

General Terms and Conditions Ambrian Energy GmbH



Section 1 General - Scope of Application

(1) These General Terms and Conditions apply to all business relationships between the Seller and the Customer. They only apply if the Customer is an entrepreneur (Section 14 of the German Civil Code (BGB)), a legal entity under public law or a special fund under public law. Unless otherwise agreed, the version of the General Terms and Conditions in force at the time of the Customer's order, or at least as last communicated to the Customer in text form, shall also apply as a framework agreement for similar future contracts, without the Seller having to refer to them again in each individual case.

(2) The General Terms and Conditions apply exclusively. Any deviating, contradictory or supplementary general terms and conditions of the Customer shall only become part of the contract if and to the extent that the Seller has expressly agreed to their validity. This requirement for consent applies in all cases, for example even if the Seller carries out the delivery to the Customer without reservation, knowing the Customer's general terms and conditions.

(3) Individual agreements made with the Customer on a case-by-case basis (including ancillary agreements, supplements and amendments) always take precedence over these General Terms and Conditions. Unless there is evidence to the contrary, a written contract or written confirmation from the Seller is authoritative for the content of such agreements.

(4) Legally relevant declarations and notifications that are to be made by the Customer to the Seller after the conclusion of the contract (e.g. setting deadlines, notification of defects, declaration of withdrawal or reduction) must be made in writing in order to be valid.

(5) References to the applicability of statutory provisions are for clarification purposes only. Therefore, even without such clarification, the statutory provisions shall apply unless they are directly amended or expressly excluded in these General Terms and Conditions.

Section 2 Conclusion of Contract

(1) Offers are subject to change. We reserve the right to make interim sales. By ordering the goods, the Customer declares bindingly that they wish to purchase the ordered goods.

(2) The Seller is entitled to accept the contractual offer contained in the order within two weeks of receipt. Acceptance can be declared either in writing or by delivery of the goods to the Customer.

(3) The contract shall be concluded subject to correct and timely delivery by the Seller's own suppliers. This shall only apply if the Seller is not responsible for the non-delivery, in particular if a congruent hedging transaction is concluded with the supplier. The Customer shall be informed immediately of the unavailability of the service. Any consideration paid shall be refunded without delay.

Section 3 Offers and Price

The price applicable on the day of delivery plus VAT shall be charged in accordance with the calculation formula specified in the contract, unless a fixed price has been agreed. If the parameters specified in the calculation formula change between the time of conclusion of the contract and the day of delivery of the goods, the price shall increase or decrease accordingly.

Section 4 Delivery and Dispatch

(1) Delivery shall be FCA at the registered office of the Seller in accordance with Incoterms 2020, unless different terms of delivery have been agreed.

(2) Any liability for improper packaging or loading or for loss of weight or damage incurred en route shall be excluded if the consignment is taken over without fault by rail, the shipping company or other carriers. Insurance against damage of any kind shall only be taken out at the express request of the Customer and shall be calculated for the amounts disbursed.

(3) The delivery times stated are subject to timely and sufficient official approval and its maintenance, as well as the trouble-free running of production and transport, unless the Seller is not responsible for a disruption. If the aforementioned impediments to performance exist for a period of more than four weeks, the Seller is entitled to withdraw from the contract. In this case, the Seller shall inform the Customer without delay of the unavailability and refund any consideration provided without delay. The failure of deliveries or services of the upstream supplier used by the Seller, regardless of the cause, releases the Seller from its obligation to deliver or perform. This does not apply to obstacles for which the Seller is responsible. Claims for damages by the Customer are excluded, but the Seller is obliged to assign its claims against the upstream supplier to the Customer.

