

1. Scope of Application

1.1 These General Terms and Conditions ("GTC") apply to the contracts concluded between a customer and GASTROFIX GmbH ("GASTROFIX") regarding the sale or rental of hardware and/or the provision of services and/or the fee-based provision of software for temporary use by GASTROFIX as part of the GASTROFIX service ("Service").

1.2 These GTC apply exclusively to business transactions with entrepreneurs within the meaning of Article 14 BGB (German Civil Code). An entrepreneur in the above sense is any natural person or legal entity or a legal partnership who/that, on conclusion of a legal transaction, does so in their commercial or professional capacity.

1.3 Customer's conflicting or deviating terms and conditions shall not apply and will not be accepted unless GASTROFIX has expressly agreed to their application in writing. This also applies if GASTROFIX performs its services unconditionally and in the know of these conflicting or deviating conditions.

1.4 Any binding individual agreement with the customer (including ancillary agreements, supplements and amendments) shall in all cases have precedence over these GTCs.

2. Conclusion of the Contract

The contract between the customer and GASTROFIX is usually concluded by the customer's acceptance of an offer from GASTROFIX. In addition the contract between the customer and GASTROFIX may be concluded by the customer placing an order with GASTROFIX via the order form provided for this purpose (online or in paper form) or, if necessary, via a special GASTROFIX app provided for this purpose or by telephone, which is then accepted through confirmation by GASTROFIX. Existing customers also have the possibility to order certain additional services from GASTROFIX by e-mail, fax, telephone or directly in their online access; in this case, the contract for additional services is concluded with their provision by GASTROFIX at the latest, without the need for an explicit declaration of acceptance.

3. Subject Matter of the Contract

3.1 The service includes, depending on the contractual agreement in individual cases, particularly the following services:

- Fee-based provision of software to the customer for temporary use, in particular the GASTROFIX app, for use on certain mobile devices such as tablet PCs and smartphones ("software", insofar as software rental agreement)
- Provision of the possibility of using the online accessible GASTROFIX Cloud as well as online accessible storage space and computer capacities for the operation of the GASTROFIX software in the GASTROFIX computer centre via the Internet or as a cloud computer service for a fee.
- Optional: Sale of hardware to the customer, in particular of end devices such as tablet PCs, printers or routers (hardware purchase contract)
- Optional: Provision of hardware to the customer for a fee for temporary use, in particular devices such as tablet PCs, printers or routers (hardware rental contract)
- Optional: Installation and installation support services, connection services, consulting services

3.2 If the service consists in the provision of the possibility of using online accessible software and online accessible storage space and computer capacities, the service is provided via the GASTROFIX computer centre or servers, or a computer centre or cloud service commissioned by GASTROFIX. The therefore used GASTROFIX server and database software is specified and functionally described in the separate service description for the customer. Data centres or cloud services are located in Germany or in the EU.

3.3 Data concerning the customer's operations, on which the service is based, such as the offered food and drinks, prices, table arrangement, service staff, etc., are entered by the customer independently into the software via the entry fields and operating options provided therein. GASTROFIX does under no circumstances guarantee that these data are complete and correctly represent the customer's operations. GASTROFIX does not warrant nor guarantee for the topicality, correctness and accuracy of the information.

3.4 The customer's access to the Internet is not the subject of this contractual relationship. The customer is solely responsible for the functionality of his Internet access including the transmission paths. The customer is also solely responsible for his internal company network (LAN and WLAN) and his own hardware, as far as this is not provided by GASTROFIX. If GASTROFIX installs the POS system at the customer's premises, the customer must ensure that a fully functional network (including cabling and network sockets) and Internet access are available at the time of installation.

3.5 GASTROFIX is entitled to change and adapt the content of the services including the software provided, as far as this does not restrict the contractually agreed functionalities. These alterations will particularly be made due to technological developments. GASTROFIX will inform the customer in due time before changes occur. In this case, the customer has an extraordinary right of termination with a notice period of two weeks to the change date, if such changes are unreasonable for the customer.

4. Licensing of GASTROFIX Software

4.1 Unless otherwise agreed upon, the customer shall receive a simple (non-exclusive), non-transferable, non-sublicensable, revocable right of use of the contractual software, limited in time to the term of the contract, and limited in scope to the purpose of the software within the customer's company.

4.2 Copies: The customer may install multiple copies of the application, as far as the respective reproduction is necessary for the contractually agreed use..

