

## **General Terms and Conditions of Business of Bird Home Automation GmbH Consumers**

### **1. General Information – Area of Application**

- 1.1. These General Terms and Conditions of Business (hereinafter referred to as “GTC”) apply to contracts concluded between the customer (hereinafter referred to as “you” and us, Bird Home Automation GmbH (hereinafter referred to as “We” or “us”).
- 1.2. A consumer within the meaning of these GTCs is any natural person who concludes a legal transaction for purposes that for the most part cannot be assigned to either their commercial or independent professional capacity.
- 1.3. Deviating, supplementary or conflicting terms and conditions are not recognised by us, unless We have expressly agreed to such.
- 1.4. These GTC also apply if services are provided free of charge, e.g., the provision of test versions and demo programs, free-of-charge cloud services or hardware delivered for testing purposes.

### **2. Materialisation of Contract**

- 2.1. The representation of Bird Home Automation GmbH products – both services and goods – on our company’s websites does not constitute a legally binding offer, but rather an invitation to make an offer (*invitatio ad offerendum*). Taking an order by phone also does not constitute acceptance in a legal sense.
- 2.2. When you click on the button “Order subject to payment” in the last step of the order process, you submit a binding offer to buy the goods and/or services displayed in the order overview. The same applies if you place your order by phone.
- 2.3. Immediately after sending or phoning in the order, you will receive an order confirmation and these GTCs by email. The order confirmation does not constitute acceptance of your contractual offer unless We expressly declare acceptance.
- 2.4. A contract materialises between you and us as soon as your order has been accepted in a separate email or the goods are handed over for shipping and you are informed thereof, or an invoice is sent to you.

### **3. Description of Service**

- 3.1. All DoorBird video door stations have a free-of-charge cloud memory, which is necessary for the operation of the video door stations. With

paid cloud services you can add additional functions to the cloud memory. The scope of service for the respective cloud services is defined in the latest specifications.

3.2. The availability of our cloud services is 95% on average during the year. Availability is your ability as customer to use all the main features of our services. Maintenance times and disruption times that are resolved within the restoration period are considered times of service availability. This includes, but not exhaustively,

- maintenance work or other services coordinated with you and during which you will not have access to the application software.
- unanticipated maintenance work that becomes required, e.g., in the event of cases of force majeure, unanticipated hardware failures, strikes, natural events, etc.
- downtime due to viruses or hacker attacks if We have taken the usual protective measures.
- downtime due to your requirements, due to periods of unavailability of your equipment, or due to interruptions caused by you (e.g. omitted acts of cooperation).
- downtime for installing urgently required security patches.
- downtime caused by third parties (persons not attributable to us).

Periods of insignificant disruptions shall not be considered in the calculation of availability.

3.3. We may limit access to the services if the security of network operations, the preservation of network integrity, especially the avoidance of serious disruptions in the network, or the software or stored data require such.

#### 4. **Retention of Title**

4.1. To secure our claim to the purchase price from you, we reserve the right to retain ownership of the delivered goods (hereinafter “Reserved Goods”) until full payment of the purchase price.

4.2. You are obligated to treat the Reserved Goods with care.

4.3. You are obligated to inform us immediately in writing about any access third parties gain to the Reserved Goods, especially about compulsory execution measures and any damage or the destruction of the Reserved Goods. If the Reserved Goods are pledged by a third party, you are also obligated to notify them about our ownership.

4.4. You are liable for all costs incurred for eliminating such access, especially through the filing of a lawsuit objecting to the third-party access, if the reimbursement of the costs is not to be obtained from the third party in question.

## 5. **Cancellation Policy**

The following cancellation policy applies only to customers that are consumers.

### **- Cancellation Policy -**

#### **Cancellation Right**

**You have the right to cancel this contract within fourteen days without providing reasons.**

**The cancellation period is fourteen days from the date of the conclusion of the contract for services and goods that are not delivered on a physical data carrier and fourteen days from the date on which you or a third party indicated by you, which is not the carrier, took possession of the goods.**

**To exercise your cancellation right, you must inform us:**

Bird Home Automation GmbH  
RMA Department  
Uhlandstraße 165  
10719 Berlin, Germany

E-mail: [hello@doorbird.com](mailto:hello@doorbird.com)  
Fax: +49(0)30-120858695

**in the form of a clear declaration (e.g., a letter sent by mail, fax or email) of your decision to cancel this contract. you may use the appended Cancellation Form template, but this is not required.**

**For compliance with the cancellation period, it is sufficient for you to send the notification that you are exercising your right of cancellation prior to the expiration of the cancellation period.**

#### **Consequences of Cancellation**

**If you cancel this contract, We must reimburse you for all payments received from you, including delivery costs (with the exception of additional costs arising because you selected another type of delivery than the most affordable standard delivery offered by us), without delay and at the latest within fourteen days from the date on which the notification of your cancellation of this contract has been received by us. For this repayment, we will use the same means of payment that you used for the original transaction, unless explicitly agreed otherwise with you; under no circumstances will you be charged fees for this repayment.**

