

# General Terms and Conditions of Sale and Performance



## I. Scope

The following General Terms and Conditions of Sale and Performance of the Stieglmeyer Group (herein after referred to as Contractor) are applicable exclusively to the sale and supply of goods and services provided under a contract for work or services and also any other goods and services. They are not applicable if the Client is a consumer in terms of § 13 BGB [German Civil Code]. Separate terms and conditions of sale are applicable to online orders.

## II. Purchase agreements

### 1. Offers

- 1.1 Offers are non-binding in principle, unless declared binding in individual cases. Unless otherwise agreed, individual written offers of the Contractor shall be binding for a period of three months.
- 1.2 Obvious errors in an offer may be corrected before acceptance of the order.

### 2. Acceptance of the Terms and Conditions of Sale and Performance/Order confirmation

- 2.1 All offers and agreements shall be governed exclusively by the conditions below. Unless expressly accepted in writing, conditions of the Client which may deviate from these Terms and Conditions of Sale and Performance shall not constitute a component of the Contract, even should they not have been expressly objected to again. A delivery/performance effected without reservation shall not imply tacit acceptance of the Client's conditions.
- 2.2 The Contract shall be deemed concluded only following the Contractor's confirmation in writing or in text form. For rush orders, the invoice shall be deemed confirmation of the order.
- 2.3 Supplements, changes and subsidiary agreements shall likewise require the Contractor's confirmation in writing or text form to be effective.

### 3. Times of delivery/performance

- 3.1 Given delivery/performance times are approximate only unless a specific date is confirmed in writing or text form. Agreed deadlines shall commence on the day of dispatch of the order confirmation and shall be deemed complied with if the goods leave the works/store at the agreed time or, with an option of dispatch, when the Client is notified of the readiness for dispatch. The latter shall likewise apply if the delivery/performance is delayed for reasons the Client may be held responsible for. A reasonable grace period shall be allowed in cases of default in delivery/performance.
- 3.2 Agreed deadlines shall be reasonably extended should the Client change the Contract at a later stage and in a manner which affects delivery/performance times.
- 3.3 For deliveries and performances on call (so-called contract orders) the delivery/performance time within the term of the contract orders shall be agreed upon at least 12 weeks prior to the desired deadline.
- 3.4 Insofar as the completion or delivery of goods or the performance significantly affect agreed deadlines, such deadlines shall be reasonably extended in the event of unforeseeable, extraordinary events which the Contractor could not avoid despite reasonable diligence in accordance with the circumstances of the case – even should the events occur at the pre-supplier. This includes, in particular, official intervention, disruption of operations, industrial disputes and delays in the supply of raw and auxiliary materials. Should the aforementioned events render delivery or performance impossible, the Contractor shall be released from his duty to perform and the Client shall not be entitled to claim compensation. Should the aforementioned obstacles occur at the Client's, the same legal conditions shall apply to his obligation to accept as well. The contracting parties shall be obliged to notify the other party without delay of the beginning and end of obstructions as described above.

### 4. Pricing

- 4.1 Unless otherwise agreed, the Contractor's prices shall be ex factory. The prices exclude statutory VAT and shipping costs.
- 4.2 Should certain cost items change substantially, especially the cost of wages, primary materials or freight, the agreed price may be reasonably adapted to reflect the effect of such cost changes. The Client shall be informed of any price changes in writing, furnishing reasons for the

change in costs.

- 4.3 The price includes standard packaging.

