

# Standard Terms and Conditions of Argo-Anleg GmbH

## 1. Standard Conditions of Sale and Delivery

### § 1 Validity:

The following Standard Terms and Conditions shall apply only for business transactions with business enterprises and businesspeople, legal entities under public law, and public separate estates. All our sales and deliveries shall be governed by the following Standard Conditions of Sale and Delivery. Other terms and conditions – in particular the customer's Standard Conditions of Purchase – shall only have validity by way of exception, and this must be expressly confirmed by us.

### § 2 Conclusion, performance and termination of contracts:

- A contract shall be deemed to have been concluded, if
  - We receive a corresponding written order on the basis of its offer,
  - We send an acknowledgment of order after receiving a written order, or
  - A written contract is signed by both parties to the contract.
- Illustrations, drawings and details on weights and measurements in our catalog shall not be deemed to be binding. We reserve the right to modify the design and construction of our devices in the interests of further development, as far as such modifications are reasonable considering our interests. In the event of delay in delivery caused by force majeure, e.g. fire, strike, lockout or pandemic (i.e. COVID-19), at our company or one of our suppliers, the delivery period shall be extended accordingly; this shall not give the customer the right to rescind the contract. Should performance of the contract become impossible due to force majeure, e.g. fire, strike, lockout or pandemic (i.e. COVID-19), both parties to the contract shall be entitled to rescind the contract without further claims for damages. This shall also apply in the event of late delivery to us by our suppliers for which we are not responsible.
- Penalties for delayed performance or non-performance shall be excluded.
- In case of a termination of the contract pursuant to §§ 649 or 627 German Civil Code (BGB), We shall be entitled to half of the agreed costs, if the work has not yet been commenced. The proof of a substantially lower damage shall be reserved for customer. We reserve the right to claim a higher damage.

### § 3 Delivery:

- The agreed delivery periods and dates shall be always deemed to be approximate, unless a firm date has been expressly agreed.
- In the event of excusable operational delays (e.g. caused by force majeure, e.g. fire, strike, lockout or pandemic (i.e. COVID-19)) at our company or our suppliers, the delivery period shall be extended accordingly; this shall not give the customer the right to rescind the contract. Penalties for late delivery shall be excluded. We reserve the right to withhold services, as far as preliminary services of the customer or third parties have not been delivered in accordance with the respective agreement. The customer shall indemnify us for resulting damages.
- Part deliveries shall be permissible.
- Orders shall always be shipped ex-works (Incoterm EXW) on the customer's account and at the customer's risk. We are free to choose the carrier. We shall only be liable for the accidental loss of the goods until they have been loaded for the Carrier ex-works. Separate flat charges shall be made for shipping, packing and delivery insurance. Delivery insurances have to be ordered expressly by the buyer.
- Should the parties have agreed on the installation of the goods within the customer's premises the risk of accidental loss shall vest with the customer from the delivery of the goods to the premises of the customer, even if the customer has not yet approved the delivery and the services.

### § 4 Installation and Assembly

- Unless otherwise agreed the following provisions shall apply to a possible installation and assembly:
- The customer shall be responsible for and provide the following in a timely fashion and at its own expense: (a) all soil, construction and other ancillary work outside of our scope, including any required skilled and assistant workers as well as building materials and tools; (b) equipment and materials necessary for installation, assembly and commissioning materials, such as scaffolding, lifting equipment and other devices, fuels and lubricants, (c) energy and water at the point of use including the connections, heating and lighting, (d) sufficiently sized, suitable, dry and lockable areas at the assembly location for the storage of machine parts equipment, materials, tools, etc. and appropriate work and dayrooms for the installation staff, including sanitary facilities appropriate to the given circumstances; in all other respects the customer shall be required to take those measures that the customer would normally take in order to protect the customer's own property in order to protect the our property and the installation staff at the construction site, (e) protective clothing and safety devices required due to the special circumstances of the assembly site, (f) any required permits.
- Prior to commencement of installation and assembly the customer shall provide the required information with regard to the location of concealed power, gas, water lines or similar systems as well as the necessary (in English) which are to be taken into consideration. The customer shall designate a person to contact on location with regard to safety matters and when it comes to dealing with authorities.
- Prior to installation or assembly the provision of materials and items required for commencement of the work shall be at the installation or assembly location and any preliminary work must have progressed so far prior to beginning of installation or assembly that installation or assembly may be begun in accordance with the agreement and performed without interruption. Approach roads and the installation or assembly location must be smoothed and vacated.
- In the event that installation or assembly is delayed by circumstances for which we may not be held responsible, then the customer shall to an appropriate extent bear the costs of any waiting periods and additionally required travel by the assembly personnel.
- The customer shall immediately provide us with acknowledgement of the respective working hours required by the assembly personnel as well as the completion of installation and assembly.

