

## **Terms and conditions for the use of the Illusions-Recycling.com website, the property of Illusions-Schmiede GmbH Ilmenau**

The term "IR website" refers to the service which is the subject of the contract.

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### **§1 Validity of the terms and conditions**

- a) By registering as a member of the Illusions-Recycling.com website (hereinafter: IR website) belonging to Illusions-Schmiede GmbH Ilmenau (hereinafter: IS GmbH), the person registering (hereinafter: "member") accepts the terms and conditions here given for the use of the services provided by the IR website (hereinafter: "IR T&C"). The IR T&C govern the contractual relationship between the member and IS GmbH in respect of use of the services and content of the IR website.
- b) The IR T&C are valid at all times, independently of which of the IR websites is used by the member for registration or logging in, and independently of whether the IR website or parts of it are used from other websites facilitating partial or full access to the IR-website. The member can call up, print out, download or save these IR T&C at any time, also after conclusion of the contract, from the "IR T&C" link on any of the IR websites.
- c) The partners to the contract concerning use of the IR website services and thus also the use of these IR T&C are the member and

**Illusions-Schmiede GmbH, Ehrenbergstr. 11, 98693 Ilmenau, Germany**

- d) The services offered on the IR website are offered exclusively to adult individuals, to private companies and/or to legal entities.
- e) The following IR principles are of particular importance and are integral to the IR T&C:

Principles

### **§2 Registration as a member, assurances given by the person registering and conclusion of contract**

- a) The services and content of the IR website are not available for use until a member has registered.
- b) Registration is free. It is carried out by the opening of a membership account while agreeing to the IR T&C and further, associated, conditions of business. By the act of registration, a

contract is made between IS GmbH and the member concerning the use of the IR website (hereinafter "contract of use"). There is no absolute right to the making of a contract of use.

- c) The member is entering into an obligation and guarantees that all data provided by him or her on registering are correct and complete. The member is under an obligation to notify IS GmbH of any changes to his or her membership data.
- d) The details to be given on registration are as follows: Company, legal representative of the company, in the case of private persons the title, first name and surname, the valid address (not a PO box number), the telephone number (not a profit-making call number), a valid email address and, if the member is selling, all turnover tax details. IS GmbH reserves the right to ask on the registration form for other details necessary to the use of the IR website.
- e) The registration of a legal entity or a private company may only be made by legal representatives and these must be named in their full with their title. Private persons may only register as individuals to be possessor of a membership account (i.e. no married couples or families).
- f) On registering, the member selects a member's user name and a password. The member's user name is not permitted to consist in an e-mail or internet address or to infringe the rights of third parties – particularly any registered names or brands – or to offend against decency. The password must be kept secret and access to the membership account carefully secured. The member is under an obligation to inform IS GmbH immediately if there are grounds to believe that a membership account has been misused or there is risk of this. IS GmbH will not divulge a member's password to third parties and will never ask a member what his or her password is.
- g) The member is liable for all activities undertaken in the use of his or her membership account.
- h) A membership account is not transferable. Each member is allowed to create only one membership account.
- i) IS GmbH in no way guarantees that the identity of a registered member is correct, since IS GmbH cannot make any technical check of the identity of the person registered. Each member is therefore responsible himself or herself for checking any other member's identity.
- j) IS GmbH reserves the right to delete membership accounts generated by incomplete registration after an appropriate time (more than 30 calendar days).
- k) By concluding the registration, the member offers to conclude the contract of use of the services of the IR website. IS GmbH accepts this offer in opening to the member the use of the services of the IR website. By virtue of this acceptance the contract is established between the member and IS GmbH with full reference to these T&C, and comes into force on the same day.

### **§3 Consumer's right of withdrawal**

**If and insofar as the member is a consumer within the meaning of § 13 of the German civil code (BGB), the following conditions apply:**

#### **§3.1 Right of withdrawal**

**The member may withdraw his or her contractual declaration within two weeks in writing (e.g. by letter, fax or email) without giving any reasons. This period begins on receipt of this present information in the form of text, but not before the contract has been concluded and not before IS GmbH has fulfilled its duty to inform as laid down in the German civil code, BGB, § 312c subparagraph 2 in conjunction with BGB-InfoV (the German statute on information and evidence) For the period of the right of withdrawal to be kept, prompt sending of the withdrawal is sufficient. The notice of withdrawal shall be addressed to Illusions-Schmiede GmbH, Ehrenbergstr. 11, 98693 Ilmenau, Germany. It can also be sent to IS GmbH by means of the contact form found on the IR website or by email. The email address of IS GmbH will be sent to**

the member by email on registration and is also to be found at <http://www.illusion-recycling.com>

