

## **I. Scope of application**

1. All deliveries and services including ancillary services (hereinafter uniformly referred to as "Deliveries") by us shall be made exclusively on the basis of these General Terms and Conditions of Sale and Delivery (hereinafter referred to as "GTC"). The GTC apply to entrepreneurs / § 14 BGB (German Civil Code), legal entities under public law and special funds under public law (hereinafter uniformly referred to as "Buyer"). Within the scope of an ongoing business relationship, the GTC shall also apply to any future purchase, work supply or other contract concerning our deliveries including associated services (hereinafter "Contract") with the Buyer without us having to refer to them again in each individual case.

2. Terms and conditions of the Buyer that conflict with, supplement or deviate from our GTC shall not apply unless we have expressly agreed to their validity in writing. This requirement of consent shall apply in any case, for example even if we carry out the delivery to the Buyer without reservation in the knowledge of terms and conditions of the Buyer that are contrary to, supplementary to or deviate from our GTC.

3. We reserve the right to amend our GTC for factual reasons, in particular in the event of changes in the law, changes in jurisdiction or changes in economic circumstances. The Buyer declares his consent to the validity of the amended GTC if he does not object to the validity in writing within six weeks after receipt by him and he was specifically informed by us of the significance of his conduct on the occasion of the announcement of the amended GTC.

4. Insofar as the written form is required under these GTC or a declaration is to be made in writing, compliance with the text form within the meaning of § 126b BGB (German Civil Code) (including fax and e-mail) shall suffice unless the written form is prescribed by law.

## **II. Offer, information, samples, guarantees, conclusion of contract**

1. Our offers are subject to change and non-binding, in particular with regard to price, quantity, delivery period and delivery possibility, unless expressly stated otherwise.

2. The information and data contained in data sheets, brochures and other advertising and information material shall only serve as an indication and shall only become a binding part of the contract if we have expressly agreed to this in writing.

3. Any technical application advice provided by us, including appropriate trials and tests, shall be given to the best of our knowledge, but shall only be deemed non-binding information, also with regard to any third-party property rights, and shall not release the Buyer from its own examination of our delivery items for their suitability for the intended processes and purposes. Application, use and processing of the delivery items are beyond our control and are therefore the sole responsibility of the Buyer. Properties of samples and specimens are only binding if this has been expressly agreed.

4. We do not grant any quality and durability guarantees unless expressly agreed otherwise. The same applies to the assumption of a procurement risk.

5. The contract shall only be binding on us when we issue an order confirmation in writing.

## **III. Prices, Payment, Default**

1. Unless otherwise agreed, the prices are ex works (ex-works Incoterms 2020), excluding packaging, freight, customs duty, insurance and other ancillary costs and plus the applicable value added tax, if any. Any other expenses incurred by us for the performance of the service shall be invoiced to the Buyer in each case on a time and material basis as agreed.

2. All prices are based on the cost factors at the time of conclusion of the contract. If thereafter significant increases in the costs of raw materials, energy, freight or packaging material occur at our premises or those of our supplier and if these lead to a significant increase in our purchase prices or cost prices, we shall be entitled to demand an appropriate increase in prices at our reasonable discretion - taking into account the change in costs and the justified interests of the Buyer - and to negotiate a price adjustment with the Buyer without delay.

3. Unless otherwise agreed, payment shall be made within thirty (30) days after invoicing without deduction. Receipt of payment on our accounts shall be decisive for compliance with payment deadlines.

4. In the event of default in payment of a claim for payment, interest shall be due at a rate of 9 percentage points per annum above the respective base interest rate (§ 288 para. 2 in conjunction with § 247 BGB (German Civil Code)). The right to prove further damage caused by default is reserved.

5. The Buyer may only set off or withhold payment against claims which are undisputed in writing or which have been finally determined by a court of law or which arise from the same legal relationship.

6. We are entitled to carry out outstanding deliveries only against advance payment or to make them dependent on the provision of security if the Buyer is in default with agreed payment terms even after the expiry of a reasonable grace period or if circumstances exist which, when applying customary banking standards, give rise to doubts about the Buyer's ability to pay.