### 5. Acceptance of delivery

- 5.1 If the goods/performance are not called up within 6 months of the Contractor's order confirmation or after the Client's award of contract, the Contractor shall be entitled to produce the goods and store these at the expense and risk of the Client, unless a later delivery date is agreed upon. The Contractor shall inform the Client of this and of expected storage costs in good time.
- 5.2 If delivery is by truck, the Client shall be obligated to take any precautionary measures required to ensure immediate offloading at the time agreed upon. This applies to trucks with a 25 meter shunting area especially. The Client shall always be responsible for delivery of the supplied goods to the point of use and for setting up.
- 5.3 Should it be agreed in individual cases that the Contractor will set up the supplied goods at the point of use, the Client shall ensure that the necessary access routes are available, that lifts are functional, available free of charge and with an operator, that a person authorised by the Client to sign for acceptance is present and that the Contractor is assigned a designated area where the supplied goods must be set up.
- 5.4 The delivery is deemed accepted after the Client or a person authorised by the Client as per Section 5.3 has signed the delivery note. After signing the delivery note, the Client shall in particular not have a right to demand that the erected goods be moved to another area inside or outside the premises where the goods were erected.

### 6. Deviations in delivered goods

- 6.1 The right to make any change in the design and/or production that are necessary for adapting the delivered goods to state of the art technology and which impact neither functionality nor value of the delivered goods is reserved. To the extent reasonable to the Client, the Contractor also reserves the right to deliver customary or minor technically unavoidable deviations in terms of quality, colour, dimensions and weight. The Contractor shall inform the Client of such changes.
- 6.2 References to earlier versions are deemed indicative only in terms of models and functionality.

### 7. Samples and drawings

- 7.1 The Contractor reserves his proprietary rights and copyright to illustrations, drawings, sketches, other documentation and samples.
- 7.2 Samples are delivered freight paid and, unless otherwise agreed, shall be returned within 3 months or purchased at the list price. Damaged samples cannot be returned. The Client shall in all cases purchase specially produced samples.

### 8. Terms of payment

- 8.1 All invoices shall be payable within 30 days of the date of the invoice, without deductions. A 2 percent discount shall be granted to prepayments or cash payment within 14 days of the date of the invoice.
- 8.2 Should the Client be in default with payment, the Contractor shall be entitled to charge interest on arrears of 9 percent age points above the base rate at the time.
- 8.3 Bills of exchange are accepted only on account of performance or subject to agreement and provided they are bankable. Discount charges are calculated from the due date of the invoice. Guarantees for correct submission of the bill of exchange and for bill protest are excluded.
- 8.4 Should the Contractor, after conclusion of the Contract, become aware of facts suggesting significant deterioration of the Client's pecuniary circumstances which, after dutiful commercial assessment, are likely to jeopardise his claim to payment he may, prior to his performance, demand suitable sureties within a reasonable period, or incremental performance against payment. If the Client does not meet the justified demands of the Contractor or does not meet them in good time, the Contractor shall be entitled to withdraw from the Contract and demand compensation.
- 8.5 Should the Client be in arrears with a partial performance, the Contractor shall have the right to demand the full residual performance immediately and also to withdraw from the Contract without setting a further time limit and/or demand compensation should the delay in performance be due to a significant deterioration of a financial position. If the Client's delay in performance is not of a financial nature the Contractor may, after fruitless expiry of a reasonable period, withdraw from

- the Contract and/or demand compensation.
- 8.6 The Client may only offset with legally binding claims or counter claims recognised by the Contractor, or assert rights of retention based on such claims. Offsetting or retention rights are always an option in cases where the Client asserts claims for defects.

#### **9. Shipment and passing of risk**

- 9.1 Shipments are ex factory unless expressly otherwise agreed and with no guarantee for the most cost-effective mode of shipment. All shipments are effected at the request of the Client.
- 9.2 Risk passes to the Client when the goods are ready for shipment. Should the shipment or transport or acceptance be delayed for reasons the Contractor cannot be held responsible for, the risk shall pass to the Client on receipt of notification of readiness for shipment.

#### **10. Third party proprietary rights**

Should manufacture of the goods according to the Client's drawings, samples or other specifications violate third party proprietary rights, the Client shall indemnify the Contractor from all resultant claims.

