

## General Terms and Conditions of Delivery (Status: May 2023)

### 1. General

- 1.1 These Terms and Conditions of Delivery shall apply to all contracts for the sale and delivery of movable goods ("goods"), irrespective of whether we manufacture the goods ourselves or purchase them from suppliers.
- 1.2 Unless otherwise agreed, the Terms and Conditions of Delivery in the version valid at the time of the customer's order shall also apply as a framework agreement for similar future contracts without our having to refer to them again in each individual case.
- 1.3 Our Terms and Conditions of Delivery shall apply exclusively. Deviating, conflicting or supplementary terms and conditions of the customer shall only become part of the contract if and to the extent that we have expressly agreed to their application.
- 1.4 Legally relevant declarations and notifications by the customer with regard to the contract (e.g. setting of deadlines, notification of defects, reduction of price, rescission of contract) must be made in writing, i.e. in written or text form (e.g. letter, e-mail, fax).
- 1.5 References to the applicability of statutory provisions are for clarification purposes only. Regardless of such clarification, the statutory provisions shall therefore apply unless they are directly amended or expressly excluded in these Terms and Conditions of Delivery.

### 2. Conclusion of Contract

- 2.1 Our offers and cost estimates are non-binding. Our product directories, samples, price lists etc. neither constitute binding offers.
- 2.2 The order of goods by the customer is considered a binding offer of contract.
- 2.3 Unless otherwise stated in the order, we are entitled to accept the offer within three weeks after receiving it.
- 2.4 We declare acceptance either by written order confirmation or by delivery of the goods to the customer.
- 2.5 Illustrations, drawings, weights and dimensions included in the order confirmation are only approximations and are not binding, unless they are expressly stated to be so.
- 2.6 We retain our rights at all times to cost estimates, drawings and other documents, in particular ownership rights, copyrights and all other rights of use, reproduction or exploitation. The customer may not make such documents accessible to third parties without our express consent. If no contract is concluded, all documents shall be returned to us upon request.

### 3. Delivery and Passing of Risk

- 3.1 The expected delivery date is stated in the order confirmation and is subject to our own supply.
- 3.2 Delivery is ex works. At the customer's request and expense, the goods will be shipped to another destination. Unless otherwise agreed, we are entitled to determine the type of shipment (in particular transport company, shipping route, packaging) ourselves. Additional costs for express shipment and other special requests regarding the shipment shall be borne by the customer.
- 3.3 If the systems are delivered by Unbescheiden GmbH, the delivery will be made to the construction site at ground level. If the equipment is delivered and installed by Unbescheiden GmbH, auxiliary personnel must be provided by the customer for the installation.
- 3.4 Partial deliveries are permissible, provided they are not unacceptable for the customer.
- 3.5 Unless otherwise agreed, risk of loss shall pass to the customer as soon as we have made the goods available for collection by the customer and informed him thereof. The customer must collect the goods within two weeks during normal business hours. After expiry of this period, we reserve the right to charge the customer for any storage costs incurred, however per week no less than 0.5 % of the net invoice amount of the stored goods.
- 3.6 We will not bear any costs if the delivery of the goods is delayed due to circumstances for which the customer is responsible. Any additional expenditure on our part shall be reimbursed by the customer. A chargeable storage pursuant to clause 3.4 sentence 3 shall also be made if the customer is in default of acceptance of goods shipped to him in accordance with the order.

### 4. Force Majeure

- 4.1 We are not responsible for delays due to force majeure. We are entitled to postpone the affected delivery period by the duration of the obstruction plus a reasonable start-up time. This shall apply accordingly as long as one of our upstream suppliers suffers from force majeure and this affects the delivery promised by us. We will inform the customer immediately of the beginning and end of force majeure.
- 4.2 Force majeure refers to circumstances beyond our control, such as strikes, epidemics, natural disasters, power or infrastructure failures, riots, terrorist attacks or acts of war.

## 5. Installation

**5.1** Unless otherwise agreed, the installation of delivered goods shall be carried out for separate remuneration according to time and material expenditure.

**5.2** On the agreed installation date, the preliminary work to be performed by the customer must have progressed to such an extent that the installation can be carried out unhindered and without interruption. Any additional work that becomes necessary for construction reasons shall be borne by the customer.

**5.3** The power and water connections required for a function test and subsequent regular operation must be available and freely accessible. The power lines laid on site must correspond to the installation drawings submitted by us. We cannot make any structural changes to the existing power and water installation network.

**5.4** If the installation is made impossible, made more difficult or delayed by fault of the customer, the customer shall bear any additional costs incurred by us as well as any damages.

**5.5** The customer shall accept installation services that are performed as agreed. If there are any defects that prevent acceptance, we shall remedy them without delay. We will remedy defects that do not prevent acceptance within the scope of the warranty (clause 9).