## **IV. Delivery and delivery times, force majeure, transfer of risk, cooperation**

1. Our written order confirmation shall be decisive for the type and scope of delivery. We are entitled to make partial deliveries, insofar as they are reasonable for the Buyer.

2. The agreed delivery periods and dates shall always be deemed approximate unless a fixed date has been expressly agreed as such in text form. Compliance with the delivery dates is subject to clarification of all technical details of the deliveries, the availability of necessary approvals (e.g. export permit) and the cooperation of the Buyer in accordance with the contract and is subject to timely self-delivery. We are entitled to adjust the delivery dates at our reasonable discretion if the aforementioned prerequisites are not met in good time.

3. We shall not be liable for the impossibility of delivery or for delays in delivery insofar as these have been caused by force majeure or other events unforeseeable at the time of conclusion of the contract (e.g. strike, lockout, insufficient supply of materials, raw materials or energy, lack of transport facilities, epidemics affecting our supply chain) for which we are not responsible. This also applies if these circumstances occur at our suppliers. We are also not responsible for the aforementioned circumstances if they occur during an already existing delay. If such events make delivery considerably more difficult or impossible for us and if they are not only of temporary duration, i.e. last at least 60 days, this entitles each party to withdraw from the contract. If the event is of temporary duration, the delivery periods shall be extended by the period of the hindrance plus a reasonable start-up

period. We shall inform the Buyer in writing of the beginning and end of such reasons for hindrance as soon as possible.

4. If we are in default with deliveries, the Buyer's claims for damages and reimbursement of expenses due to our default in delivery shall be limited to 0.5% of the net contract value of the delayed delivery item for each full week of the default in delivery, but not more than a total of 5% of the net contract value. This limitation shall not apply in the event of intent or gross negligence or injury to life, limb or health. The Buyer may only withdraw from the contract due to our delay in delivery in accordance with the statutory provisions insofar as we are responsible for this.

5. If the delivery of a total quantity in several call-offs has been agreed, the Buyer shall call-off the individual deliveries evenly - per calendar month - over the calendar year, unless otherwise agreed.

6. We determine the type of packaging and shipping, insofar as we - in deviation from clause III.1 - assume this.

7. The risk shall pass to the Buyer at the latest when the delivery item is handed over to the forwarding agent, carrier or other third party designated to carry out the shipment, even if we have assumed additional services such as loading, transport or unloading. If the delivery is delayed due to circumstances for which the Buyer is responsible, the risk shall pass to the Buyer on the day of notification of readiness for delivery. At the Buyer's request, we shall insure the respective consignment against theft, breakage, transport, fire and water damage at the Buyer's expense.

8. The Buyer shall immediately assert complaints due to transport delays, misreporting or transport damage vis-à-vis our forwarding agent and carrier and notify us thereof in writing without delay.

9. We are not obliged to deliver to third parties at the behest of the Buyer.

10. The Buyer shall ensure that he can import the delivery into the country of destination. The delay due to import control inspections shall not affect the Buyer's obligation to make payment in due time (cf. clause III.3).

11. In the event of an agreed acceptance, the Purchaser shall carry out the acceptance within two (2) weeks after our notification of readiness for acceptance. If this does not happen, acceptance shall be deemed to have taken place. Acceptance shall also be deemed to have taken place if the delivery is put into use.

12. The Buyer shall cooperate to the agreed and customary extent in the proper performance of the contract. In particular, it shall provide the information and data, rights of use, components, test and consumable materials, test equipment, tools, machinery and equipment as well as premises, access and infrastructure (electricity, water, air, IT) required on its part in good time and free of charge.

#### V. Claims for defects

1. The deliveries are in conformity with the contract if they comply with the contractually agreed product data sheets and other specifications ("Specifications") at the time of transfer of risk (in the case of defects of title at the time of transfer of ownership); the Specifications of the deliveries are conclusively agreed in the contract with the Buyer. If the Deliveries comply with the Specifications, they shall be deemed to be in conformity with the Contract and free from material defects even if they do not comply with other objective requirements or any samples or

specimens. Liability for a specific purpose or a specific suitability shall only be assumed if this is expressly agreed in the contract; the risk of suitability and use shall otherwise be borne by the Buyer.