### §3.2 Consequences of withdrawal

Should withdrawal be correct and effective, the products and services given or performed on each side are to be returned and if necessary any benefits such as interest must be given back. If the member is unable or only partially able to return the products or services or able only to return them in a worse state, the member must compensate IS GmbH appropriately. A possible consequence is that the member must nonetheless fulfil his or her payment obligations for the period up to the date of withdrawal. Any obligations in respect of reimbursement of payments must be fulfilled within 30 days of despatch of the notice of withdrawal. The period of 30 days begins for the member on despatch of the notice of withdrawal and for IS GmbH on receipt thereof.

### §4 Description of the services performed by the IR website, subject of contract

- a) The IR website is a marketplace (hereinafter: IR marketplace), on which 3D models of every kind of goods, hereinafter the "items", are offered, distributed and bought by the members, insofar as such offering, distribution or purchase offends neither against legal regulations, these IR T&C nor the IR principles. The IR website is a platform on which members can make contact with each other. IS GmbH does not involve itself in the content of the communications between the members.
- b) IS GmbH does not itself offer any items and is not the body accepting any offers made by members. In consequence, IS GmbH does not play the role of representative of the members when contracts are concluded between members and is itself not a party in any such contract to be concluded. The members are themselves solely responsible for performance and fulfilment of the contracts concluded between them. IS GmbH is not liable for non-fulfilment of contracts or breaches of mutual obligation by members and also not liable for the possible fact that a contract has not been made between members.
- c) IS GmbH itself promotes the IR marketplace and also makes access available to third parties to the data and information concerning the items so that the third parties may promote the articles on their own website, in software applications and in emails.
- d) The IR website offers members the technical possibility, within the range made available by IS GmbH, of using the IR website to publish content themselves.
- e) The principle concerning content published by members applies to publication of content on the IR website. It is fundamental that the content published by members on the IR website will not be checked by IS GmbH and does not represent the opinions of IS GmbH.
- f) As the IR website is an Internet site promoted and used internationally, it is possible for certain excerpts of an insertion to be translated automatically for that purpose.
- g) IS GmbH provides members with online and offline software tools on the IR website together with special programs, the use of which is dependent on agreement to separate conditions of use or licensing. A list of these tools and programs is to be found in Appendix 2
- h) IS GmbH has the right to edit, adapt or adjust members' insertions and content technically so that they may be shown on mobile end-user equipment or third-party software applications. Changes to content are excluded from this right. If the contract is concluded via a mobile end-user device or the software application of a third party, the members are themselves responsible for inspecting the entire content of an insertion on the IR website before deciding to buy.
- i) The legality, correctness and completeness of insertions and content placed on the IR website by members are, as a matter of principle, not checked by IS GmbH.
- j) IS GmbH makes the data and/or information provided by the member available to the other members only insofar as such data and/or information is not in breach of the law or these IR T&C.

No obligation or liability respecting a check for legality on the part of IS GmbH is hereby implied. It is legitimate for IS GmbH to remove any political, illegal, racist, sexist, religious or pseudo-religious content from the IR website without notice.

- k) IS GmbH will attempt to keep the IR website provision as constant as possible, but for technical reasons cannot guarantee 100% availability. In particular, it is possible for technical circumstances or act of God to cause some brief disruption or the temporary interruption of the services on the IR website.
- l) IS GmbH reserves the right to make alterations to the services offered on the IR website at any time.

## **§5 Subject and scope of the contract of use**

- a) IS GmbH makes the IR website together with the functions described under point 4) available to members. It is possible for IS GmbH to link the use of the IR website or of individual functions of the IR website or the scope to which the individual functions and services can be used, to certain pre-requisites, such as the checking of registration details, the duration of the membership or indications of purchase or payment.
- b) IS GmbH reserves the right despite the fact that there is no legal obligation to do so, to take action delaying publication of insertions and content on the IR website for reasons of security. More detail is provided under the relevant principle.
- c) The claim of members to the use of the IR website and its functions exists only within the context of the current state of the art. IS GmbH will reduce its services temporarily if this is necessary with regard to capacity limits, security or integrity of the servers or the need for technical intervention, and if this will benefit proper or improved service delivery, as in maintenance work. IS GmbH will have regard in such cases to the rightful interests of the members, for instance by giving prior notice.
- d) Should an unexpected system breakdown hinder purchase or other functions, the relevant information will be published as system news.
- e) Point 5d) will not apply to the maintenance work described in point 5c).