**We may refuse repayment until We have received the returned goods or until you have proven that you have sent back the goods, depending on which point in time is earlier.**

**You must send back or hand over to us the goods immediately and in any event no later than within fourteen days after the date on which you informed us of the cancellation of the contract. The period is complied with if you have dispatched the goods prior to the expiration of the fourteen-day period.**

**You will bear the direct costs for returning the goods.**

**You must only cover a possible loss in value of the goods if the loss in value is due to unnecessary handling of the goods on your part to check their quality, properties, and functioning.**

**If you asked for the services to begin during the cancellation period, you must pay us a reasonable amount corresponding to the share of the services already provided until the time the notification that you are exercising your cancellation right regarding this contract is received. The amount owed shall be determined based on the already provided services compared to the total scope of the services laid out in the contract.**

#### **Exceptions to the Cancellation Right for Products Customised to the Customer's Requirements**

**The cancellation right does not apply to contracts for the delivery of goods that are not pre-manufactured or where individual selection or specification by you has determined their production or if the goods are clearly tailored to your personal needs. Door stations manufactured specifically for you with the help of our configurator are an example of this.**

**- End of Cancellation Policy -**

#### **Cancellation Form Template**

(If you want to cancel the contract, please fill out this form and send it back to us.)

- To Bird Home Automation GmbH, RMA Department, Uhlandstraße 165, 10719 Berlin, Germany; Email: hello@doorbird.com; Fax: +49(0)30-120858695:
- I/We (\*) hereby cancel the contract concluded by me/us (\*) for the purchase of the following goods (\*)/provision of the following service (\*)
- Ordered on (\*)/Received on (\*)
- Name of consumer/s
- Address of consumer/s
- Signature of consumer/s (only in the event of notification in paper form)
- Date

(\*) Delete as applicable.

## 5. **Prices and Shipping Costs**

The listed prices are final prices including value-added tax (VAT). The applicable amount is the one listed in each case at the time of the binding order during the order process. In addition to this, if the purchase involves a shipment there are shipping costs as listed in the order process.

## 6. **Payment and Default on Payment**

- 6.1 You can pay the price for shipped goods by cash on delivery; otherwise, payment is made by bank transfer or credit card; the granting of direct debit authorisation is also possible. We reserve the right to exclude individual types of payment.
- 6.2 You are obligated to pay the respective price within 10 workdays after delivery at the latest; this period also applies in the event of a shipped purchase. Our Terms and Conditions of Delivery and Payment apply. Deviations shall only apply if they were explicitly recognised by us in writing.
- 6.3 After expiration of this period, you are deemed to have defaulted on payment and We have the right to demand interest for delay in the amount of 5 percentage points p.a. over the base interest rate announced by the German Central Bank [Bundesbank] for the time.  
of the order. If We demonstrably incurred greater losses on account of the default, we are entitled to assert them.
- 6.4 We will charge you for the fees actually incurred on account of chargebacks of direct debits or credit card payments for which you are responsible.
- 6.5 The invoice will be sent to you by email.
- 6.6 We have the right to adjust the prices payable for the paid cloud services according to our reasonable discretion in line with the development of the costs which are authoritative for the price calculation. A price increase is considered, and a price reduction shall be implemented if, for example, the costs for the purchase of hardware and software as well as energy, or for the use of communication networks or labour costs, increase or decrease or other changes in the economic or legal framework conditions lead to a change in the cost situation. Increases in a cost type, e.g., labour costs, may only be used to justify a price increase to the extent that no offsetting because of declining costs in other areas, e.g., hardware and software costs, is possible. In the event of cost reductions, e.g., hardware costs, we will lower the prices if those cost reductions are not offset in whole or in part by increases in other areas. In the exercising of due discretion, we will choose the respective point in time for a change in price so that cost reductions are not taken into account according to criteria that are less favourable for us than cost increases. That is, cost reductions must have at least the same effect on prices as cost increases. We will inform the customer in text form about prices changes no later than six weeks before they

enter into force. If the customer objects, both parties have the right to terminate the contract by giving notice of one month to the end of the month.

- 6.7 All payments shall be made, with debt-discharging effect, exclusively to VR FACTOREM GmbH, Hauptstraße 131–137, 65760 Eschborn, Germany, to which We have assigned the current and future claims from our business relationship. We have also transferred our retention of title to VR FACTOREM GmbH.

## 7. **Right of Retention**

The assertion of a right of retention by you is excluded, unless it is based on the same contractual relationship, or the counterclaims are undisputed or have been legally established.

## 8. **Passing of Risk**

- 8.1 The risk of accidental loss and accidental deterioration connected with the purchase of our products, also in the case of a shipped purchase, i.e. when We send you our products upon your request, is passed to you upon handover of the goods to you, unless you have commissioned the carrier, the forwarding agent or another person or company designated for the execution of the shipment with the execution without us having indicated this person or company to you beforehand.

- 8.2 If you are in default with acceptance, this shall be deemed equal to handover.

