractual obligations in accordance with the statutory provisions.
- 11.2 We are liable for damages - irrespective of the legal grounds - within the scope of fault liability in the event of intent and gross negligence. In the event of simple negligence, we are liable, subject to statutory liability limitations (e.g. diligence in own affairs; insignificant breach of duty), only for
- damage arising from injury to life, limb or health; or
 - damage resulting from the breach of an essential contractual obligation, i.e., an obligation, the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which the purchaser regularly relies and may rely; in this case, however, our liability is limited to the compensation of the foreseeable, typically occurring damage.
- 11.3 The above-mentioned liability limitations also apply in the event of violations of duty by or in favour of people for whose culpability we are responsible according to the statutory regulations. They do not apply if we are found to have fraudulently concealed a defect or have assumed a guarantee for the quality of the goods.
- 11.4 Liability under the German Product Liability Act remains unaffected.

12 Limitation Period

The limitation period for contractual and non-contractual claims for damages by the purchaser that are based on a defect in the goods constitutes one year from delivery of the goods, unless application of the standard statutory limitation period (Articles 195, 199 of the German Commercial Code [BGB]) would lead to a shorter limitation period in an individual case. However, the purchaser's claims for damages according to No. 11.2 sentence 1 and sentence 2 point 1 and according to the German Product Liability Act expire only according to the statutory limitation periods.

13 Place of Jurisdiction

The place of jurisdiction for all disputes arising from or associated with this agreement is Hamburg, Germany. Our claims may also be asserted in court at the headquarters of the purchaser's offices.

14 Applicable Law

These GTCs and the contractual relationship between us and the purchaser are governed by the laws of the Federal Republic of Germany to the exclusion of international uniform law, in particular the UN Convention on Contracts for the International Sale of Goods.

15 Special Provisions for B2C Transactions in Non-EU Countries

15.1 Scope of Application

This section applies in addition to these General Terms and Conditions of Sale if smatch GmbH sells goods to consumers (as defined in § 13 German Civil Code – BGB) residing outside the European Union.

15.2 VAT and Customs Duties

Deliveries to non-EU countries are treated as export deliveries and are exempt from German VAT under § 6 para.1 of the German VAT Act (UStG). The buyer is solely responsible for compliance with any import formalities, including customs clearance, duties, and taxes in the country of destination.

15.3 Warranty

Statutory warranty rights apply to consumers in accordance with §§ 437 et seq. BGB. Any limitations (e.g. reduced warranty period for used goods) must be explicitly agreed upon and clearly stated.

15.4 Condition and Completeness of Goods

The goods shall be delivered as described. Minor deviations in colour, dimensions or finish typical in the fashion industry shall not constitute defects, provided they do not affect the usability of the goods. The customer is obliged to inspect the goods immediately upon receipt and report any obvious defects within seven (7) days.

15.5 Payment Terms

Unless otherwise agreed, payment must be made in advance. Accepted payment methods include: prepayment (bank transfer), credit card, or other approved payment service providers. The shipment will only be initiated after full payment has been received.

15.6 Return and Right of Withdrawal

There is no statutory right of withdrawal for consumers located outside the European Union. Returns may be accepted only upon prior individual agreement. Any return shipments are at the buyer's own cost and risk.

15.7 Language and Communication

Contracts with consumers in non-EU countries are concluded in English. All correspondence related to the order, including customer service and dispute resolution, shall be conducted in English.