2. Claims for defects on the part of the Buyer presuppose that he has properly fulfilled his statutory obligations to inspect and give notice of defects. Delivered goods are to be inspected by the Buyer immediately after delivery, insofar as this is feasible in the ordinary course of business. Any defects shall be notified to us in writing without delay, stating the exact nature of the defect and the delivery note or shipment number. If the Buyer fails to notify us, the goods shall be deemed to have been approved, unless the defect was not recognisable during the inspection. If such a defect is discovered later, the notification must be made immediately after discovery, otherwise the goods shall be deemed to have been approved also in view of this defect. Any further requirements according to § 377 HGB (German Commercial Code) remain unaffected. The Buyer shall immediately give us the opportunity to inspect the deliveries complained of. At our request, the documents, samples and/or defective goods relating to the delivery shall be returned to us. There shall be no rights in respect of defects insofar as the usability of the delivery concerned is only insignificantly impaired, in the case of only insignificant deviations of the deliveries from the agreed quality, in the case of natural wear and tear and damage which occurs after the transfer of risk as a result of incorrect or negligent handling, excessive stress or which occurs due to special external influences on the delivery which we did not have to expect. In the event of unjustified complaints, we reserve the right to charge the purchaser with freight and handling costs as well as the costs of inspection.

3. Should the goods be defective, we may, at our discretion, remedy the defects or provide a replacement free of defects as supplementary performance. Unless otherwise agreed, the place of subsequent performance shall be our registered office. Also in the case of seller's recourse, the Buyer is obliged, in deviation from § 445a para. 2 BGB (German Civil Code), to give us the opportunity for subsequent performance within the period set to the Buyer by his customer. In this respect, the setting of a deadline is only dispensable if the setting of a deadline in accordance with § 445a para. 2 BGB (German Civil Code) is already dispensable in the relationship between the customer and its customer, so that the Buyer cannot give us the opportunity for subsequent performance. Only if the subsequent performance should fail or be unreasonable shall the Buyer - without prejudice to other rights - be entitled to withdraw from the contract or to reduce the purchase price under the statutory conditions. At our request, the Buyer must declare within a reasonable period of time whether he will withdraw from the contract due to a material defect or whether he will continue to insist on delivery. § 478 BGB (German Civil Code) shall remain unaffected; the Buyer shall inform us without delay of any notice of defect given by its customer in relation to our delivery items.

4. Rectification of defects or replacement deliveries shall always be made as a gesture of goodwill and without recognition of a legal obligation and shall not cause the limitation period to start anew unless there is an acknowledgement on our part with regard to any defects.

5. The limitation period for claims due to defective deliveries ends after the expiry of one year calculated from the statutory commencement of the limitation period. Notwithstanding the foregoing, the statutory limitation periods shall apply in the cases of § 438 para. 1 no. 1, § 438 para. 1 no. 2, § 634a para. 1 no. 2, § 445b BGB (German Civil Code) and fraudulent intent, as well as in the case of liability - whether due to a defect in the deliveries, a breach of our duty of subsequent performance or any other breach of duty on our part - for intent or gross negligence or injury to life, limb or health, as well as claims under the German Product Liability Act. The suspension of expiry according to § 445b para. 2 BGB (German Civil Code) ends at the latest five years after we have delivered to the Buyer.

6. We accept no responsibility for third party services, goods and equipment or advertising statements made by the Buyer to its customers or in its advertising materials which are not authorised by us.

7. We do not accept any responsibility for damage for which we are not responsible, which arises as a result of improper handling, modification, assembly and/or operation of the delivery items or as a result of incorrect advice or instruction by the Buyer. The same applies to the use of a design, trademark or trade name appearing on the goods at the request of the Buyer.

#### **VI. General limitations of liability**

1. Unless otherwise stipulated in these GTC, we shall only be liable to the Buyer for damages and reimbursement of expenses - irrespective of the legal grounds - in the event of intent or gross negligence and in the event of culpable breach of material contractual obligations, i.e. obligations the fulfilment of which is a prerequisite for the proper performance of a contract and compliance with which the Buyer regularly relies on and may rely on. In the event of culpable breach of essential contractual obligations, we shall, however, only be liable - except in cases of intent or gross negligence - for the foreseeable damage typical for the contract.