## 9. **Defect Rights**

- 9.1 The statutory provisions apply to material defects and defects of title, unless specified otherwise in the following. If the goods are defective, you as a consumer are entitled to demand post-performance rectification within the scope of the statutory provisions.

- 9.2 We would like to point out that there is no warranty case if the product had the agreed quality at the time of the passing of risk. There is no warranty case in the following instances:

- in the event of damage that occurred because of misuse or improper use,
- in the event of damage that arose because of the fact that products were exposed to damaging external influences at your location (especially extreme temperatures, humidity, extraordinary physical or electrical stress, fluctuations in voltage, lightning, static electricity, fire).

- 9.3 We also do not provide any warranty for a defect that resulted from improper repair by a service partner not authorised by the manufacturer.

- 9.4 For the purpose of the warranty, you are asked to document defects in a meaningful way, especially, if possible, by logging error messages displayed. In addition, you can use the operating manual or online help for problem analysis and troubleshooting. you are asked to support Bird Home Automation GmbH to the best of your abilities in cases of defects.
- 9.5 If the type of post-performance rectification requested by you (replacement delivery or repair) requires an effort that is grossly disproportionate to your interest in performance in view of the product price, taking into account the content of the contract and the principles of good faith – with consideration given in particular to the value of the object of purchase in a defect-free condition, the significance of the defect, and the question of whether the other type of post-performance rectification can be utilised without significant disadvantages for you – then your claim shall be limited to the respective other type of post-performance rectification. This does not affect our right to also refuse this other type of post-performance rectification under the aforesaid condition.
- 9.6 If post-performance rectification fails, you can, in principle, choose between reducing the price, withdrawing from the contract, or requesting damage compensation. Post-performance improvement is considered to have failed after an unsuccessful second attempt unless the nature of the object or the defect or other circumstances indicate otherwise. you have no right to withdraw in the event of an insignificant defect. If you assert a damage compensation claim, the limitations on liability in accordance with Section 11 shall apply.
- 9.7 We explicitly do not provide a warranty for products that we have made available for demonstration and testing purposes. This includes so-called demo and beta products, patterns, and samples, as well as products that are not licensed for resale (not-for-resale products).
10. **Time-barring**
- 10.1 The time-barring period for warranty claims is two years from the date of handover of the goods.
- 10.2 Otherwise, the regular time-barring period applies.
11. **Liability and Limitations on Liability**
- 11.1 We are liable for intent and gross negligence. Furthermore, we are liable for a negligent breach of duties, the fulfilment of which is necessary for the proper execution of the contract, the breach of which jeopardises the achievement of the purpose of the contract, and compliance with which you as customer may regularly rely on. In the latter case, however, we are only liable for foreseeable damage typical for the contract. The same applies to breaches of duty by our vicarious agents.
- 11.2 Our liability and the liability of our vicarious agents for slightly negligent breaches of duty in the case of insignificant contractual duties,

the breach of which does not jeopardise the execution of the contract, is ruled out.

- 11.3 The aforesaid exclusions of liability do not apply in the event of loss of life, physical injury, and damage to health. Liability in accordance with the German Product Liability Act [Produkthaftungsgesetz] remains unaffected.

12. Export control

- 12.1 The products (including software and technology) and/or services to be provided by us may be subject to export restrictions, such as the European Dual-Use Regulation (VO (EU) 2021/821) or the existing embargo measures and sanctions against certain countries and/or individuals. The Purchaser therefore undertakes to observe and comply with all relevant and applicable export control regulations and rules when carrying out the legal transaction, in particular the requirements and restrictions under the German Foreign Trade Act and the Foreign Trade the relevant EU regulations, in particular the personal and country embargo measures and the measures for combating terrorism, and also – insofar as applicable – the corresponding restrictions and measures of the United States of America. This also and in particular applies in the event that the customer delivers the goods delivered by us to third parties either unprocessed or after further processing.
- 12.2 The customer further undertakes to inform us immediately of any prohibitions or authorisation reservations under the relevant export control regulations regarding the delivery or service to be provided by us or the intended onward delivery by the customer of the goods to be delivered or delivered by us. This also and in particular applies in the event that the execution of the legal transaction could constitute an inadmissible indirect provision of funds or economic resources within the meaning of the relevant EU embargo regulations because one of the recipients involved is directly or indirectly owned or controlled by a sanctioned natural or legal person, organisation or entity.
- 12.3 The customer is also obliged to provide us with all the information, documents and data required for assessing the existence of export restrictions and, in particular, for applying for any necessary authorisation, to provide us with complete and truthful information about the end use and to use its best efforts to obtain any necessary authorisation.
- 12.4 If the customer violates any of the above provisions and if a claim is made against us (including the natural persons acting on our behalf) by a third party, including law enforcement authorities, we shall be entitled to declare our withdrawal from the contract at any time. The customer is also obliged to indemnify us from all claims asserted against us by third parties due to the customer's violation and to compensate us for the damage resulting from such a claim.
- 12.5 If, as a result of an export restriction, it is or becomes impossible for us to provide the delivery or service incumbent upon us, either in whole or in significant parts, for example because the delivery is prohibited or a necessary export licence is not granted, we shall be entitled to declare our withdrawal from the contract at any time. Advance payments received will be refunded to the customer, less the costs incurred by us in connection with the execution of the contract. Otherwise, claims for this case are mutually excluded.
- 12.6 "No-Russia-Clause & No-Belarus-Clause": Any (re-)sale and/or any (re-)export and/or other delivery of the products supplied by us (including software and technology), directly or indirectly, unchanged or integrated into other products, to Russia or Belarus and/or via third parties for use in Russia or Belarus is prohibited. In the event of a

