

General Terms and Conditions of Business and Supply (GTCs) pertaining to the use of **ambiente[®] online**



drawing up 07/2017, subject to change

of

ANOVA GmbH

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- hereinafter referred to as ANOVA -

§ 1 Subject matter

(1) Via its virtual showroom, ANOVA offers any and all third parties (hereinafter referred to as USER) a facility for mapping room settings using the software **ambiente[®] online**, whereby the USER has the option of doing so using a website operated by ANOVA or the homepage of the USER.

(2) **ambiente[®] online** makes it possible to process pre-configured room settings or digital images uploaded by the USER itself in such a way that the USER can decorate them to accommodate its own specific needs with the original articles of all available manufacturers, applying the principle of **ambiente[®]** image design.

(3) Business relations under the present Agreement between ANOVA and the USER shall be subject strictly to the following General Terms and Conditions of Business and Supply pertaining to the use of **ambiente[®] online**, namely, per version applicable at the point-in-time of placement of order on the Internet under www.deco21.de. The General Terms and Conditions of Business and Supply may be downloaded and printed by the USER.

§ 2 Registration / Data protection

(1) Use of the full version of **ambiente[®] online** shall require registration. The USER shall apply to register by filling in the forms available at www.deco21.de.

(2) The USER is aware of and approves the fact that its personal data that is required for the purpose of processing of contract and order as well as for archiving purposes will be stored on data-storage devices. It furnishes its express approval of the collection, processing and use of its personal data. Processing of data shall be conducted in a manner compliant with prevailing data-protection legislation. All data shall be treated as strictly confidential. The USER shall be entitled to revoke this approval at any and all times with effect for the future. ANOVA shall undertake, in such event, to delete the personal data immediately, unless that is an order procedure has not yet been processed to its conclusion.

(3) The USER declares its approval of all pageviews of **ambiente[®] online** being recorded and stored. The pageview data shall be used exclusively for internal purposes at the portal provider in so far as this shall be held to be required and/or useful as the case may be.

(4) The USER shall receive login data to enable it to use **ambiente[®] online** and shall undertake to observe secrecy in respect of its password or to change same immediately where risk prevails that it may (have) become available to third parties.

§ 3 Conclusion of contract, scope of delivery

(1) The USER shall commission ANOVA to provide accessibility in full to **ambiente[®] online**. The contract shall be deemed to have become effective when the order placed by the USER shall have been confirmed by e-mail by ANOVA.

(2) Where the website shall be found to contain clerical and computational error(s) and/or mistakes, ANOVA shall not be under any obligation to issue confirmation of order and carry out same.

(3) Scope of delivery shall include setting up the USER as a registered user of **ambiente[®] online** on www.ambiente-showroom.de and/or under the domain of the USER. This procedure shall likewise incorporate integration of all those supplier catalogues selected and, if applicable, inclusion of the company logo and colour adjustment of the user interface.

(4) **ambiente[®] online** offers a combination of 3-D window design from **ambiente[®]** with 2-D mapping for floor, wall and interior. By accessing manufacturer collections approved for use, pre-configured room settings or the USER's own images can be arranged to individually-customised specification, printed, dispatched and stored for use as sample-settings.

(5) Support on the part of the USER in relation to problems involving hardware and operating systems shall not be deemed a constituent part of the contract.

§ 4 Terms of delivery and payment, prices

(1) The delivery exclusively will be digital for the fee named under www.deco21.de at the date of order. All named prices are exclusive Tax. The non-recurring set-up fee for **ambiente[®] online** shall be invoiced upon receipt of order and shall be payable within 10 days and strictly net.

(2) The monthly fee for **ambiente[®] online** shall be due and owing yearly in each case and in advance.

(3) ANOVA is obliged to change the fee (§315 III BGB) by informing the USER within six weeks before the end of one year period for the next period.

(4) Acceptance of contract may be rejected by ANOVA GmbH within 14 days as of receipt of order. The USER shall likewise be entitled to withdraw from contract within a period of 14 days as of date of signature, however, not as of activation of **ambiente[®] online** as per order form.

(5) The contract shall be deemed concluded initially for a period of use of 12 months. Thereafter, notice of termination of contract may be served observing a period of notice of three months. In so far as notice of termination shall not have been forthcoming, the contract shall be deemed automatically extended.

(6) Where an USER shall be found to be in default of payment, ANOVA shall be entitled, having advised and extended the deadline for same, to terminate the contract without notice.

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§ 5 Availability

(1) ANOVA shall endeavour to operate **ambiente[®] online** around the clock. It cannot, however, be guaranteed that access or use will be possible on an uninterrupted or defect free basis.