2. The above limitations of liability shall not apply (i) to claims for reimbursement of expenses pursuant to § 439 BGB (German Civil Code) or § 445a BGB (German Civil Code), (ii) in the event of injury to life, limb or health or (iii) liability under the German Product Liability Act. Furthermore, § 444 BGB (German Civil Code) remains unaffected.

3. Insofar as our liability is excluded or limited, this shall also apply to the corresponding personal liability of our vicarious agents, bodies, legal representatives or employees.

#### **VII. Retention of title**

1. We retain title to all goods delivered (hereinafter uniformly referred to as "goods subject to retention of title") until the Buyer has completely fulfilled all current and future obligations arising from the business relationship with us. This shall also apply if payments are made on specially designated claims. In the case of a current account, the goods subject to retention of title shall be deemed security for the balance claim.

2. Treatment and processing of the goods subject to retention of title shall be carried out for us as manufacturer within the meaning of § 950 BGB (German Civil Code) without obligating us. The processed goods shall be deemed to be goods subject to retention of title within the meaning of these GTC. If the reserved goods are processed or inseparably mixed/combined with other items not belonging to us, we shall acquire co-ownership of the new item in the ratio of the invoice value of the reserved goods to the invoice value of the other items used at the time of processing or mixing/combining. If the goods subject to retention of title are combined or inseparably mixed with other items not belonging to us to form a uniform item and if this item is to be regarded as the main item, the Buyer hereby assigns to us pro rata co-ownership to the extent that the main item belongs to him. The Buyer shall keep the property thus created in safe custody for us free of charge.

3. Until our revocation, which is permissible at any time and without special justification, the Buyer shall be entitled to resell, process or transform the reserved goods in the ordinary course of business. Resale in this sense also includes installation in land or in facilities connected with buildings or use for the fulfilment of other contracts.

In the event of resale, the Buyer hereby assigns to us his purchase price claim against the customer arising from such a sale. If the goods subject to retention of title are sold by the Buyer together with other items not supplied by us, the assignment shall only apply to the value of the goods subject to retention of title sold in each case as stated in our invoice. In the event of the resale of items in which we have co-ownership shares in accordance with clause VII.2, the assignment shall apply in the

amount of these co-ownership shares. The assigned claims serve as security to the same extent as the reserved goods.

If the assigned claim is included in a current account, the Buyer already now assigns to us a balance from the current account corresponding to the amount of this claim.

Until our revocation, which is permissible at any time and without special justification, the Buyer is entitled to collect the claim assigned to us. At our request, he is obliged to notify his customers of the advance assignment to us and to provide us with the information and documents required to assert the claim.

The power of sale and collection shall automatically expire upon cessation of payments, application for or opening of composition or insolvency proceedings or the initiation of receivership. The use for the fulfilment of contracts for work and services or contracts for work and materials shall also be deemed to be a sale in the aforementioned sense.

4. If the value of the securities existing for us exceeds our claims by more than 10% in total, we shall release corresponding securities of our choice at the request of the Buyer.

5. The Buyer is not entitled to dispose of the reserved goods in any other way (pledging, transfer by way of security) or to make any other assignments of the claims referred to in clause VII.3. In the event of seizure or confiscation of the goods subject to retention of title, the Buyer must point out our ownership and inform us immediately.

6. The Buyer is obliged to adequately insure the reserved goods against all usual risks, in particular against fire, burglary and water hazards at his own expense, to treat them with care and to store them properly.

7. No transfer or granting of rights in connection with the deliveries shall take place unless expressly agreed otherwise in writing. This applies in particular to any work results, industrial property rights, applications for industrial property rights, inventions, know-how, any rights subject to copyright, as well as to all reports, plans, drafts, drawings, lists, calculations or other documents or data made available by us in physical or electronic form in connection with the deliveries. Insofar as the purchaser is granted rights in connection with the deliveries, these are limited to the specific contractually agreed purpose.