#### **11. Reservation of title**

- 11.1 The Contractor reserves his ownership of the supplied goods until all claims under the business relationship with the Client are satisfied. If payment is by cheque or bill of exchange, the right to ownership shall remain until such cheque/bill of exchange is redeemed.
- 11.2 The Client is entitled to sell these goods in the regular course of business, provided he meets his obligations under the business relationship with the Contractor in good time. He may, however, neither mortgage nor offer as surety such goods subject to retention of title. He is obligated to secure the rights of the Contractor when reselling the goods subject to retention of title on credit.
- 11.3 The Contractor shall be entitled, in the event of default in payment by the Client, to demand provisional return of the goods subject to retention of title at the expense of the Client, also without exercising his withdrawal rights and without allowing a grace period.
- 11.4 The Client shall already now assign as surety to the Contractor all receivables and rights from the sale or lease of goods permitted to the Client to which the Contractor may have proprietary rights. The Contractor hereby accepts such assignment. Should the Client not meet his obligations towards the Contractor in good time, he shall be obligated on demand of the Contractor to provide information on the ceded receivables and rights and to provide the documentation required for asserting such rights.
- 11.5 If the Contractor's goods are combined or inseparably mixed with other movable objects to form a single object and if the other object constitutes the main object, it is deemed agreed that the Client shall transfer proportional joint ownership to the Contractor, insofar as the main object belongs to the Client. The Client shall safekeep the property or joint property on behalf of the Contractor. For the rest, the same as for goods subject to retention of title shall also apply to the object created through processing, combination or mixing.
- 11.6 The Client shall immediately inform the Contractor of any third party sequestration action in respect of goods subject to retention of title and receivables or other sureties ceded to the Contractor, by handing over documentation required for an intervention; this shall also apply to impairments of any kind.
- 11.7 The Contractor undertakes on demand of the Client to release the sureties assigned to him under the aforementioned provisions, provided the value of such goods assigned as collateral exceeds the secured receivables by more than 20%.

#### **12. Warranty**

- 12.1 If the supplied goods are not to specification, the Contractor shall be entitled at his discretion to rework or to substitute. The Contractor shall be informed, in writing or text form, of identifiable defects within 14 days of receipt of the goods, in the case of hidden defects immediately upon detection. All claims for defects shall lapse unless notification is received in due time.
- 12.2 The statute of limitation for claims for defects shall be 24 months, commencing at handover of the goods to the Client.
- 12.3 The Client shall be entitled to withdraw from the Contract if the Contractor fails to remedy a defect or replace the goods within a reasonable respite set by the Client.

#### **13. Compensation for damages**

Claims for compensation based on breach of contractual obligations or unauthorised actions are excluded unless based on wilful intent or gross negligence by the Contractor or his vicarious agents, or culpable violation of significant contractual obligations (e.g. the duty to deliver goods free of defects). Insofar as the Contractor is liable accordingly, liability for negligent (also grossly negligent) violations shall be limited to compensation of foreseeable damage at the time of conclusion of the Contract.

The limits above do not apply to injury to life, limb or health. Claims under the Product Liability Act and claims based on wilful concealment of a defect and based on acceptance of a guarantee for the condition of the goods also remain unaffected.

#### **14. Termination of Contract/Cancellation**

- 14.1 Both contracting parties are entitled to extraordinary cancellation of the Contract should the other party violate a significant contractual obligation. A right to extraordinary cancellation is given especially if
- insolvency proceedings are initiated or declined due to lack of assets via the parent company of the other party and concrete indications exist that the party will for this reason be unable to meet its contractual obligations;
  - the Client repeatedly fails to meet his payment obligations.
- 14.2 In the event that the Contractor justifiably terminates the Contract for extraordinary reasons, the Client shall be obligated to reimburse the Contractor for all costs, losses, expenses or damages caused by such premature termination of contract. The aforementioned claims for reimbursement shall be due within seven days from termination of contract and shall exist independently of statutory or contractual claims.
- 14.3 Cancellation shall be strictly in writing.
- 14.4 The parties undertake after termination of the Contract to return any accessories, documentation, information or addresses owned by the other party, unsolicited.