(4) Events of force majeure release the Seller from the obligation to deliver for the duration and to the extent of their effect. Delays in delivery due to force majeure occur in particular, but not exclusively, in the event of strikes, lockouts, official orders, pandemics, sanctions, global supply chain crises, war or crisis events etc., even if they occur at the supplier of the Seller or its sub-suppliers or at other

third parties engaged by the Seller to fulfil its contractual obligations. If the Seller exceeds the stated delivery time by more than two weeks due to the aforementioned circumstances, the Customer is entitled to withdraw from the contract if this delay in delivery hinders them in an unreasonable way.

(5) Quantities and weights shall be quoted in customary commercial form. Unless otherwise agreed, the quantities and weights determined at the loading facility shall be decisive for the calculation.

(8) Obvious defects, damage sustained in transit and missing quantities must be reported to the Seller immediately in writing. Timely dispatch is sufficient to meet the deadline. Evidence of obvious defects, damage and shortfalls in transport by factory or private lorries shall be provided by a written declaration by the lorry driver and the persons involved in unloading, stating their names and exact addresses. In the case of delivery by the Seller's own lorry, obvious defects, damage and shortfalls are to be determined in the presence of the lorry driver. Non-obvious defects, damage and shortfalls must be reported to the Seller in writing immediately after they are discovered. Timely dispatch is sufficient to meet the deadline. In the event of non-compliance with the notification obligations in accordance with these General Terms and Conditions and in accordance with Section 377 of the German Commercial Code (HGB), the goods shall be deemed to have been approved.

(9) Costs and damage, in particular additional transport costs and transport risks, shall be borne by the Customer who refused acceptance in the event of an unjustified refusal of acceptance. The return of delivered goods will not be accepted without the prior consent of the Seller.

Section 5 Payment

(1) Unless otherwise agreed in individual cases, invoices issued by the Seller after delivery shall be settled immediately. Payment default shall occur no later than ten days after receipt of the invoice, without any further criteria having to be met.

(2) Discounts for cash payments shall be subject to a special written agreement.

(3) In the event of non-compliance with the payment deadline, the Seller shall be entitled, without prior notice, to charge interest from the due date in the amount of 9 percentage points above the base interest rate.

(4) The Seller reserves the right to prove and assert more extensive damage due to default.

(5) In the event of late payment, all outstanding or not yet due or deferred receivables shall be payable immediately. In the case of partial delivery, the Customer's default in payment entitles the Seller to refuse the quantities still to be delivered from the order without any obligation to pay compensation.

(6) All invoices of the Seller are due immediately upon suspension of payment by the Customer, if the Customer applies for insolvency proceedings against its assets, if the insolvency court orders security measures in accordance with Section 21 of the German Insolvency Code (InsO) or if insolvency proceedings are initiated against the Customer's assets. At the same time, all discounts and bonuses shall be deemed to have expired if they were granted under the condition precedent of due and timely payment, so that the Customer must pay the gross prices invoiced. The Customer undertakes to notify the Seller immediately and without being prompted to do so. Any payment made by the Customer before the onset of insolvency shall be credited against the oldest receivable, irrespective of any offsetting provision of the Customer.

(7) If, after the conclusion of the contract, it transpires that the Customer's credit conditions are unsuitable for granting loans and payment terms, the Seller is entitled, at its own discretion, to claim advance payments or collateral on the basis of due and undue claims arising from all existing contracts and to refuse fulfilment until the advance payment or collateral has been provided. If advance payments or security are not made on time, the Seller may withdraw from the contract and demand compensation for non-performance. The Seller is also entitled to withdraw, in whole or in part, from such contracts where the Customer exceeds the agreed credit limit.

(8) The Customer has a right to offset only if their counterclaims have been legally established or acknowledged by the Seller. The Customer may only exercise a right of retention if their counterclaim is based on the same contractual relationship.

Section 6 Retention of Title

(1) The goods shall remain the property of the Seller (reserved goods) until the final payment of all claims against the Customer and its affiliated companies arising from the mutual business relations with the Seller. The Customer is obliged to insure the goods sufficiently against the usual risks.