**5.6** The installation services shall be deemed to have been accepted, even without an express declaration, in particular if the customer puts the installed goods into operation, unless the use exclusively serves the purpose of acceptance testing, or if the customer has not refused acceptance within 14 calendar days of the installation services being made available for acceptance testing due to defects that are not merely insignificant, or if he has not declared justified reservations about the acceptability of the installation services.

## 6. Customer Service

If we are commissioned with maintenance work as part of customer service, the customer must ensure that the systems to be serviced are accessible when the customer service technician arrives as agreed. Any covering provided by the customer and other elements that impede access to the systems' controls must be removed in good time beforehand. Clauses 5.4 to 5.6 shall apply accordingly.

## 7. Prices and Terms of Payment

**7.1** In the absence of any agreement to the contrary, our prices shall apply ex works, plus costs for packaging and transport as well as the applicable value added tax. The relevant currency for prices is Euro (€).

**7.2** We shall be bound by the prices stated in the order confirmation for four months from the date of the confirmation. If the goods are delivered as agreed after this date or if no price has been fixed, our list price valid on the date of delivery shall apply.

**7.3** If the delivery of the goods is delayed due to circumstances not attributable to us and if the costs on which our calculation is based, in particular for personnel, raw materials and energy, have increased by at least 3% between the agreed and the actual delivery date, we reserve the right to make reasonable price adjustments. We shall notify the customer in writing of any price adjustment together with an explanation of the cause before we execute the order.

**7.4** Unless otherwise agreed, the entire invoice amount shall be due for payment upon receipt of the order confirmation (clause 2.4). If the order value is € 10,000 or more, this shall only apply to the first half of the invoice amount, while the second half of the amount shall only be due upon notification of readiness for collection (clause 3.4). Invoiced amounts for installation and customer services are due upon receipt of the respective invoice.

**7.5** Payments are to be made without deduction on the due date.

**7.6** Payment shall only be deemed to have been effected to the extent that we can freely dispose of it at the bank named by us. We accept cheques and bills of exchange only on account of performance and subject to their redeemability. Discount and charges shall be borne by the customer.

**7.7** Upon expiry of the payment deadline (clause 7.5), the customer shall be in default. He shall owe us default interest per annum in the amount of nine percentage points above the base interest rate. Further claims for damages remain unaffected by this.

**7.8** The customer shall only be entitled to rights of set-off or retention insofar as his claim has been judicially determined or is undisputed.

**7.9** If it becomes apparent after conclusion of the contract that our claim for payment is endangered by the customer's inability to pay, we are entitled to refuse performance and to rescind the contract.

## 8. Retention of Title

**8.1** We reserve title to the delivered goods until receipt of all payments and irrevocable crediting of accepted cheques and bills of exchange from the business relationship with the customer ("reserved goods"). If a current account relationship exists, the retention of title shall refer to the acknowledged balance in our favor.

**8.2** The customer is obliged to handle the reserved goods with care. In particular, he is obliged to insure them at his own expense against loss and damage at replacement value. The customer shall submit the insurance policy and proof of payment of the premiums to us upon request. He hereby assigns to us any claims and rights arising from the insurance relationship. The assignment is subject to the resolutive condition of the customer's complete acquisition of ownership.

**8.3** The processing and treatment of the reserved goods by the customer shall always be carried out for us, but without any obligation on our part. In the event of processing and combination with other goods we shall acquire co-ownership of the new goods in the ratio of the invoice value of the reserved goods to the value of the other processed materials at the time of processing. The same shall apply if the reserved goods are mixed with other materials.

**8.4** The customer is entitled to resell the reserved goods in the ordinary course of business. However, he hereby assigns to us all claims accruing to him from the resale.

**8.5** The customer is entitled to collect the claims assigned to us in order to fulfil his payment obligations to us. If the customer does not meet his payment obligations, we may revoke his right to resell and demand that the customer discloses to us the assigned claims and their debtors, provides all information required for collection by us, hands over the associated documents and notifies his debtors of the assignment.

**8.6** As long as the retention of title persists, the customer may only with our written consent pledge the reserved goods to a third party or assign them as security. He has to immediately inform us of any seizure of the reserved goods by third parties. The customer shall bear any costs arising from the defense against such seizure, insofar as they are not reimbursed by the third party.

**8.7** If the value of the reserved goods exceeds our claims by more than 10 %, we shall, at the customer's request, release goods of his choice to the extent of the excess value.

## **9. Warranty for Defects**

**9.1** We guarantee that our services (goods, installation and customer service) have the agreed quality. They are not defective in any way that would nullify or diminish their value or suitability for normal use or the use intended in the contract. The relevant date is the passing of risk, i.e. in the case of deliveries of goods the notification of readiness for collection (clause 3.4), in the case of installation and customer services the acceptance by the customer (clause 5.5).