#### **15. Obligations in accordance with the German Electrical and Electronic Equipment Act [ElektroG]**

Insofar as the supplied goods/performance are governed by the provisions of the ElektroG, the following shall apply:

- 15.1 The Client shall be responsible for proper disposal of the supplied goods no longer in use, at his own cost and in compliance with statutory regulations. The Client indemnifies the Contractor from obligations pursuant to § 10 Para. 2 ElektroG (obligation by the manufacturer to take back) and associated third party claims. On demand, the Contractor shall, however, take back the goods delivered by him for proper disposal in compliance with statutory regulations, at his prices as updated at the time and at the expense of the Client.
- 15.2 If the Client passes on the goods supplied by the Contractor to other commercial third parties, he shall contractually obligate such third party to properly dispose of such goods when no longer in use, at the party's own expense and in compliance with the statutory regulations and furthermore to impose an equivalent obligation on the latter in the event that the goods are passed on to a further commercial party. Should the Client neglect to contractually obligate third parties to whom he passes on the supplied goods to accept their duty of proper disposal and downstream propagation of such obligations, the Client shall be obligated to take back the supplied goods when no longer in use at his expense and dispose of these in compliance with statutory provisions. Section 15.1, last sentence shall then apply accordingly.
- 15.3 The Contractor's right to take over/release/downstream obligation as per Section 15.1 and 15.2 shall not lapse before the end of two years after the goods are retired from use. The two-year period of extended obligation commences no sooner than when the Contractor receives the Client's written notification of the end of use.

#### **16. Transferability of the Contract**

Rights and obligations under the Contract shall not be transferred to third parties without the written approval of the other contracting party. Transfer of the Contractor's rights and obligations to an affiliated company in a group is excepted from this.

### **III. Contracts for work and services/Other services**

Unless otherwise stated below, the provisions of the purchase agreement (as per II. above) shall apply also to contracts for work and services and to other services by the Contractor.

#### **1. General principles of service provision**

- 1.1 Discussions by the contracting parties on specifications for individual contractual agreements, especially regarding the subject matter of the performance, shall be minuted. The minutes shall be binding to both parties after signing by persons authorised to represent the Client and Contractor respectively.
- 1.2 The Contractor shall decide on staff to deploy at his own discretion and reserves the right to substitute staff at any time. The Contractor may deploy independent subcontractors to carry out the services, provided the quality of services remains unchanged.
- 1.3 Insofar as a service is provisioned at the Client's, the Contractor shall retain sole authority over his staff. The Contractor's staff shall not be integrated into the business of the Client.

- 1.4 A report compiled by the Contractor shall not be deemed an expert opinion but offer only significant aspects concerning procedure, results and advisory recommendations.

## **2. Time of performance**

The following shall apply in addition to arrangements in II.3:

- 2.1 Agreed performance deadlines are deemed complied with when the Client is in receipt of the rendered performance under the agreement and also when the Contractor declares his willingness to perform but the Client does not order or the rendered performance cannot be effected for reasons for which the Client is responsible.
- 2.2 The Client shall allow the Contractor a reasonable respite for provision of a service should the latter be in default. A reasonable respite would normally be at least 10 working days. The Client shall be entitled to terminate the Contract after this period.
- 2.3 Originally agreed dates shall be invalid in the event of schedule delays for which the Contractor cannot be held responsible, especially should the Client fail or delay to cooperate and support as agreed or if performance is interrupted at the Client's request. New deadlines shall in such cases be agreed upon by the parties. Subsequent rescheduling shall not be deemed a default on the part of the Contractor. If the delay is due to circumstances for which the Client is responsible, the Contractor shall furthermore be entitled to invoice for the waiting/down times incurred in the amount of the affected performance components, including any additional expenses.