4.3 No resale or subletting: The customer may neither sell the software (including the user manual and other accompanying material) to third parties nor transfer it, even for a limited time, in particular not rent or lend it. However, a provision of the software is permissible to third parties who are not granted an independent right of use and who must comply with the customer's will with regard to the manner of use. This is in particular the case with the customer's employees.

4.4 The customer must take appropriate measures to comply with the agreed scope of the licence. In particular, the customer is not entitled to sell, transfer, license, distribute or commercially offer the service or parts thereof as part of its own services or products or to make it available or usable in any other way to third parties.

4.5 Trademarks, company marks, copyright notices, serial numbers or other features used for the identification of GASTROFIX or applied by GASTROFIX must not be removed or altered by the customer in any way. The same applies to a suppression of the on-screen-display of corresponding characteristics.

5. Terms of Payment, Offsetting and Rights of Retention

5.1 The prices for the services of GASTROFIX are defined in the specific offer or - as far as no deviating prices are mentioned in the offer - from the current price list of

GASTROFIX at the time of the respective order by the customer. All prices are net prices excluding VAT.

5.2 If hardware and/or software and support and/or other services are provided for an agreed monthly fee or a fee for another shorter period (e.g. daily or weekly), the agreed fee or license and support fee (hereinafter "fee") shall become due at the end of each month.

If the customer has chosen payment in the respective offer for a longer period (e.g. semi-annually, annually or biennially), the agreed fee must be paid in advance for the selected period (i.e. 6, 12 or 24 months).

5.3 Unless otherwise agreed, invoices must be paid immediately upon receipt. If the customer participates in the (SEPA) direct debit procedure, the invoice amount is automatically collected by GASTROFIX. Direct debits that have not been redeemed or returned will be collected one additional time. The customer will bear the bank fees incurred plus a processing fee of € 10.00.

5.4 The customer may only set off counterclaims against claims from GASTROFIX, which the customer bases on material defects or legal deficiencies of GASTROFIX's services, in as much as the set-off amount does not exceed the reduced value of the affected service due to such defects or the probable costs of the subsequent performance or the correction of such defects. Other than that, offsetting against claims from GASTROFIX is only permitted with undisputed or legally binding counterclaims.

5.5 In case of late payment by the customer, GASTROFIX may temporarily suspend the provision of the service and suspend the customer's access to the POS system until the payment has been made in full, unless this would violate good faith under the circumstances, in particular if suspension of access would be disproportionate in relation to the the outstanding payment. The continuing right to remuneration remains unaffected by such a suspension of access or the service. The renewed activation will take place immediately upon payment of the arrears.

6. Contract Period

6.1 Unless otherwise agreed, the contract has a minimum term of three months. If the customer has chosen a longer period (e.g. semi-annually, annually or biennially) as the

method of payment in the respective offer (hereinafter "billing period"), the selected billing period corresponds to the minimum term (i.e. the minimum term is then half a year, one year or two years). The contract is automatically extended by the duration of the agreed minimum term if it is not terminated with three months' notice to the end of the respective contract term.

6.2 The right to terminate for good cause remains unaffected. GASTROFIX is especially entitled to terminate the contract for good cause, if:

- the customer is in arrears for two consecutive months with payment of any respective invoice or for a period of more than two months or with payment of the fee for an amount equal to or exceeding the agreed license fee for two months, or
- if the customer grossly violates contractual obligations and does not remedy this violation within a reasonable period of time upon written request of GASTROFIX. A warning or setting of a deadline is dispensable if the continuation of the contractual relationship appears unreasonable due to the materiality of the breach of duty, if success is not reasonably to be expected or if immediate termination, taking into account the interests of both parties, appears justified.

6.3 Notices of termination must be given in writing to be valid.

7 Availability of the GASTROFIX Service

7.1 GASTROFIX warrants the contractually agreed availability of the services. However, this does not constitute a corresponding guarantee.

7.2 The precondition for claims of the customer upon disturbances of availability is always that the customer has notified GASTROFIX of the disturbances of availability without undue delay and - as far as possible and reasonable – has documented and proved such comprehensibly, so that GASTROFIX is able to check and remedy the cause of the respective disturbance.