breach of this prohibition, we shall be entitled to demand from the customer a contractual penalty in the amount of 25% of the purchase price for the goods concerned, as well as compensation for all damages incurred by us, including the imposition of fines. The contractual penalty will be credited against the damages to be paid. Furthermore, we are entitled to declare our withdrawal from any contracts not yet fulfilled and/or to terminate such contracts with immediate effect and/or to end the business relationship with the customer. In addition, we reserve the right to inform the relevant authorities in the European Union of the violation of this prohibition.

### 13. Third-party Rights

- 13.1 You assure us that no rights of third parties, especially data protection rights, will be breached upon use of our products. you are not allowed to use our products to make recordings that have criminal, illegal or immoral, especially pornographic, offensive, or extremist content. This list is not exhaustive.
- 13.2 You are obligated to indemnify us from all claims of third parties due to a claimed or actual violation of rights of any kind resulting from the use of our products, including any attorney or court fees.
- 13.3 We reserve the right to erase or block these data without prior announcement in the event of a breach of statutory requirements. We will adequately consider your needs, especially considering the severity of the violation or suspicion thereof, in our decision. In cases of doubt, the burden of proof lies with you. you must demonstrate and prove that contrary to our suspicion, you have acted in conformity with applicable law or these GTCs and there is no reason for erasure or blocking.
- 13.4 We also reserve the right to inform the responsible law enforcement authorities in the event of urgent suspicion to avert risks to state or public security or to prosecute criminal acts in the case of clear content, and to share the data in question with these parties.

### 14. Updates

- 14.1 We will automatically install software updates or update the operating system (so-called “firmware updates”) for products of Bird Home Automation GmbH that can be reached through the internet, if this is technically possible. These automatic firmware updates keep the software of the products up to date for the length of the warranty for the respective product, so that the products always work reliably, securely and on a high-performance level.
- 14.2 Further development may add and expand features over the course of time or change them slightly. Major changes or limitations on existing features will normally only take place if an adjustment is required on account of the legal framework conditions or technical changes.
- 14.3 If a firmware update is available, the servers of Bird Home Automation GmbH will, under normal circumstances, automatically distribute it to

all compatible products that relate to the internet or the servers of Bird Home Automation GmbH. This process takes place gradually and can last for multiple weeks. If a product receives a firmware update, it installs it and is usually restarted. Installed firmware updates cannot be reversed. Since the products and software of Bird Home Automation GmbH are not products explicitly customised for the customer, you cannot refuse an automatic update if the product is connected to the internet or the servers of Bird Home Automation GmbH.

- 14.4 You can find an overview of the installed firmware updates and the respective version number of the operating system at <https://www.doorbird.com/changelog>.

## 15. **Data Protection**

- 15.1 You are obligated to comply with the applicable data protection legislation when using our products.

- 15.2 We store your personal data as required for the execution of business. The legal basis for the processing is Art. 6 para. 1 (b) of the General Data Protection Regulation (GDPR). you can find details in our privacy policy, which you can access at <https://www.doorbird.com/de/privacy-policy>.

- 15.3 Regarding the processing of personal data on your behalf (contract data processing), We conclude a written contract data processing agreement (DPA) with you as the controller in accordance with Art. 28 para. 3 sent. 1 GDPR. you can obtain additional information at <https://www.doorbird.com/de/avv>.

## 16. **Term and Termination of Additional Cloud Services**

- 16.1 Bird Home Automation GmbH and you as customer may terminate contracts that have a term or a minimum contractual term of one year, such as paid cloud services, by giving notice of one month to the end of the respective contractual period.

- 16.2 If you have concluded the contract via our website, you may use the termination button provided by us on our website to exercise your termination right. Afterwards, you will receive, at the email address stored with us, electronic confirmation of receipt from us and information about the date on which the contractual relationship should end based on the termination. In cases of doubt, the earliest date shall apply.

- 16.3 This shall not affect both contracting parties' right to terminate the contract for good cause without giving notice. Good cause exists in particular in the cases under Section 314 BGB, i.e., if the terminating party cannot reasonably be expected to continue the contractual relationship until the agreed termination or until the expiry of the period for giving notice, taking into account all circumstances in the individual case and weighing the interests of both parties.

16.4 If you do not terminate the contract, the contract is renewed for an indefinite period. you have the right to terminate the renewed contractual relationship at any time by giving notice of one month.