## **3. The Client's rights and duties to participation and cooperation**

- 3.1 The Client shall provide the materials required for the service provision, especially hardware and software systems, according to the requirements of the Contractor. Insofar as the service is provided at the Client's location, the latter shall at his own expense and in good time ensure that the necessary working conditions (workplace, work equipment, computer time, access to hardware and software) are provided.
- 3.2 The Client shall appoint an authorised person as the permanent contact person and overall project manager.
- 3.3 The Client shall at his own expense support the Contractor to the extent required for providing the services. He shall in particular for the duration of the project provide appropriately qualified staff to handle technical and organisational matters and shall procure all data and content required for the provision of the services.

## **4. Right of use**

Subject to payment of the agreed remuneration, the Contractor shall grant the Client non-exclusive, irrevocable, non-transferable, non-sub-licensable and temporally, spatially and substantially unlimited rights to the use of the results of the work and to prior documentation made available to the Client in the course of the contractual relationship. The Client shall not, however, be entitled to use the results of the work and prior documentation outside his own business.

## **5. Remuneration / Terms of payment**

The following shall apply in addition to or as deviations from the rules in II.4. and II.8.:

- 5.1 All goods and services (including travelling time and expenses) shall be invoiced in accordance with the contractually agreed prices and conditions and at regular intervals (e.g. monthly) or in accordance with an agreed schedule of payment. In case of invoicing at agreed hourly rates, the Contractor shall attach his normal activity reports to the invoice.
- 5.2 Invoices shall be paid within 14 days of receipt by the Client, without deductions. The Client shall be in default unless payment is received. Irrespective of his claims for statutory interest on arrears, the Contractor shall in such cases be entitled to delay further provision of services until he is in receipt of the full outstanding amount. Initially agreed schedules will thus fall away or be correspondingly postponed.
- 5.3 If information, especially data, content or service specifications provided by the Client are inadequate or incomplete and should this result in additional expenses to the Contractor, the latter shall in addition invoice the Client for these at the agreed fixed price. The Contractor shall inform the Client of relevant additional expenses as soon as these are evident.
- 5.4 The Contractor's quotations and estimates of costs and any remuneration which may be deduced therefrom shall remain provisional and non-binding. The quotations and estimates are based on an assessment of the required scope of services, based on the best of existing knowledge and experience. Should the Contractor determine in the course of service provision that the quantities or price volumes will be exceeded, he shall inform the Client of this beforehand in good time and request his decision as to whether the services should continue to be provided.

## **6. Warranty**

The Client's warranty rights in respect of contracted work and services as well as other services are compliant with the provisions of the BGB [German Civil Code]. The restrictions under II.13. shall apply to claims for compensation.

## **IV. Miscellaneous**

### **1. Place of performance**

The place of performance for all obligations under the contractual relationship shall be the head office of the Contractor.

### **2. Place of jurisdiction**

If the Client is a businessman or a legal person or special fund under public law, the exclusive place of jurisdiction for all legal disputes arising from or in association with the business relationship, whether purchase/work/service agreement or other services, shall be the head office of the Contractor. This shall also apply for proceedings concerning bills of exchange or cheques.

### **3. Applicable law**

The entire contractual relationship, irrespective of whether it concerns a purchase/work/service agreement or other services, shall be exclusively governed by the laws of the Federal Republic of Germany, excluding the UN Convention on Contracts for the International Sale of Goods (CISG/ UN Sales Convention).

### **4. Written form**

All amendments to the Contract, its appendices or these Terms of Business shall be in writing. This shall also apply to agreements cancelling this written form requirement.

### **5. Ineffectiveness of individual provisions**

Should one or more provisions of this Contract be or become ineffective, fully or in part, or be impossible to implement, the validity of the remaining provisions shall not be affected thereby. The contracting parties shall be obligated to substitute the ineffective or impractical provision with an effective or practical provision approximating the intended purpose of the originally agreed provision as closely as possible.

Hiddenhausen / Germany, 3. April 2023