## **§6 Obligations of the member**

- a) General principles :

It is the personal responsibility of each member to ensure that the services or content offered by him or her on the IR website are legal and do not breach the rights of others.

Members are themselves responsible for archiving in memory which is independent of the IR website any information visible on the IR website or stored by IS GmbH, which they need for purposes of evidence or bookkeeping etc.

Members may not use addresses, contact details and email addresses which they have received from the use of the IR marketplace for purposes other than communication which is contractual or preparatory to contracts related to the IR website. It is, in particular, forbidden to sell on these details or to use them for marketing purposes unless the specific member has agreed expressly and in advance to this.

IS GmbH reserves to right to change the dispositions on its marketplace within its express principles and insofar as this is reasonable for the members while taking account of the legitimate interests of IS GmbH.

- b) The member is, especially, under an obligation:

- not to make false representations in his or her profile,
- in particular, not to make insulting, degrading, racist, sexist, religious or illegal remarks and neither to upload any such content or advertise, offer or distribute it,
- not to pester the group of members with mass mailing,
- to observe the currently applicable laws when creating the content and graphic form of his or her submission, in particular, all terms of the law on trade and competition, patent rights, copyright, rights of ownership, rights to brands, and to take due care that no rights whatever of third parties are infringed. The same applies to all other internet sites of the member which are linked to the IR website and/or to other sites belonging to other members,
- to exonerate IS GmbH from all claims by third parties arising.

c) The following activities are forbidden to members:

- distribution and public reproduction of IR website content or content of pages of other members,
- any activity likely to impair the functionality of the IR infrastructure and in particular to overload it,
- the insertion of any items on the IR website of which the offer, the purchases or the acquisition will breach either the law, the rights of third parties, or common decency; or the posting of "wanted" notices for the same. The principles concerning impermissible items apply here.
- the publishing of content on the IR website which breaches either the law, the rights of third parties, or common decency. The principle concerning content published by members applies here.
- the undertaking or encouragement of anticompetitive dealing, including progressive customer acquisition (such as snowball, chain or pyramid systems; structured distribution such as multilevel marketing or the like).

## **§7 Format for insertions and general rules**

- a)** IS GmbH will provide the member with a variety of formats and functions for purposes of concluding effective contracts from insertion of items on the IR marketplace, or of finding potential customers for the items he or she has inserted.
- b)** If a contract is concluded between members on the IR website, IS GmbH will send to the parties the details necessary for mutual contact.
- c)** Members inserting items must follow the IR principles concerning the offering of items. They must insert their offers into the appropriate category and describe the items fully and accurately in words and images. All features and specific characteristics significant to a potential purchase must be truthfully described, together with any faults which reduce the value of the items offered.
- d)** Neither the textual description nor the images used may breach the rights of third parties. They must relate exclusively to the items offered. No advertising is permitted for goods not offered on the IR website.
- e)** Whether or not a link is permissible is governed by the principle concerning the use of links on the IR pages containing members' items.
- f)** The price of any item inserted is deemed to be the final price including any value added tax (VAT) and other elements of the price.
- g)** Members offering items are not permitted to charge the purchaser for IR fees, PayPal fees and/or commission, or to require payment of such in addition to the price as above.

- h) Members are forbidden to manipulate the search function of the IR website, by, for example, inserting improperly used brand names or other search terms in the name or description of the article. There are further details under the principle concerning the insertion of items.
- i) The time as officially given by the IR website is definitive for offers on the IR marketplace.