**9.2** The customer must inspect the goods immediately upon receipt and, if a defect becomes apparent, notify us thereof within 14 calendar days in text form and in such a way that we can get an idea of the defect. If the customer fails to notify us in due time the goods shall be deemed to have been approved, unless the defect was not recognizable during the inspection. If such a defect is discovered later, the notification must be made within five calendar days of discovery; otherwise the goods shall also be deemed to have been approved in this respect.

**9.3** We shall remedy defects reported in a timely manner without delay by way of subsequent performance. At our discretion, we shall either remedy the defect or deliver defect-free goods. The customer shall give us the time and opportunity required for subsequent performance and, in particular, hand over the rejected goods for inspection purposes. Subsequent performance does not include eventual installation and removal of the goods as well as the associated costs. If subsequent performance is not possible on the agreed date for reasons for which the customer is responsible, the customer shall reimburse us for the costs associated with the unsuccessful attempt at subsequent performance.

**9.4** If the defect only slightly impairs the usability of the goods, we shall be entitled, in order to save time and travel costs, to carry out an owed subsequent repair or replacement delivery within a reasonable period of time, taking into account the schedule of our customer service. Instead of subsequent performance we may in appropriate cases also reimburse the customer for the reduced value of the goods due to the defect.

**9.5** We may demand reimbursement from the customer of the costs incurred as a result of an unjustified request to remedy a defect (in particular inspection and transport costs), unless it was not apparent to the customer that the goods did not have a defect.

**9.6** Insofar as the defect has been caused by an essential third-party product, we may initially limit our possible liability towards the customer to assignment of the warranty claims to which we are entitled against the supplier of the third-party product. Only to the extent that the defect still exists after a claim has been made against the supplier the customer shall be entitled to the rights according clause 9.3.

**9.7** If our operating and maintenance instructions are not observed or repairs are carried out by non-certified third parties or not with original spare parts, we shall not be liable to the extent that the defect is based on the aforementioned circumstances.

**9.8** Any warranty claims shall become statute-barred within one year after the passing of risk (clause 9.1).

## **10. Damages**

**10.1** We are liable for damage to the customer that we have caused intentionally or through gross negligence.

**10.2** We shall only be liable for simple negligence in the event of a breach of an essential contractual obligation, i.e. the fulfilment of which makes the proper execution of the contract possible in the first place and on the observance of which the customer relies and may rely. The amount of this liability is limited to the typically foreseeable damage at the time of causation, however not exceeding 5 % of the net order value of the damaging item.

**10.3** We shall only be liable for obvious damage or other readily recognizable impairments to the goods if the customer has the carrier document on the way bill a reservation of potential claims for compensation immediately upon receipt of the goods.

**10.4** In the event of a delay in delivery our liability shall be limited to a lump sum compensation of 0.5% per full week, but in any case not more than 5% of the net order value of the delayed item.

**10.5** Liability for loss of profit is excluded.

**10.6** Liability for culpable injury to life, limb or health, as well as according to the provisions of the Produkthaftungsgesetz (Product Liability Act), shall remain unaffected.

## **11. Collection and Disposal according to ElektroG (Electric Devices Act)**

**11.1** The customer shall discharge us from the obligations pursuant to § 19 para. 1 sentence 1 ElektroG (manufacturer's obligation to collect and dispose of electrical and electronic equipment) and any related claims of third parties.

**11.2** If the customer resells the goods, he shall contractually oblige the purchaser to have the goods disposed of at his own expense after termination of use and to pass on this obligation in the event of a new resale. If this obligation is omitted or passed on ineffectively, the customer himself must take back the goods at his own expense and have them properly disposed of.

## **12. Data Protection**

We comply with the statutory provisions on data protection when processing the customer's personal information. This also includes state-of-the-art technical security measures (Art. 32 GDPR) and the obligation of employees to maintain data secrecy (Art. 28 para. 3 lit. b GDPR).

## **13. Confidentiality**

**13.1** The parties shall maintain secrecy with regard to any and all confidential information, in particular business or trade secrets, of which they become aware in the course of their business relationship, and shall neither pass them on nor exploit them in any other way.

**13.2** The duty of confidentiality shall not apply if the information in question is required to be disclosed pursuant to the decision of a court, the order of a public authority or statutory law. The party so obliged shall promptly notify the other party of the disclosure and disclose the information in such a manner that confidentiality is maintained to the maximum extent possible.

## **14. Final Provisions**

**14.1** The place of performance for all services (deliveries and payments) is our registered office in Baden-Baden.

**14.2** The place of jurisdiction is Baden-Baden, Germany. However, we are also entitled to file a suit at the customer's place of residence or business.

**14.3** German law shall apply with the exclusion of the UN Convention on Contracts for the International Sale of Goods.

**14.4** Should one of the above provisions be or become invalid or should a necessary provision be missing this shall not affect the validity of the remaining provisions. The parties in this case shall endeavor to find a mutually agreeable provision.