### § 5 Reservation of ownership:

We shall retain ownership of the goods delivered by us until all our receivables arising from the business relationship have been paid in full. In the event of the resale of the goods by the customer, if the customer is a businessperson, an extended reservation of ownership shall be deemed to be agreed. The customer shall be entitled to resell the reserved goods in the normal course of business. The customer already assigns now to us the customer's receivables from the resale of the reserved goods in the amount of the total final invoice amount agreed with us (including value-added tax). This assignment shall be valid irrespective of whether the reserved goods have or have not been processed before resale. The customer shall remain authorized to collect the receivables after the assignment. Our authority to collect the receivables shall remain unaffected by this. We will not, however, collect the receivables as long as the customer meets its obligations with the revenue received, is not in default of payment, no application has been filed for the initiation of insolvency

proceedings, and there has been no stoppage of payments. If the value of all actually executable security interests exceeds the sum of all secured claims by 10% we will at the request of the customer release a corresponding share of our security interests. We shall be entitled to choose those securities to be released in our own discretion.

### § 6 Prices:

- Our prices are quoted net in euros plus the statutory rate of value-added tax.
- In the case of orders worth less than EUR 150,00 we will charge a EUR 15,00 markup for small-volume purchases. Special terms on minimum order sizes shall apply for marketing partners and resellers. The customer shall bear the costs of monetary transactions.
- Travel and accommodation costs accrued due to the provision of the services are invoiced separately and based on actual costs, as far as those costs are not included in the agreed remuneration. Travel by car shall be calculated based on a fee of € 0,75 excl. VAT per kilometer. If the services at the premises of the customer exceed six (6) hours, We shall be entitled to claim accommodation costs. Such costs shall not exceed 120,00 per night and person, if the services are provided outside of Berlin.
- If we are obliged to modify products pursuant to the customer's request or to provide services outside of our premises, we shall be entitled to 50% of the agreed remuneration after execution of the agreement and 40% at delivery of the goods, if the parties have not agreed on different payment terms.

### § 7 Terms of payment:

- We reserve the right to ask customers for Letter of credit, cash payment or payment by cash on delivery.
- Its invoices shall be payable with no deduction 14 days after the invoice date in the currency indicated on the invoice. We shall grant a 2% cash discount if payment is received within 10 days after the invoice date. Different terms of payment can be agreed for orders worth more than EUR 2.500,00 or for deliveries shipped abroad.
- If the customer is in arrears with a payment, we shall be entitled to charge penal interest in the amount of the maximum legally permissible percentage above the respectively valid base interest rate of the European Central Bank; we reserve the right to prove a higher amount of damage. Furthermore, a flat rate shall be charged for ongoing reminders. The customer reserves the proof of a significantly lower damage.