(2) The Customer may only sell the delivered goods and the items resulting from their processing in the ordinary course of business. They are prohibited from pledging or transferring title by way of security. They hereby assign to the Seller, i.e. in advance, the claims and rights arising from the sale or from any other legal



reason. At the Seller's permissible request at any time, the Customer shall notify the third-party debtors of the assignment and provide the Seller with the information and documentation necessary to assert its rights against the third-party debtors.

(3) The Customer is authorised to process or process the delivered goods, but only as the Seller's agent, so that the Seller, as the manufacturer, acquires ownership of the new item; however, the Customer shall not have any rights or claims arising from this contractual relationship against the Seller. If the goods delivered by the Seller are mixed with other goods, ownership and, if applicable, co-ownership of the new goods shall be vested in the Seller; the Customer shall exercise the Seller's co-ownership rights for it with the care of a prudent businessperson.

(4) The Seller authorises the Customer to collect the claims assigned to the Seller on its behalf, as long as the Seller does not revoke this authorisation; the Customer must immediately pass on the amounts received to the Seller, insofar as the claim is already due, otherwise keep these amounts in separate safekeeping for the Seller. The Seller reserves the right to collect the claim itself as soon as the Customer fails to meet its payment obligations properly and falls into arrears.

(5) The Customer shall immediately inform the Seller of any access by third parties to the goods or the assigned claims and rights, for example in the event of seizure by third parties or other impairments, and shall temporarily take all measures to secure the Seller's claims and rights that cannot be postponed.

(6) Insofar as the value of the collateral of the Seller exceeds its total claims by more than 25%, it is obliged, at the request of the Customer, to transfer the additional collateral to the Customer at its own discretion.

(7) Ownership of the reserved goods shall pass to the Customer upon full payment of all claims of the Seller arising from the business relationship. At the same time, the Customer acquires the claims that they have assigned to the Seller in order to secure their claims in accordance with the above provisions.

Section 7 Export and Embargo Provisions

(1) The Seller's deliveries are subject to the proviso that there are no obstacles to fulfilment due to national or international export control provisions, in particular embargoes or other sanctions. The Customer undertakes to provide all information and documentation required for export or shipment. Delays due to export checks or approval procedures invalidate deadlines and delivery times. If necessary approvals are not granted or if the goods or services cannot be approved, the contract shall be deemed not to have been concluded in respect of the parts concerned.

(2) The Seller is entitled to terminate the contract without notice if the termination is necessary in order to comply with national or international legal regulations. In the event of termination, the Customer is excluded from asserting damage or other rights.

(3) The Customer must comply with the applicable provisions of national and international (re)export control law when passing on the goods delivered by the Seller and the associated documents to third parties in Germany and abroad, irrespective of the manner in which they are made available or the services provided by the Seller.

Section 8 Warranty

(1) The Seller shall initially provide warranty for defects in the goods by means of rectification or replacement delivery at its own discretion.

(2) If supplementary performance fails, the Customer may, at their own discretion, demand a reduction in the remuneration (price reduction) or cancellation of the contract (withdrawal). However, in the event of a minor breach of contract, in particular in the event of only minor defects, the Customer shall not be entitled to a right of withdrawal.

(3) Liability for defects does not apply to deviations from the specified quality that are insignificant for the value and intended use, in particular if relevant technical standards and DIN regulations are complied with. Furthermore, a warranty claim may not be brought unless the Customer has reported defects and shortfalls in quantity in writing in good time in accordance with Section 4 no. 8 of these Terms and Conditions of Sale and Delivery. Timely dispatch is sufficient to meet the deadline.

(4) A further prerequisite for the warranty claim is that the goods are still in the possession of the Customer unmixed and distinguishable, or that the Customer has drawn two litres of samples of the goods in question in the presence of a representative of the Seller or an independent expert. If a defect becomes apparent before mixing the delivered goods with other goods of the Customer, the Customer must inform the Seller before mixing them and give it the opportunity to inspect and carry out subsequent performance, otherwise the warranty is excluded.