16.5 In the event of termination for good cause, Bird Home Automation GmbH is entitled to block access to all data stored with Bird Home Automation GmbH.

## 17. **Duties of the Customer**

17.1 You are responsible for all activities that take place through your customer account.

17.2 You are obligated to change the password received for the purpose of access if it is feared that unauthorised third parties gained access to it. Furthermore, you are obligated to inform us immediately as soon as you become aware that unauthorised third parties gained knowledge of the password. If third parties use our services by logging in with your passwords and this is your fault, you shall be liable to us for usage fees and damage compensation.

17.3 You must have a valid email address to use the services of Bird Home Automation GmbH and check it regularly and continuously. you must communicate this email address to Bird Home Automation GmbH, so that Bird Home Automation GmbH can reach you at short notice.

## 18. **Information about Cost of Data Transmission**

When our products and services are used, this may cause you to incur costs for data transmission with your mobile phone provider or internet service provider. These costs are based on the contracts concluded by you and must be covered by you.

## 19. **Assignment**

We are entitled to assign claims based on our business relationships.

## 20. **Final Provisions**

20.1 Amendments and/or supplements must be made in written form. The written form requirement may only be revoked in writing.

20.2 The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods if

a) you have your regular place of residency in Germany or

b) your regular place of residency is in a state that is not a Member State of the European Union.

If you have your regular place of residency in a Member State of the European Union, the applicability of German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods shall also apply. This choice of law shall not affect mandatory provisions of the state in which you have your regular residence.

- 20.3 Place of performance is the registered office of Bird Home Automation GmbH.
- 20.4 The language provided for the conclusion of the contract is exclusively German. Translations of these General Terms and Conditions of Business into other languages are solely for informational purposes. The German text takes precedence in the event of any differences between the language versions.
- 20.5 The European Commission provides a platform for online dispute resolution at <http://ec.europa.eu/consumers/odr/> . The platform is intended as a contact point for the out-of-court resolution of disputes about contractual obligations arising from online purchase contracts. We prefer to resolve your concerns in a direct exchange with you and therefore do not participate in dispute resolution proceedings before a consumer arbitration board. Please contact us directly by email at [hello@doorbird.com](mailto:hello@doorbird.com). in the event of questions and problems.
- 20.6 If individual provisions of the GTCs are invalid, this shall not affect the validity of the other provisions. The contracting parties shall amicably replace the invalid provision with a valid provision that comes closest to the economic intent and purpose of the invalid provision. The aforesaid provision applies accordingly to gaps in the provisions.

**Version: June 14, 2022**

## **General Terms and Conditions of Business of Bird Home Automation GmbH Entrepreneurs**

### **1. General Information – Area of Application**

- 1.1. These General Terms and Conditions of Business (hereinafter referred to as “GTC”) apply to contracts concluded between the customer (hereinafter referred to as “you” and us, Bird Home Automation GmbH (hereinafter referred to as “We” or “us”).
- 1.2. An entrepreneur within the meaning of these GTCs is a natural person or legal entity or a partnership with legal capacity that is acting in their commercial or independent professional capacity upon conclusion of a legal transaction. We may request that you prove your entrepreneurial capacity within the meaning of Section 14 of the German Civil Code [Bürgerliches Gesetzbuch, BGB], e.g., by stating your VAT ID no. or providing other suitable proof.
- 1.3. Deviating, supplementary or conflicting terms and conditions are not recognised by us, unless We have expressly agreed to such.
- 1.4. These GTC also apply if services are provided free of charge, e.g., the provision of test versions and demo programs, free-of-charge cloud services or hardware delivered for testing purposes.

### **2. Materialisation of Contract**

- 2.1. The representation of Bird Home Automation GmbH products – both services and goods – on our company’s websites does not constitute a legally binding offer, but rather an invitation to make an offer (*invitatio ad offerendum*). Taking an order by phone also does not constitute acceptance in a legal sense.
- 2.2. When you click on the button “Order subject to payment” in the last step of the order process, you submit a binding offer to buy the goods and/or services displayed in the order overview. The same applies if you place your order by phone.
- 2.3. Immediately after sending or phoning in the order, you will receive an order confirmation and these GTCs by email. The order confirmation does not constitute acceptance of your contractual offer unless We expressly declare acceptance.
- 2.4. A contract materialises between you and us as soon as your order has been accepted in a separate email or the goods are handed over for shipping and you are informed thereof, or an invoice is sent to you.

3. **Description of Service**

3.1. All DoorBird video door stations have a free-of-charge cloud memory, which is necessary for the operation of the video door stations. We also offer paid options so you can expand the cloud storage to include additional features. The scope of service for the respective cloud services is defined in the latest specifications.

3.2. The availability of our cloud services is 95% on average during the year. Availability is your ability as customer to use all the main features of our services. Maintenance times and disruption times that are resolved within the restoration period are considered times of service availability. This includes, but not exhaustively,

- maintenance work or other services coordinated with you and during which you will not have access to the application software.
- unanticipated maintenance work that becomes required, e.g., in the event of cases of force majeure, unanticipated hardware failures, strikes, natural events, etc.
- downtime due to viruses or hacker attacks if We have taken the usual protective measures.
- downtime due to your requirements, due to periods of unavailability of your equipment, or due to interruptions caused by you (e.g. omitted acts of cooperation).
- downtime for installing urgently required security patches.
- downtime caused by third parties (persons not attributable to us).