7.3 GASTROFIX is not liable for disturbances of availability due to events of force majeure. Theft, general disruptions of the Internet or other circumstances are equivalent to force majeure, insofar as they are unforeseeable, serious and not caused by GASTROFIX. GASTROFIX will, as far as this is possible and reasonable under the circumstances, inform the customer immediately about the occurrence of such an event. GASTROFIX is

obliged to take all economically reasonable measures to achieve prompt elimination of such disturbances.

7.4 GASTROFIX is in no case liable for disturbances of availability caused by the customer, the telecommunication service provider, the access provider or the mobile phone provider of the customer or otherwise by third parties attributable to the sphere of the customer.

8 Warranty

8.1 The customer must notify GASTROFIX immediately of any defects, malfunctions or damage to the rented equipment provided for use.

8.2 Defects in the software provided including, if applicable, the manuals and other documentation will be remedied by GASTROFIX within a reasonable time after respective notification of the defect by the customer. GASTROFIX may choose to rectify the defect by means of free rectification or replacement.

8.3 Downtimes of the rented item(s) caused by improper operation or handling for which the customer is responsible, or other defects resulting from the contractually non-compliant use by the customer, do not entitle the customer to a reduction in rent.

8.4 The customer may not enforce a reduction in remuneration by deduction from the agreed remuneration. Corresponding enrichment or compensation claims by the customer remain unaffected.

8.5 The customer's right to terminate the contract due to failure to grant use in accordance with Article 543 paragraph 2 sentence 1 no. 1 BGB (German Civil Code) is excluded, unless the rectification of defects or replacement delivery proves unsuccessful.

8.6 The strict liability for initial defects in the rental contract according to Article 536a para. 1 BGB is excluded.

9. Liability

9.1 GASTROFIX is liable in accordance with applicable laws for customer's damages which were caused by intentional or grossly negligent behaviour by GASTROFIX or its vicarious agents, as well as for personal damages and damages according to the product liability law.

9.2 In all other respects, GASTROFIX's liability for damage claims is limited in accordance with the following provisions, unless otherwise stated in a guarantee given by GASTROFIX:

- GASTROFIX is only liable for damages caused by slight negligence insofar as they arise from the breach of essential contractual obligations (cardinal duties). Cardinal duties are those contractual obligations whose fulfilment makes the due performance of the contract possible in the first place and on whose fulfilment the customer could rely. As far as GASTROFIX is liable for simple negligence, the liability of GASTROFIX is limited to typically foreseeable damage.
- The liability of GASTROFIX for the loss of data and/or programs caused by slight negligence is limited to the typical recovery effort that would have been incurred in the event of regular and reasonably adequate data backup by the customer.

9.3 The provisions of the preceding paragraph also apply accordingly to a limitation of the obligation to pay compensation for futile expenses (Article 284 BGB (German Civil Code)).

9.4 The above limitations of liability also apply to vicarious agents of GASTROFIX.

10. Confidentiality

The contracting parties undertake to treat confidentially any business and trade secrets of the respective other party, which they have obtained - including their vicarious agents - in connection with the initiation or performance of the contract. These obligations shall not apply to information, knowledge and experience which

- are demonstrably generally known without breach of this confidentiality obligation,
- were demonstrably known to the parties before receiving the information, knowledge and experience,
- were received from a third party without obligation of confidentiality
- or have demonstrably been worked out independently.

11. Data Privacy

11.1 The GASTROFIX software enables the collection of certain personal data concerning the customer or employees working at the customer's premises, such as waiters and operating personnel, and optionally guest data. The software enables anonymous

recording via the use and assignment of pseudonyms or employee numbers that only customers themselves know. These data include, among other data

- all transactions relevant for accounting or GoBD (e.g. orders placed and processed by employees or guests, sign-ins and sign-offs, etc.)
- all data necessary for managing and optimising the ordering and billing processes (in particular data for receipt control, possible peripheral devices, etc.)

These data are used for bookkeeping and cost accounting purposes for the customer's operations. GASTROFIX itself does not create personalised user profiles. GASTROFIX itself has no access to these personal data in connection with the clear names of the persons concerned.

11.2 The customer decides for him-/herself which data he/she enters into the GASTROFIX system. As far as he/she enters personal data related to him-/herself, he/she agrees to the data processing, storage and transmission within the framework of the system. If he/she enters or has entered personal data for his/her employees or customers into the GASTROFIX system, he/she him-/herself is, if applicable, responsible for obtaining any required data protection consent of the persons concerned.

