



A. GENERAL PROVISIONS

The following document is a translation of the original German General Terms and Conditions. It is provided for information purposes only, without warranty for its legal validity outside of Germany.

§ 1 Scope

All offers and conclusions of contracts of friendlyway on a temporary loan, in return for payment (rent) or free of charge (leasing, test installation), of friendlyway products will, even if in individual cases they are not especially mentioned, take place exclusively according to the following conditions. Different customer conditions are not valid, including if they are not explicitly opposed to.

§ 2 Offer and conclusion of contract, working documents

- All offers are not binding. Technical changes as well as changes in form, colour, weight and/or size are reserved within reasonable limits.
- A contract is only reached after an order confirmation in due form from friendlyway.
- All rights for and from the working documents and the necessary tools for the execution of the order, belong exclusively to friendlyway. The customer has no right to hand over working documents and tools.

§ 3 Delivery- and service time

- Delivery-, service- and execution times are not binding for friendlyway, as far as no other agreements are made in writing. Shipping dates are approximate times and require the receipt of all necessary information, documents and accessory parts which the customer has to deliver.
- A bindingly agreed term is considered as kept:
 - if delivered without installation and mounting, if the product delivered to the customer within the delivery time agreed is handed over to the person directed to do the shipping, at the latest however when shipment is announced and the delivery is delayed due to reasons friendlyway is not responsible for.
 - if delivered including installation and mounting, as soon as this has taken place.
- The conclusion of the contract takes place provided that friendlyway receives the correct supplies on time from the subcontractors. friendlyway is especially entitled to cancel the contract, if friendlyway has concluded a congruent covering transaction and has been let down by its subcontractor. In this case the customer has to be informed immediately on the unavailability of the service. In this case customer's claims for damages are excluded.
- Any unpredictable or involuntary events and obstacles for which friendlyway cannot be held responsible for and which delay the supply or service completely or partially, especially strikes, lock-outs, unpredictable interruption of operations from friendlyway or from the subcontractors companies, inevitable scarcity of raw material, destruction of services already rendered through third parties or through events of force majeure (i.e. fire, floods, earth quakes) or circumstances and obstacles for which the customer is responsible for, entitle friendlyway, after informing the customer about the obstacle, to prolong the delivery and service times for the time of the obstacle. If the obstacle lasts longer than three months, the customer is entitled to cancel the contract, if from the customer's side a grace period in writing of at least three weeks expires ineffectively. More extensive rights of the customer, especially on damages are excluded.
- Delay does only take place for friendlyway if formally reminded, even if delivery and service times have been agreed and can be calculated according to a calendar.

§ 4 Bearing costs

- The customer has to bear the costs for packing, transport to a different place as friendlyway's premises, installation at the customer's premises and the maintenance of the ISDN-interfaces and material of consumption handed over to the customer. Payments are due within 14 days as of date of invoice without deduction.
- The making available of contents for the presentation and utilisation of the loaned products handed over to the customer and the continuous maintenance of the loaned products is not object of this contract and has to be ordered separately.
- The customer bears the costs for the running operation and utilisation of the loaned products from friendlyway, especially for telephone fees for the Internet service.

§ 5 Utilisation of products through the customer, loan for use through third parties

- friendlyway products must be used only by the customer, and with his consent, also by his staff and by those individuals, who have been selected as users according to the contract's purpose.
- The customer is not authorised to dispose of the loaned products or to leave the products to third parties without previous formal consent from friendlyway.
- Without previous formal consent from friendlyway the customer is not allowed to make changes, additional installations and install other software on the loaned products.
- The customer is entitled to use the software installed on loaned products within the scope of the corresponding. Therefore the license provisions of each manufacturer have to be kept in mind. The customer is especially not authorised to copy the software, translate it, decompile it, work on it or remove it from the processor unit concerned.

§ 6 Maintenance, liability of the customer

- The customer agrees and engages to install the loaned products left to him in an adequate place of installation, treat them carefully and appropriately, keep them in a serviceable and operative state and protect them adequately from loss and theft, take notice of all those technical notes for the use, especially the user manual and product information, and to regularly check if the loaned products are still in an orderly state. The customer has to insure the loaned products according to commercial integrity.
- Damages and malfunction of the loaned products have to be indicated to friendlyway formally and without delay. In case of damages through third parties, the indication has to include a description of proceedings. If through late indications more damage is done, the customer is liable for damages towards friendlyway.
- The customer is liable towards friendlyway for damages, loss, destruction and/or the premature wear of the products loaned to him, unless the damage occurred can be traced back to use according to agreement and the customer is not responsible for it. The customer is held responsible for his staff, visitors, suppliers, customers and other individuals, who are using the loaned systems with the customer's consent.
- Necessary service and maintenance work, may only be executed by a company authorised by friendlyway.

§ 7 Contract term, termination

- If in an individual case a fix term for the loan of the products has been agreed, the contractual relationship ends without having to terminate when the agreed term of loan expires. If no fix term for the loan has been agreed, the contractual relationship may be terminated from each party, observing a three days term at any time. The right for termination of the agreement for cause on weighty cause stays untouched.
- Any termination has to be made formally.
- In case of a free of charge loan, the customer is at any time entitled to return the loaned products to friendlyway.
- A prolongation of contract by ongoing use through the customer (§ 546 BGB, German Civil Code) is excluded.

§ 8 Contract termination

- When the contractual relationship terminates, the loaned products as well as the supplied accessories and accompanying documents i.e. cable, manuals and instructions for use, have to be returned to friendlyway at the cost and risk of the customer, functioning and in orderly state which is to be expected after utilisation according to the contract. Any right of lien is excluded.
- Additional installations made in connection with the loaned products – and with friendlyway's previous consent, especially software and data, have to be removed before they are returned to friendlyway.