### § 8 Complaints, warranty and liability:

- We shall grant a warranty period on products delivered by us of 12 months.
- The Parties agree that components that are subject to normal wear and tear as a result of their use by the customer must be designed in such a way that they enable the normal use of the product for a period that is average for such components.
- The warranty period begins on the day of delivery and only covers damage that occurs in the context of proper use through no fault of the operator. A warranty for specific features of the fuel cell (including lifetime and performance over time) is not given, as far as no such guarantee has been given in writing.
- In the case of a purchase agreement we shall be liable for defects as required by law for subsequent performance, rescission of contract or reduction of the purchase price, on condition that the following conditions are met:
  - The customer shall examine the goods and their packing immediately on delivery according to normal commercial practice. If damage is outwardly recognizable, this shall be recorded by the transport contractor, in order to secure possible claims.
  - Evident defects shall be reported to us without delay but at latest within 7 days in writing.
  - In the case of a hidden defect, the customer shall file a complaint without delay after discovering the defect. Apart from this, all defects must be reported within the statutory time limits.
- In the case of the provision of work services, the approval shall be deemed granted, if customer has not rejected the approval in part or in whole and in writing within 14 days after the request for approval.
- In the case of the provision of work services customer shall only be entitled to claim reduction of the remuneration, rescission of contract or execution by substitution after our second remedy has failed or if remedy is not reasonable considering the circumstances.
- We shall not be liable for damages caused by ignorance of the security advices or the general technical guidelines provided to the customer, including but not limited to the cases of the use of dangerous materials, unless the damage was caused by us acting on intend or gross negligence.
- In the case of damage caused to the customer's legal assets including its property by a defect in the purchased object, the erroneous delivery of merchandise other than that stipulated, or packing defects, we shall be liable as follows:
  - insofar as damage could have been avoided if the customer had met its obligation to inspect the delivered goods on receipt, all forms of liability on our part shall be excluded, unless the damage is due to deliberate or grossly negligent conduct on our part.
  - insofar as damage has been caused despite the fact that the customer has met its obligation to inspect the delivered goods, we shall only be liable for deliberate or grossly negligent breach of contract.
- In general our liability is limited to an estimated maximum damage of € 2.000.000,00.
- The aforementioned exclusions or limitations of liability shall not apply to cases of injury to a person's life, body or health resulting from a breach of duty by us or in the case of the liability pursuant to the German Product Liability Act (Produkthaftungsgesetz) or as far as an obligation has been breached, which is the basis for the contract, and which breach endangers the purpose of the contract and which breach the customer may under normal circumstances trust not be caused by us.
- We shall not be liable for the suitability of the goods for the purposes intended by the customer. To the extent that we advise on use, provide information or make recommendations, etc., we shall be only liable for culpably false advice, information or recommendation if this is given, provided or made in writing.
- The warranty and liability can be excluded for prototypes.

### § 9 Intellectual Property:

- All underlying technology and/or embedded or delivered software are our sole property or the property of our licensors. The buyer is not entitled to any use, duplication, modification or reconstruction exceeding the purpose of the contract.
- If goods are produced pursuant to customer's specifications or if goods are modified pursuant to customer's specifications, we shall be entitled to provide the some goods and/or modifications to any third party, unless the goods or the modifications are based upon a registered intellectual property right of the customer. The customer has advised expressly and in writing about such registered intellectual property right. The same shall be applicable for additional materials, drafts and sketches, that are produced during the execution of the contract.

### § 10 Place of performance, place of jurisdiction:

Wesel shall be the place of performance for our deliveries and services and for payments by the customer. The place of jurisdiction for merchants, legal entities under public law, and public separate estates shall be the vendor's registered place of business. German law shall exclusively apply. The application of CISG is hereby excluded. Should any of the above clauses be or become ineffective, the remaining clauses and the agreement as a whole shall remain valid and in force.

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Valid from September 7<sup>th</sup>, 2021

These Standard Terms and Conditions are a translation of Argo-Anleg's German-language Standard Terms and Conditions and are provided as a service for our English-speaking customers. Only the German version, however, is authoritative.

# Standard Terms and Conditions of Argo-Anleg GmbH

## 2. Standard Conditions of Purchase

### Validity

We purchase and conclude as contracting parties the following general terms and conditions of purchase. They apply only to contractors and the public sector. We do not accept any conditions of the Supplier / Contractor which differ from our Terms and Conditions of Purchase, unless we have expressly consented to their validity in writing. If our order is confirmed by the Supplier / Contractor deviating from our General Purchasing Conditions, our General Terms and Conditions of Purchase shall apply, even if we do not contradict the deviating terms and conditions of the Supplier / Contractor. If the Supplier / Contractor does not agree to this regulation, he / she has expressly indicated this in a special letter. In this case, we reserve the right to revoke our order without any claims against us being made. Our General Purchasing Conditions shall also apply to future purchase and works contracts, to which we are purchaser / client, even if not expressly referred to. We reserve the right to apply special conditions for the purchase of machinery and equipment.