Periods of insignificant disruptions shall not be considered in the calculation of availability.

3.3. We may limit access to the services if the security of network operations, the preservation of network integrity, especially the avoidance of serious disruptions in the network, or the software or stored data require such.

4. **Retention of Title**

4.1. To secure our claim to the purchase price from you, we reserve the right to retain ownership of the delivered goods (hereinafter "Reserved Goods") until full payment of the purchase price.

4.2. You are obligated to treat the Reserved Goods with care.

4.3. You are obligated to inform us immediately in writing about any access third parties gain to the Reserved Goods, especially about compulsory execution measures and any damages or the destruction of the Reserved Goods. If the Reserved Goods are pledged by a third party, you are also obligated to notify them about our ownership.

- 4.4. You are liable for all costs incurred for eliminating such access, especially through the filing of a lawsuit objecting to the third-party access, if the reimbursement of the costs is not to be obtained from the third party in question.
- 4.5. You are entitled to resell the goods in an ordinary business transaction if you are not in default on payment. you may not pledge Reserved Goods or assign them by way of security, however. you hereby assign to us by way of security any claims for payment against your customers arising from a resale of the Reserved Goods as well as your claims regarding the Reserved Goods arising for any other legal reason (also against third parties).
- 4.6. Any processing or transformation of the Reserved Goods by you is always done for us. If Reserved Goods are processed with other objects, we shall acquire co-ownership of the new object. Our share of the new object shall be determined by the ratio of the value of the Reserved Goods (invoice amounts including VAT) to the other combined or mixed objects at the time of combining or mixing.
- 4.7. If your object is to be viewed as the main object, you shall transfer to us a proportionate share of the co-ownership to this object. We accept the transfer. you will preserve the resulting sole ownership or co-ownership of the object for us.

## 5. **Prices and Shipping Costs**

The listed prices are final prices including value-added tax (VAT). The applicable amount is the one listed in each case at the time of the binding order during the order process. In addition to this, if the purchase involves a shipment there are shipping costs as listed in the order process.

## 6. **Payment and Default on Payment**

- 6.1 The purchase price shall be owed immediately at the time of the order.
- 6.2 You can pay the price for shipped goods by cash on delivery; otherwise, payment is made by bank transfer or credit card; the granting of direct debit authorisation is also possible. We reserve the right to exclude individual types of payment.
- 6.3 You are obligated to pay the respective price within 10 workdays after delivery at the latest; this period also applies in the event of a shipped purchase. Our Terms and Conditions of Delivery and Payment apply. Deviations shall only apply if they were explicitly recognised by us in writing.
- 6.4 After expiration of this period, you are deemed to have defaulted on payment and We have the right to demand interest for delay in the amount of 8 percentage points p.a. over the base interest rate announced by the German Central Bank [Bundesbank] for the time. of the order. If We demonstrably incurred greater losses on account of the default, we are entitled to assert them.

6.5 We will charge you for the fees actually incurred on account of chargebacks of direct debits or credit card payments for which you are responsible.

6.6 The invoice will be sent to you by email.

6.7 We have the right to adjust the prices payable for the paid cloud services according to our reasonable discretion in line with the development of the costs which are authoritative for the price calculation. A price increase is considered, and a price reduction shall be implemented if, for example, the costs for the purchase of hardware and software as well as energy, or for the use of communication networks or labour costs, increase or decrease or other changes in the economic or legal framework conditions lead to a change in the cost situation. Increases in a cost type, e.g., labour costs, may only be used to justify a price increase to the extent that no offsetting because of declining costs in other areas, e.g., hardware and software costs, is possible. In the event of cost reductions, e.g., hardware costs, we will lower the prices if those cost reductions are not offset in whole or in part by increases in other areas. In the exercising of due discretion, We will choose the respective point in time for a change in price so that cost reductions are not taken into account according to criteria that are less favourable for us than cost increases. That is, cost reductions must have at least the same effect on prices as cost increases. We will inform the customer in text form about prices changes no later than six weeks before they enter into force. If the customer objects, both parties have the right to terminate the contract by giving notice of one month to the end of the month.

6.8 All payments shall be made, with debt-discharging effect, exclusively to VR FACTOREM GmbH, Hauptstraße 131–137, 65760 Eschborn, Germany, to which We have assigned the current and future claims from our business relationship. We have also transferred our retention of title to VR FACTOREM GmbH.

## 7. **Offsetting**

You are only entitled to a right to offset if your counterclaims are undisputed or have been legally established.

## 8. **Right of Retention**

The assertion of a right of retention by you is excluded, unless it is based on the same contractual relationship, or the counterclaims are undisputed or have been legally established.