§ 9 Limits of liabilities

- Damage claims instead of service can only be asserted if the customer has previously and formally fixed an extension of time towards friendlyway, threatening to claim damage instead of service after expiration of the deadline and/or cancel the contract and let the deadline expire ineffectively. Performance claims of the customer expire with the expiration of the deadline fixed, at latest however if and when the customer claims damage instead of service.

- Damage claims instead of service due to breaching a minor duty in the sense of § 241 paragraph 2 BGB (German Civil Code) can only be asserted if friendlyway can be accused of criminal intent and gross negligence, and the customer cannot be expected to stick to the contract and service of friendlyway any more.
- Any claims for the refund of useless expenses are excluded, if and as far as expenses do not serve commercial purposes and/or for expenses on other business, which the customer has done in view of the contractual relationship to friendlyway.
- As far as liability for damages of friendlyway comes into question or a claim for the refund of useless expenses against friendlyway, no matter what the legal reason, friendlyway is liable as follows:
 - for damages to life, body or health if friendlyway is responsible for the neglect of duty
 - for wilful and at least gross negligent behaviour of the organisation and senior officers of friendlyway as well as for serious misconduct in the organisation
 - for at least gross negligent behaviour of simple assistants, limited to the amount as follows: damages must not exceed the loss occurred and the lost profit, which at the conclusion of contract, taking into account the circumstances which friendlyway knew or must have known, was predictable as a possible consequence of a breach of contract.
- Personal liability of friendlyway's organisation and staff working for friendlyway as assistants is excluded.
- The limits of liability mentioned above are also valid if friendlyway has taken over the procurement risk.
- More extensive claims against friendlyway are excluded.

§ 10 Formal requirements

For the safeguarding of the required formal declaration of intention mentioned in the General Terms and Conditions, it is required and sufficient if the declaration of intention concerned is transmitted in writing, by fax or electronically.

§ 11 Set-off, rights of lien

The set-off against outstanding debts of the customer is only allowed with legally assessed, undisputed or mature demands. This is also valid for the claim of rights of lien.

B. SPECIAL PROVISIONS FOR THE LOAN AGAINST PAYMENT (RENT)

§ 1 Rental fee, maturity, late payment of the customer

- If no other agreements have been made the agreed rental fee is in Euro plus the current value added tax.
- If no other agreements have been made the rental fee for the complete rental term has to be paid in advance, at latest when loaned products are delivered.
- In long-term rental contracts with a rental term of more than three months, the rental fee is due - in derogation from subparagraph 2 mentioned above - for the time starting at the beginning of the rent until the end of the calendar month of the delivery, in advance at the moment the loaned are delivered and then for each following calendar month in advance on the first calendar day of each calendar month.
- Prior to the delivery of loaned products, friendlyway is authorised to demand payment in advance up to the amount of the expected price for the loan.
- After the planned payment terms and payment dates have expired, the customer defaults payment. No reminder is required. Payment terms and payment dates are kept, if friendlyway can dispose of the payment (credited on friendlyway's account, cash cheques).
- If the customer gets into late payment, interest of eight per cent p.a. on top of the basic interest rate have to be paid to friendlyway - irrespective of more extensive claims.

§ 2 Warranty, right to termination if use is restricted

- The customer has to check the loaned products when delivered. In order to preserve his warranty rights the customer has to indicate existing defects formally.
- friendlyway's warranty for initial or subsequent defects of the loaned products is limited to defects friendlyway is responsible for. Warranty claims of the customer are excluded, if the customer knows about the defect or due to gross negligence does not know the defects or neglects his duty to indicate the defect immediately.
- In order to assert tapering claims against payments of running rental fees is only allowed with legally assessed, undisputed or mature demands. Possible claims of the customer on the recovery of undue rent remain untouched.
- The termination of the contractual relationship on the grounds of not allowing to use or removing the right to use or on the grounds of prejudice of use, is only admissible if the prejudice of use is considerable and the customer has formally and adequately fixed an extension of time to friendlyway in order to grant contractual use and this deadline expires ineffectively.

§ 3 Late return of the products

- If the customer does not return, return late, or not completely return loaned products after the expiration of the contractual relationship – no matter the reason why –, friendlyway is entitled to demand for the time on top of the contract term, a user fee for the amount of the product in question and according to the current valid rental fee in the general price list of friendlyway. Special tariffs are only valid for the contractually agreed term of loan and cannot be applied to utilisation fees due to late return.
- More extensive rights for friendlyway, especially those on damages, remain untouched.

C. SPECIAL PROVISIONS FOR THE FREE OF CHARGE LOAN (LEASING, TEST INSTALLATIONS)

§ 1 Exclusion of warranty

friendlyway does not guarantee for the functioning and usefulness of the loaned products for the contractual utilisation presumed.

§ 2 Late return

- The customer comes in default with the return of loaned product, if he does not return it after the expiration of the contractually agreed term of loan or, in the case of an undefined contractual term, after the termination deadline expires. No reminder is required.
- Preceding paragraph B. § 3 is valid accordingly, if the customer comes in default with the return of the loaned product for a free of charge use.

D. FINAL PROVISIONS

- German law applies.
- Joint place of fulfillment for all liabilities resulting from this contract is Munich.
- Munich is the place of jurisdiction for all litigation – including commercial bill or cheque claims - with dealers, legal persons of public law and those with public law assets. friendlyway is however entitled to sue the customer at its general place of jurisdiction.
- The ineffectiveness of individual provisions does not touch the validity of the rest of the provisions. Ineffective clauses have to be substituted by provisions which come closest to the purpose intended.

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