### I. Offers

Offers must be in writing and are free of charge. The preparation costs (for example, travel, elaboration of plans) shall be borne by the Supplier / Contractor. Offers must contain the necessary information for processing by us, in particular our inquiry or order number, our material number as well as the name of the clerk. All documents (such as plans, drawings, calculations, samples, models, data carriers) provided by us remain our property. They may not be made accessible to third parties without our express written consent; They must be used exclusively for our purposes and returned to us unsolicited as soon as they are no longer required.

### II. Written Form

Our orders and all agreements with us require the written form.

### III. Order Confirmation

Unless otherwise agreed, each order must be confirmed by the Supplier / Contractor without delay (in between 3 working days), stating the agent, the material number and the order number. If the order confirmation does not come to us immediately, we shall be entitled to withdraw from the contract without being able to derive claims against us from whatever legal basis. Illustrations, drawings, weight and dimensions are binding. It turns out later that only differing deliveries are possible. We withdraw from the contract.

### IV. Prices

Sales prices of the supplier are always to be stated in EUR net plus the VAT to be indicated. The prices stated in our order are binding. They contain the packaging, material certificates according to valid standard, certificate of origin and other approvals such as CE, CSA, UL markings, as well as delivery free delivery customs cleared (Incoterm: DDP (delivery place)). Unless stated separately, VAT is included in the price. We reserve the right to return packaging materials to the supplier / contractor at the Supplier's expense. Invoices shall include the delivery address, the name of the agent, the order number, our material number, the delivery quantity, the price and other information required for our processing. As long as this is not the case, invoices are not due.

### V. Delivery / Manufacturer's instructions

The delivery time and quantity stated in our order is binding. The Supplier / Contractor is obliged to notify us in writing without delay as soon as he recognizes that he or she is unable to meet the delivery time in whole or in part. If no new delivery time is agreed upon, we shall be entitled to withdraw from the contract without the supplier / contractor being entitled to claim against us. This also applies if the delay is based on official orders and / or force majeure, e.g. fire, strike, lockout or pandemic (i.e. COVID-19). In the event of a delay in delivery, we may demand a lump-sum replacement for default damages of 2% of the delivery value per week, but not more than 10% from the Supplier / Contractor. The supplier / contractor has the right to prove to us. That we have suffered no or a significantly lower loss. We reserve the right to assert further legal claims such as rescission or compensation for non-fulfillment. The risk of loss or damage to the goods during transport is borne by the Supplier. The Supplier / Contractor shall be regarded as a manufacturer for the products affected by the Electrical Appliance Act and shall carry out the obligations relating to the withdrawal, in particular the registration. We can pass the registration number to the end customer.

### VI. Shipping / Logistics Manual

The Supplier / Contractor shall be obligated to use the shipping documents, such as Delivery notes, freight notes, etc., clearly indicate the place of delivery, the order date, the order number, the material number and the agent name. The risk of the incident will pass to us only upon receipt of the goods at the destination.

### VII. Warranty / Liability for material defect

The Supplier / Contractor shall ensure that the delivered goods / work is free of defects, complies with legal requirements and official regulations. The warranty period is 2 years from the transfer of risk if the statutory warranty period or that of the supplier / contractor is no longer. Subject to any deficiencies, our statutory obligation to inspect the goods immediately and to notify us is excluded. The supplier / contractor is obliged to submit the product to a careful quality control before delivery. In view of this, our complaints are timely if they occur within two weeks after the defect is discovered. By way of supplementary performance, we can demand from the Supplier / Contractor, at our option, the elimination of the defect or delivery of a defect-free product. If necessary, the Supplier / Contractor shall be obliged to bear all expenses necessary for the purpose of supplementary performance. The claims and rights to which we are entitled by law shall remain unaffected. In the case of special urgency or if the Supplier / Contractor is in delay with the warranty, we are entitled to have defects remedied or eliminated ourselves. Particular urgency is particularly required if a production stoppage, a loss of performance, which is not threatened by the timely commissioning or a contractual penalty. The costs incurred by us for warranty work shall be borne by the Supplier / Contractor.