### **§8 Sanctions, exclusion and cancellation**

- a) IS GmbH is entitled to take action in retrospect – without informing the member either before or after – if there are grounds to believe that the entry made by the member or the member's website or any other action taken by the member on the IR website is in breach of the law, the rights of third parties, the IR T&C, or the IR principles, or if the IS GmbH action is necessary to protect members from fraudulent activity, as follows:
  - deletion of inserts or other content
  - warning of members
  - restriction of use of the IR marketplace
  - temporary exclusion
  - permanent exclusion.
- b) IS GmbH will have regard when choosing its action to the interests of the member affected, in particular to whether there are grounds to believe that the member was not personally responsible for the breach.
- c) IS GmbH may exclude a member permanently from use of the IR website ("permanent exclusion") if the member
  - has given false contact details, in particular a false or invalid email address,
  - transfers his or her membership account,
  - harms other IR members or IS GmbH significantly, particularly by misusing the services available on the IR website for this purpose,
  - or if there is any further important reason.
- d) If a member has been permanently excluded, he or she will have no claim to restoration of the blocked account.
- e) As soon as a member has been excluded, this member is no longer allowed to use the IR website, even with other membership accounts, and may not register again.
- f) Members may cancel this contract of use at any time. A written communication to the other contracted party or an email to the contact address given under <http://www.illusion-recycling.com> will suffice as a declaration of cancellation.
- g) IS GmbH may at any time cancel the contract of use to terminate at the end of the month, giving notice of at least 14 days. The right of IS GmbH to exclude members is unaffected by this.

### **§9 Costs of using the internet services of the IR website**

- a) Registration as a member with IS GmbH for the use of the IR website is free of charge.
- b) All members who sell items are charged the following fees for using the Internet services of the IR website of IS GmbH (see IR T&CC):
  - a) insertion fees
  - b) sales commission
  - c) fees for additional services
- c) IS GmbH will also charge fees for the use of various services, functions and tools that it makes available to members.

- d) More precise details are governed by the Link IR T&CC of the Internet services belonging to IR- Website, which are an integral element of these IR T&C.

### **§10 Licence conditions**

- a) The items offered on the IR website may be offered for sale with the following licences: “Exclusive licence”, “Once-only licence” or “Repeat licence”
- b) If a member inserts an item for sale with an exclusive licence, he or she transfers all rights to the article to the purchaser if a sale is concluded. The purchasing member accepts at the moment of conclusion of contract the transfer of rights. On conclusion of the contract, the offering of the item will be removed immediately from the IR website. The selling member is forbidden to insert the item again for sale – whether on the IR website or in any other place. It is forbidden to offer an item for sale with an exclusive licence if the member has already sold the article in another way and/or made it available for use by third parties.
- c) If a member acquires an item with a once-only licence, the member may use the item for the project named on purchase for as many times as wished. Use beyond this is not permitted to the purchasing member. He or she is likewise forbidden to make the item available to third parties whether with or without charge.
- d) If a member acquires an item with a repeat licence, he or she is permitted to use the item according to its type and scope without limitation but only for his or her use personally or in the enterprise named in the membership details. It is forbidden to sell on the item or to transfer the licence to third parties.

### **§ 11 “Wanted” notices**

Members interested in acquiring a certain item will be able to post a “wanted” notice on the IR website, with an exact description and a target price. Members with an offer will be able to send that member an item number. For the member offering the item, there is no guarantee that a sale will ensue.

### **§ 12 System integrity and disruption of the IR website**

- a) The member is not permitted to use any mechanisms, software or scripts in association with the use of the IR website which may be disruptive to the functions of the IR website.
- b) The member is not permitted to take any action which may result in an unreasonable or excessive load on the IR infrastructure.
- c) The member is not permitted to block, overwrite or modify any content generated by IS GmbH and not to interfere destructively with the IR website in any other manner.
- d) The content on the IR website may not be copied or distributed or used or duplicated in any other manner without prior agreement of the copyright holder. This applies also to any copying by means of “robot” or “crawler” search engine technology or any other automatic mechanism.

### **§ 13 Liability for content, data and/or information belonging to members**

- a) IS GmbH accepts no responsibility for content, data and/or information which it has not itself made available on the IR website, and no responsibility for the content of linked external websites. In particular, IS GmbH makes no guarantee that such content is true or able to fulfil a certain purpose or able to serve such a purpose.
- b) Insofar as the member observes use of the IR website which is illegal or in breach of contract, he or she may report this using the contact form to be found on the IR website at <http://www.illusion-recycling.com>.