(2) ANOVA shall, in particular, reserve the right to deactivate **ambiente[®] online** on a short term basis to enable maintenance work and suchlike to be conducted. Interruptions of this nature shall have no effect on amounts payable by the USER.

§ 6 Warranty and liability

(1) **ambiente[®] online** shall be made available on the Internet. ANOVA will have no influence on any and all such risks and hazards as may be encountered through use of the Internet. Any and all such risks, hazards and costs as may emanate from use of the Internet shall be met by the USER.

(2) ANOVA shall assume warranty and liability for material defects as provided for under statutory regulations prevailing in so far as nothing to the contrary shall have been established hereinafter. The images supplied shall only be deemed defective where they shall not be consistent with the technical standard of digital image-processing. Differences in respect of quality of colour between the images and the original image files cannot be avoided technically; consequently, they shall not constitute defects. Equally so, defect shall not be held to prevail for a loss in quality caused by inadequate quality (e.g. resolution) of the original image files.

(3) ANOVA shall be liable without restriction for any and all such loss/damage as shall have been caused by defects of title and the absence of guaranteed features. Liability for initial inability to perform, delay and impossibility shall be limited to five times the licence fee as well as for any and all such loss/damage which may typically be expected to occur within the framework of the delivery of data.

(4) For the rest, ANOVA shall be liable without restriction for wilful intent and gross negligence, also such as shall be attributable to its representatives under law and executive employees. ANOVA shall only be liable for culpable action on the part of other vicarious agents in measure commensurate with the scope of liability for initial inability to perform as set forth under the foregoing paragraph.

(5) ANOVA shall not be liable for indirect loss/damage, consequential loss/damage or atypical loss/damage, irrespective of the nature or content of same. Same shall also apply in respect of compensation for loss of profits, loss of use or for intangibles.

(6) In respect of cases of minor negligence, ANOVA shall be liable only where such obligation shall be found to have been breached fulfilment of which may be held to be of special significance (cardinal obligation) from the point of view of achievement of the purpose of the contract. In the event of a breach of a cardinal obligation, limitation of liability shall hold accordingly for initial inability to perform as provided for under Paragraph 3 of the liability provisions set forth herein.

(7) The foregoing provision shall likewise apply in favour of the employees of ANOVA.

§ 7 Rights

The USER alone shall be responsible for the contents of image files transmitted. Placement of order with ANOVA shall incorporate assurance on the part of the USER that proper and correct completion of order shall in no way constitute contravention of the copyright, trademark rights or any other rights of third parties. Any and all such consequences as shall derive from the contravention of such rights shall be borne alone by the USER. Placement of order on the part of the USER shall incorporate its assurance that the contents of the image files transmitted shall, in no way, feature punishable, illicit or immoral, and, more specifically, pornographic, racist-baiting or extremist contents. Should ANOVA become aware of any occurrence of contravention of said assurance, ANOVA shall, without delay and any prior warning, remove said files and call in the competent law-enforcement authorities

(2) The USER shall retain all rights attaching to all such documentation as shall have been transmitted to ANOVA by the USER. To enable **ambiente[®] online** to be implemented, the USER shall authorise ANOVA, for an unlimited period, to avail itself of the image data made available for the purpose of performing services under the present contract. This shall also include storage, duplication and processing of the image data. It shall also incorporate entitlement to make individual images available to third parties for the purposes of rectifying defect.

(3) It shall be deemed prohibited to engage in any and all forms of duplication, processing, distribution or publication of **ambiente[®] online** or parts thereof, unless such duplication shall constitute a requirement for implementing the intended use. This shall also apply in respect of product descriptions, items of documentation and instructions for use.

(4) Where an USER shall be found to be in breach of the present instructions for use, ANOVA shall be at liberty to terminate the contractual relationship without notice, and to block access either temporarily or entirely.

§ 8 Final provisions

(1) Amendments or supplements of these terms and conditions require the written form to be binding. This also applies to the annulment of this written form requirement.

(2) The law of the Federal Republic of Germany shall apply, excluding the United Nations Convention on Contracts for the International Sale of Goods (CISG).

(3) Venue of performance is Rostock. The courts of ANOVA shall have exclusive jurisdiction for dispute, in connection with this contract.

(4) If individual provisions of these terms and conditions are ineffective, statutory laws, the terms and conditions as a whole remain unaffected. The contractual parties shall amicably decide to replace the ineffective provision by a legally effective provision, which comes closest to the commercial purpose of the ineffective one. The aforementioned provision shall accordingly apply in case of gaps.

Rostock, July 2017