### VIII. Liability

The liability of the supplier is governed by statutory provisions. If liability claims are asserted against us, the supplier shall be obliged to release us from these claims, including possible costs for recall campaigns, insofar as they are caused by their sphere of responsibility and organization, and he would be liable in the external relations. In this regard, the Supplier / Contractor undertakes to maintain a liability insurance with a reasonable amount of indemnity. This shall not affect any further claims for damages which are due to us. The Supplier shall be liable for claims arising from the infringement of industrial property rights and applications for the use of the delivered goods. The Supplier shall indemnify us and our customers from all claims arising from the infringement of such proprietary rights. This does not apply to the extent that the supplier has manufactured the delivery items in accordance with drawings, models or other descriptions handed over by us, and had no knowledge of infringement of the intellectual property rights. The supplier is obliged to ensure all necessary markings and certifications for the distribution of his products in the European Union. This includes in particular those according to the device and product safety legislation and the law on the placing on the market, the withdrawal and the environmentally acceptable disposal of electrical and electronic equipment.

### IX. Proprietary Reservation / Secrecy

We accept a retention of title of the supplier / contractor if and insofar as this is expressly agreed outside the general terms and conditions. All documents (such as drawings, plans, samples, models, computer records and programs) that we make available to Supplier / Contractor remain our property. The documents must be treated strictly confidentially and returned to us at first request. The documents may only be used for business with us. The supplier / contractor is not entitled to use our company and our brands. Information which the Supplier / Contractor receives during the execution of the order, in particular concerning research and development work and our business activities, shall be kept secret during and after completion of the order. Parts left by us remain our property. Processing and treatment are carried out for us. If our parts are connected or mixed with objects which are foreign to us, we acquire the co-ownership of this item in the proportion of the value of our goods to the value of the foreign matter. Drawings, models, samples and similar objects may not be left or made accessible to unauthorized third parties. Reproduction of such items is permitted only in the context of the operational necessity and the copyright regulations. Subcontractors shall be obligated accordingly.

### X. Tools, molds and fixtures

Tools, molds and devices wholly or partly paid by us are our property / co-ownership and are only available to the Supplier / Contractor on loan.

### XI. Payment

Invoices are to be delivered to us immediately after delivery with exact marking according to the above number VI, but not allowed to attach them to the consignment. We are entitled to pay according to our choice as follows: within a period of 14 days from receipt of goods and invoices minus 3% discount, within 60 days from receipt of goods and invoices net. Our payments do not imply endorsement of the goods or acceptance by the customer. Even if we do not reject early deliveries, we are entitled to put on hold the invoices up to the agreed delivery time. In this case, the discount quotas run from the agreed delivery time. Until full delivery, we reserve the right to withhold at least 10% of the total invoice amount.

### XII: Assignment

The assignment of the claims against the Supplier / Contractor against us is excluded, unless we had previously agreed to it in writing.

### XIII. Suspension

Unless otherwise agreed, we are entitled to suspend the execution of orders for a period of three months. The costs for storage during this period shall be borne by the Supplier / Contractor. The Supplier / Contractor is not entitled to make any additional costs. The delivery time is extended according to the duration of the suspension.

### IVX. Cancellation

We are entitled to cancel the execution of orders. We bear the costs of the work incurred until the time of the cancellation and the material costs, as far as the supplier / contractor can prove it. The supplier / contractor has to take account of invoicing the costs. By paying these costs, the products manufactured or procured under the orders will become our property and shall be delivered by the supplier / contractor to the place of delivery indicated in the order.

### XV. Place of performance, court of jurisdiction

Place of performance is the seat of our company. This place is also the court of jurisdiction for all disputes arising from the business relationship with the supplier / contractor. However, we are entitled to sue the Supplier / Contractor at his registered office. The legal relations between the supplier / contractor and us are exclusively subject to the law of the Federal Republic of Germany under the exclusion of the CISG (UN purchase law). Should one or more of the above clauses be or become invalid, this shall not affect the effectiveness of the remaining clauses or terms of the contract as a whole.

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