(5) The expenses necessary for the purpose of inspection and supplementary performance, in particular transport, travel, labour and material costs, shall be borne by the Seller if a defect actually exists. Otherwise, the Seller may demand reimbursement from the Customer for the costs incurred as a result of the unjustified request to remedy the defect (in particular inspection and transport costs), unless the lack of defect was not apparent to the Customer.

(6) The Customer shall bear the full burden of proof for all claim requirements, in particular for the defect itself, for the time at which the defect was discovered and for the timeliness of the defect report.

(6) If the Customer chooses to withdraw from the contract due to a defect of title or material defect after unsuccessful supplementary performance, the Customer shall not be entitled to compensation for damages due to the defect. If the Customer chooses compensation after unsuccessful supplementary performance, the goods shall remain with the Customer if it is reasonable for them. Compensation is limited to the difference between the purchase price and the value of the defective item. This shall not apply if the Seller has caused the breach of contract fraudulently.

(7) The warranty obligation is one year from delivery of the goods.

(8) The Seller's samples are non-binding samples of a general nature and are not binding in any way for specific characteristics. Analytical data are only approximate guidelines unless they have been expressly specified in writing. The Customer does not receive any guarantees in the legal sense from the Seller.

Section 9 Other Liability

(1) Unless otherwise stated in these General Terms and Conditions, including the following provisions, the Seller shall be liable in accordance with statutory provisions in the event of a breach of contractual and non-contractual obligations.

(2) The Seller shall be liable for damages – irrespective of the legal grounds – in the context of culpability for intent and gross negligence. In the case of ordinary negligence, the Seller shall only be liable, subject to a milder standard of liability in accordance with statutory provisions (e.g. for care in its own affairs), for ordinary negligence only

a) for damage resulting from injury to life, limb or health,

b) for damage resulting from the not insignificant breach of an essential contractual obligation (an obligation whose fulfilment is essential for the proper execution of the contract and on the fulfilment of which the contractual partner regularly relies and may rely); in this case, however, liability is limited to compensation for foreseeable, typically occurring damage; consequential damage (e.g. lost profit) is excluded from the liability.

(3) The limitations of liability set out in paragraph 2 also apply in the event of breaches of duty by or for the benefit of persons for whom the Seller is responsible according to statutory provisions. They do not apply if the Seller has fraudulently concealed a defect or provided a guarantee for the quality of the goods, or to claims of the buyer under the German Product Liability Act (ProdHaftG).

Section 10 Limitation Period

(1) In deviation from Section 438 (1) no. 3 BGB, the general limitation period for claims arising from material defects and defects of title shall be one year from delivery.

(2) The aforementioned limitation period also applies to contractual and non-contractual claims for damages by the Customer based on a defect in the goods, unless the application of the regular statutory limitation period (Sections 195 and 199 BGB) would result in a shorter limitation period in individual cases. However, claims for damages by the Customer pursuant to Section 9 (2) sentences 1 and 2 a) and under the German Product Liability Act (ProdHaftG) shall only become time-barred after the statutory limitation periods.

Section 11 Final Provisions

(1) The law of the Federal Republic of Germany applies. The provisions of the UN Convention on Contracts for the International Sale of Goods do not apply.

(2) The exclusive place of jurisdiction for all disputes arising from this Agreement is the registered office of the Seller. This also applies if the Customer does not have a general place of jurisdiction in Germany or if the Customer's place of residence or habitual residence is unknown at the time the action is brought.

(3) Should individual provisions of the contract with the Customer, including these Terms and Conditions of Sale and Delivery, be or become invalid in whole or in part, this shall not affect the validity of the remaining provisions. The wholly or partially invalid provision shall be replaced by a provision whose economic purpose comes as close as possible to that of the invalid provision.