#### **VIII. Performance by affiliated companies**

At our request, any of our contractual obligations may also be fulfilled by an affiliated company within the meaning of § 15 AktG (German Stock Corporation Act). The justified interests of the Buyer shall be given due consideration in this respect. As long as the performance is equivalent, the relevant contractual obligations shall be deemed fulfilled.

#### **IX. Compliance, Code of Conduct Business Partner, Embargo**

1. The Buyer shall comply with all applicable laws, regulations and ordinances under the jurisdiction of any country in which it conducts business. This applies in particular to compliance with regulations relating to international trade, competition and antitrust law, corporate governance, taxes and duties, financial disclosure and occupational and plant safety, as well as compliance with anti-corruption, anti-money laundering, anti-discrimination and anti-trafficking provisions. Furthermore, the Buyer is obliged not to commit any criminal offences (e.g. fraud or embezzlement, offences against competition, granting of

advantages, acceptance of advantages, bribery, corruption or comparable offences) in connection with the performance of its contractual obligations towards us.

2. The Buyer has taken note of our Code of Conduct for Business Partners as amended from time to time (available at <https://www.electricaloilservices.com/>) and warrants that it has equivalent regulations in place.

3. Goods delivered by us may not be used for the development, production or storage of weapons of war or mass destruction (nuclear weapons, biological weapons, chemical weapons or missiles). Delivered goods may not be forwarded either directly or indirectly to countries subject to a US embargo/EU embargo or to natural or legal persons who are on US, European or national banned lists.

4. In the event of a breach by the Buyer of his obligations in accordance with clauses IX. 1 to 3, we shall be entitled to a right of withdrawal or a right of extraordinary termination of all existing contracts with the Buyer for good cause. Furthermore, we are entitled to terminate ongoing contractual negotiations with the Buyer without prior notice.

#### **X. Compliance with safety and other regulations**

1. Unless otherwise agreed in individual cases, the Buyer is responsible for compliance with statutory and official regulations as well as recognised practices regarding import, transport, storage, handling, use and disposal of the goods.

2. The Buyer is also obliged,

- to familiarise themselves with all product information provided by us, including MSDS,
- to provide its employees, contractors, agencies and customers with sufficient instructions on how to handle the products,
- take appropriate measures to prevent harmful effects on the environment and other hazards to persons or assets caused by our goods.

3. If the purchaser breaches the obligations specified in clause X.1. and 2. to a not inconsiderable extent, we are entitled to withdraw from the contract after prior warning.

4. The Buyer shall be liable to us for all damage caused as a result of his failure to comply with the safety regulations and shall indemnify us against corresponding claims by third parties, unless he is not responsible for this.

#### **XI. Transfer of rights, use of trademarks**

1. The transfer of the purchaser's rights arising from the contractual relationship is only permissible with our prior written consent.

2. The Buyer may use the trademarks protected for us in his advertising only with our prior consent, according to our specifications, in the original design and only for unmodified original goods. Our consent may be revoked at any time. The Buyer shall bear sole responsibility for the design of his advertising.

#### **XII. Confidentiality, data protection**

1. The Buyer shall treat the business and trade secrets disclosed to him within the framework of the contractual relationship, in particular the prices agreed with him, as strictly confidential and shall only use them for the purposes necessary for the performance of the business relationship. He shall only disclose them to third parties with our prior written consent. The Buyer shall inform his employees of this confidentiality obligation.

2. We collect and store the data of the Buyer necessary for the business transaction. When processing the Buyer's personal data, we observe the statutory provisions. Further details can be found in our data protection declaration available at <https://www.electricaloilservices.com/privacy-disclaimer/>.

#### **XIII. Choice of law, place of jurisdiction**

The law of the Federal Republic of Germany applicable to the legal relationships of domestic contractual partners shall apply without exception; the application of the UN Convention on Contracts for the International Sale of Goods of 11.4.1980 is excluded.

The exclusive place of jurisdiction is Hamburg. However, we are also entitled to sue the Buyer at his general place of jurisdiction or any other competent court. Statutory provisions on exclusive places of jurisdiction shall remain unaffected by this provision.

**Status: July 2023**