11.3 Persons or companies, whose personal data GASTROFIX has stored, have a right to information, correction and blocking of their stored data at any time free of charge. GASTROFIX uses technical and organisational security measures to protect the data managed by GASTROFIX against intentional or unintentional manipulation, loss, destruction or access by unauthorised persons.

11.4 Contact person for data protection at GASTROFIX: For questions regarding the collection, processing or use of your personal data, for information, correction, blocking or deletion of data as well as revocation of consents given, please contact us: Andre Leopold Lorop GmbH, Landgrafenstrasse 16, 10787 Berlin, Germany; privacy@gastrofix.com

11.5 Data is available to the customer anytime and anywhere: On the one hand, all transaction data ever generated is always stored in coded form on all iPads/iPods used. On the other hand, data is transferred to the GASTROFIX Cloud in regular intervals via an existing Internet connection. The customer can export transaction data in GoBD-compliant format into a CSV or Excel file at any time with a mouse click and also store it

locally at home. In the event of audits by the tax authorities, the customer is, thus, able to retain all cash register data within and beyond the legally required period of 10 years, even after termination of the contractual relationship.

11.6 Credit check: In connection with new contracts, GASTROFIX carries out a credit check of the customer. For this purpose, the necessary data of the customer will be transmitted to CRIF Bürgel GmbH. The amount of the advance payment to be made for hardware and services such as installation/training depends on the result of the credit check and ranges between 50 % and 100 %.

12. Changes to the General Terms and Conditions and Price Changes

12.1 Changes of these GTC or the prices for the contractual services of GASTROFIX (hereinafter "prices") will be communicated to the customer in text form.

12.2 The customer may object to such a change of the GTC or the prices. For this purpose he has to submit his objection to GASTROFIX by e-mail to tc@gastrofix.com or in writing and within four (4) weeks upon receipt of GASTROFIX's notification of the change of the GTC or the prices (hereinafter "changes"). The deadline is only met if the objection is received by GASTROFIX within the deadline. If the customer does not object in due form and time, changes are considered approved by the customer and the changed GTC and/or prices become part of the contract; GASTROFIX will expressly refer to this and to the form and time limit for the objection in the notification of the change.

If the customer objects to the changes in due form and time, the contract shall continue unchanged. In this case, however, GASTROFIX has the right to terminate the contract by written declaration to the customer with a notice period of four weeks, if adherence to the unchanged contract is economically or technically not possible or unreasonable for GASTROFIX.

13 Applicable Law, Place of Performance and Place of Jurisdiction

13.1 This contract is governed by the laws of the Federal Republic of Germany excluding the regulations of the UN Sales Convention (CISG).

13.2 Place of performance is Berlin.

13.3 The exclusive place of jurisdiction for all current and future claims arising from or in connection with this contract with merchants, legal entities under public law or special

funds under public law is Berlin. The same place of jurisdiction shall apply if the seller does not have a general place of jurisdiction in Germany, has moved their headquarters or usual place of residence away from Germany or their headquarters or usual place of residence at the time of the filing of the complaint is not known.

14 Special Regulations for Hardware Purchases

14.1 As far as GASTROFIX also sells hardware to the customer in connection with the GASTROFIX software and nothing else has been agreed, the following general provisions apply:

14.2 Retention of title: The goods delivered remain the property of GASTROFIX until full payment.

14.3 Warranty regarding the hardware sold:

- Insofar as GASTROFIX has to provide supplementary performance due to a defect, the choice as to whether the supplementary performance is made by repair or replacement of a defect-free product is at the sole discretion of GASTROFIX.
- Obligation to inspect and notification of defects: obvious defects in hardware sold must be reported to GASTROFIX in writing immediately, at the latest within 14 calendar days after delivery of the goods; hidden defects must also be reported in writing immediately, at the latest within 14 calendar days after they become known. If the notice of defects is not given in due time, the warranty rights of the customer with regard to the defect not notified in due time are excluded. However, this does not apply if GASTROFIX maliciously concealed the defect and/or assumed a corresponding guarantee.
- No warranty is assumed for damages resulting from improper or unsuitable use, incorrect commissioning or assembly, natural wear and tear, negligent or incorrect use, non-observance of the maintenance or operating instructions and improper repair work or modifications by the customer or third parties.
- Customer's warranty claims with regard to the hardware purchased become time-barred within one year after delivery of the purchased item to the customer.