#### **§ 14 Limitation of liability**

- a) Compensation of whatever kind is excluded unless there is liability by force of law. IS GmbH will not be liable for consequential damage of whatever kind, particularly for loss of profit, for damage arising from the claims of third parties, etc. The advertiser bears sole responsibility for the correctness and legality of members' content and insertions.
- b) A claim against IS GmbH for damages – arising under whatever law – may exist only if IS GmbH has breached a significant contractual obligation and malice aforethought or gross negligence can be proved. In such a case the claim for damages is limited to a sum typical of the foreseeable resulting harm.
- c) These limits will not apply if the damage has been covered by IS GmbH's general liability insurance and the insurer has paid out to IS GmbH. IS GmbH agrees to keep up the insurance cover existing at the time of conclusion of the contract.
- d) IS GmbH will not be liable for damage arising from the misuse of data transmitted, unless the IS GmbH is responsible for malice aforethought or gross negligence.
- e) Any claims for damage to life or limb or property under German product liability law will be unaffected where the legal provisions apply.

#### **§ 15 Exemption from the claims of third parties, cessation of services**

- a) The member shall exempt the IR website from all claims, including claims for damages, made by other members or third parties against IS GmbH on account of abuse of their rights on the part of the member while using the IR website. Furthermore, the member shall exempt IS GmbH from all claims, including claims for damages, made by other members or third parties against IS GmbH on account of abuse of their rights in the course of the member's use of the IR website services. The member shall also, in particular, shoulder all costs arising for IS GmbH from any necessary litigation or legal defence. This will not apply if the breach of the law is not the member's fault. The member agrees, if third parties make a claim, to make immediately available, honestly and in full, to IS GmbH all information which is necessary for an examination of the claims and for a defence. The above shall not affect any further rights or claims to damages on the part of IS GmbH.
- b) If action taken or content inserted by the member on the IR website infringes the rights of third parties, the member shall, at the discretion of IS GmbH and at the member's own cost, obtain the right to use the content or redesign the content so as not to infringe copyright. If the rights of third parties are infringed by the member's use of the services of the IR website the member shall at the request of IS GmbH immediately cease the use which is in breach of contract or the law.

#### **§16 Data protection**

- a) Operating and using the IR website necessitates the collection, storage, processing and use of personal data. IS GmbH will follow all relevant data protection regulations (the German data protection acts, the European data protection directives and any other applicable data protection law). IS GmbH is expressly permitted to process the personal data within the data protection regulations or to have them processed by third parties insofar as such is necessary to the use of the IR website. With the reservation detailed in § 14 b), IS GmbH will not pass the personal details of the members to third parties without permission or in any other way let third parties know them. Personal details will be deleted immediately and permanently by IS GmbH on termination of membership.

- b) IS GmbH has the right to pass to third parties the details entered on the IR website by the member insofar as it is the legal duty of IS GmbH to pass them on to those legally authorised.
- c) The member is aware that full data protection cannot be guaranteed when data are transmitted over the Internet in the current state of the art. In this matter, the member will concern him- or herself with the security of any data transferred by him or her onto the Internet.

#### **§ 17 Written form, law to be applied and place for hearings**

- a) The contract of use and all alterations to it must be in writing. There are no additional arrangements. All declarations communicated in the context of the contract of use to be concluded with IS GmbH must be in writing or sent as email via the IR contact form.
- b) The postal address of a member and his or her email address are deemed to be those given by the member as current contact data in his or her membership account.
- c) The contract of use, including these IR T&C, is subject in the case of all members to the substantive law of the Federal Republic of Germany to the exclusion of UN purchase law.
- d) The place of fulfilment for any supply is the registered office of IS GmbH.
- e) The place with jurisdiction is that of the registered office of IS GmbH insofar as lawfully permitted.
- f) German law shall apply, to the exclusion of international private law and UN purchase law.

#### **§ 18 Alterations to these T&C, precautionary clause**

- a) IS GmbH reserves the right to modify these T&C at any time without naming the reasons. The altered T&C will be sent to the member by email at least two weeks before they are to come into force. Unless the member objects to the application of the new T&C within two weeks of receiving the email, the altered T&C will be deemed to have been accepted. IS GmbH will notify the member of the significance of this two-week period in the email which contains the modified T&C.
- b) If any of these terms and conditions should be or become invalid, such will not affect the validity of the remaining stipulations. The parties to the contract agree to replace the invalid stipulation by one which is valid and comes as close as possible in its content to the meaning and commercial purpose intended for the ineffective stipulation. The like principle shall apply to omissions from the contract.

Illusions-Schmiede GmbH Ilmenau

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