## 9. **Passing of Risk**

9.1 The risk of accidental loss and accidental deterioration connected with the purchase of our products is passed to you upon handover of the goods to you.

9.2 If you are in default with acceptance, this shall be deemed equal to handover.

9.3 If We send the goods at your request, the risk passes to you as soon as the goods have been given to the carrier, forwarding agent or another person or company designated for the execution of the shipment.

## 10. **Defect Rights**

10.1 The statutory provisions apply to material defects and defects of title, unless specified otherwise in the following. If the goods are defective, you are entitled to demand post-performance rectification within the scope of the statutory provisions. This can take place in the form of an elimination of the defect or delivery of a non-defective object. We are entitled to choose the type of post-performance rectification.

10.2 All warranty rights require that you have properly fulfilled all examination and notification obligations owed in accordance with Section 377 of the German Commercial Code [Handelsgesetzbuch, HGB].

10.3 We would like to point out that there is no warranty case if the product had the agreed quality at the time of the passing of risk. There is no warranty case in particular in the following instances:

- in the event of damage that occurred as a result of misuse or improper use,
- in the event of damage that arose as a result of the fact that products were exposed to damaging external influences at your location (especially extreme temperatures, humidity, extraordinary physical or electrical stress, fluctuations in voltage, lightning, static electricity, fire).

10.4 We also do not provide any warranty for a defect that resulted from improper repair by a service partner not authorised by the manufacturer.

10.5 For the purpose of the warranty, it is necessary to document defects in a meaningful way, especially by logging error messages displayed. In addition, you can use the operating manual or online help for problem analysis and troubleshooting. you are asked to support Bird Home Automation GmbH to the best of your abilities in cases of defects.

10.6 If the type of post-performance rectification requested by you (replacement delivery or repair) requires an effort that is grossly disproportionate to your interest in performance in view of the product price, taking into account the content of the contract and the principles of good faith – with consideration given in particular to the value of the object of purchase in a defect-free condition, the significance of the defect, and the question of whether the other type of post-performance rectification can be utilised without significant disadvantages for you – then your claim shall be limited to the respective other type of post-performance rectification. This does not affect our right to also refuse this other type of post-performance rectification under the aforesaid condition.

10.7 If post-performance rectification fails, you can, in principle, choose between reducing the price, withdrawing from the contract, or requesting damage compensation. Post-performance improvement is considered to have failed after an unsuccessful second attempt unless the nature of the object or the defect or other circumstances indicate otherwise. you have no right to withdraw in the event of an insignificant defect. If you assert a damage compensation claim, the limitations on liability in accordance with Section 12 apply.

10.8 If an illegitimate claim to eliminate defects is asserted intentionally or negligently, we shall bill you for our transport, management and audit costs, which shall amount to a minimum of EUR 80.00 plus VAT.

10.9 We explicitly do not provide a warranty for products that We have made available for demonstration and testing purposes. This includes so-called demo and beta products, patterns, and samples, as well as products that are not licensed for resale (not-for-resale products).

## 11. **Time-barring**

11.1 The time-barring period for warranty claims on delivered goods is twelve months from the receipt of the object, except in the event of claims for damage compensation.

11.2 Otherwise, the regular time-barring period applies.

## 12. **Liability and Limitations on Liability**

12.1 We are liable for intent and gross negligence. Furthermore, we are liable for a negligent breach of duties, the fulfilment of which is necessary for the proper execution of the contract, the breach of which jeopardises the achievement of the purpose of the contract, and compliance with which you as customer may regularly rely on. In the latter case, however, we are only liable for foreseeable damage typical for the contract. The same applies to breaches of duty by our vicarious agents.

12.2 Our liability and the liability of our vicarious agents for slightly negligent breaches of duty in the case of insignificant contractual duties, the breach of which does not jeopardise the execution of the contract, is ruled out.

12.3 The aforesaid exclusions of liability do not apply in the event of loss of life, physical injury, and damage to health. Liability in accordance with the German Product Liability Act [Produkthaftungsgesetz] remains unaffected.

## 13. **Third-party Rights**

13.1 You assure us that no rights of third parties, especially data protection rights, will be breached upon use of our products. you are not allowed to use our products to make recordings that have criminal,

illegal or immoral, especially pornographic, offensive, or extremist content. This list is not exhaustive.

- 13.2 You are obligated to indemnify us from all claims of third parties due to a claimed or actual violation of rights of any kind resulting from the use of our products, including any attorney or court fees.
- 13.3 We reserve the right to erase or block these data without prior announcement in the event of a breach of statutory requirements. We will adequately consider your needs, especially considering the severity of the violation or suspicion thereof, in our decision. In cases of doubt, the burden of proof lies with you. you must demonstrate and prove that contrary to our suspicion, you have acted in conformity with applicable law or these GTCs and there is no reason for erasure or blocking.
- 13.4 We also reserve the right to inform the responsible law enforcement authorities in the event of urgent suspicion to avert risks to state or public security or to prosecute criminal acts in the case of clear content, and to share the data in question with these parties.

#### 14. **Updates**

- 14.1 We reserve the right to automatically install software updates or update the operating system (so-called “firmware updates”) for products of Bird Home Automation GmbH that can be reached through the internet, if this is technically possible. These automatic firmware updates keep the software of the products up to date, so that they always work reliably, securely and on a high-performance level.
- 14.2 Further development may add and expand features over the course of time or change them slightly. Major changes or limitations on existing features will normally only take place if an adjustment is required on account of the legal framework conditions or technical changes.
- 14.3 If a firmware update is available, the servers of Bird Home Automation GmbH will, under normal circumstances, automatically distribute it to all compatible products that relate to the internet or the servers of Bird Home Automation GmbH. This process takes place gradually and can last for multiple weeks. If a product receives a firmware update, it installs it and is usually restarted. Installed firmware updates cannot be reversed. Since the products and software of Bird Home Automation GmbH are not products explicitly customised for the customer, you cannot refuse an automatic update if the product is connected to the internet or the servers of Bird Home Automation GmbH.
- 14.4 You can find an overview of the installed firmware updates and the respective version number of the operating system at <https://www.doorbird.com/changelog>.

15. **Data Protection**

15.1 You are obligated to comply with the applicable data protection legislation when using our products.

15.2 We store your personal data as required for the execution of business. The legal basis for the processing is Art. 6 para. 1 (b) of the General Data Protection Regulation (GDPR). you can find details in our privacy policy, which you can access at <https://www.doorbird.com/de/privacy-policy>.

15.3 Regarding the processing of personal data on your behalf (contract data processing), We conclude a written contract data processing agreement (DPA) with you as the controller in accordance with Art. 28 para. 3 sent. 1 GDPR. you can obtain additional information at <https://www.doorbird.com/de/avv>.

15.4 Bird Home Automation GmbH is entitled to list your company and logo as a customer in reference lists and to publish this on the internet or in print media for information purposes. Further use is not permitted. Bird Home Automation GmbH and you as customer also have the right to publish press releases with a brief description of the partnership or of individual projects.

16. **Term and Termination of Additional Cloud Services**

16.1 Bird Home Automation GmbH and you as customer may terminate contracts that have a term or a minimum contractual term of one year, such as paid cloud services, by giving notice of three months to the end of the respective contractual period in writing.

16.2 This shall not affect both contracting parties' right to terminate the contract for good cause without giving notice. Good cause exists in the cases under Section 314 BGB, i.e., if the terminating party cannot reasonably be expected to continue the contractual relationship until the agreed termination or until the expiry of the period for giving notice, taking into account all circumstances in the individual case and weighing the interests of both parties.

16.3 If you do not terminate the contract, the contract is renewed for another year. you have the right to terminate the renewed contractual relationship by giving notice of three months to the end of the renewed contractual relationship.

16.4 In the event of termination for good cause, Bird Home Automation GmbH is entitled to block access to all data stored with Bird Home Automation GmbH.

17. **Duties of the Customer**

17.1 You are responsible for all activities that take place through your customer account.

17.2 You are obligated to change the password received for the purpose of access if it is feared that unauthorised third parties.

gained access to it. Furthermore, you are obligated to inform us immediately as soon as you become aware that unauthorised third parties gained knowledge of the password. If third parties use our services by logging in with your passwords and this is your fault, you shall be liable to us for usage fees and damage compensation.

- 17.3 You must have a valid email address to use the services of Bird Home Automation GmbH and check it regularly and continuously. you must communicate this email address to Bird Home Automation GmbH, so that Bird Home Automation GmbH can reach you at short notice.

## 18. **Information about Cost of Data Transmission**

When our products and services are used, this may cause you to incur costs for data transmission with your mobile phone provider or internet service provider. These costs are based on the contracts concluded by you and must be covered by you.

## 19. **Assignment**

We are entitled to assign claims based on our business relationships.

## 20. **Final Provisions**

- 20.1 Amendments and/or supplements must be made in written form. The written form requirement may only be revoked in writing.

- 20.2 The law of the Federal Republic of Germany shall apply to the exclusion of the UN Convention on Contracts for the International Sale of Goods if

- a) you have your regular place of residency in Germany or
- b) your regular place of residency is in a state that is not a Member State of the European Union.

If you have your regular place of residency in a Member State of the European Union, the applicability of German law to the exclusion of the UN Convention on Contracts for the International Sale of Goods shall also apply. This choice of law shall not affect mandatory provisions of the state in which you have your regular residence.

- 20.3 Place of performance and sole place of jurisdiction for all disputes arising from or in connection with this contract is the registered office of Bird Home Automation GmbH.

- 20.4 The language provided for the conclusion of the contract is exclusively German. Translations of these General Terms and Conditions of Business into other languages are solely for informational purposes. The German text takes precedence in the event of any differences between the language versions.

20.5 If individual provisions of the GTCs are invalid, this shall not affect the validity of the other provisions. The contracting parties shall amicably replace the invalid provision with a valid provision that comes closest to the economic intent and purpose of the invalid provision. The aforesaid provision applies accordingly to gaps in the provisions.

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